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## Clinton Presidential Records Digital Records Marker

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required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitutes reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the institution determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

(A) the institution shall deny or terminate the individual's eligibility for such grant, loan, or work assistance, and

(B) the fair hearing process (which includes, at a minimum, the requirements of paragraph (6)) shall be made available with respect to the individual.

(6) The minimal requirements of this paragraph for a fair hearing process are as follows:

(A) The institution provides the individual concerned with written notice of the determination described in paragraph (5) and of the opportunity for a hearing respecting the determination.

(B) Upon timely request by the individual, the institution provides a hearing before an official of the institution at which the individual can produce evidence of a satisfactory immigration status.

(C) Not later than 45 days after the date of an individual's request for a hearing, the official will notify the individual in writing of the official's decision on the appeal of the determination.

**(i) Limitations of enforcement actions against institutions**

The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (h)(4)(A)(ii) of this section, was required to provide a reasonable opportunity to submit documentation,

(3) because the institution, under subsection (h)(4)(B)(ii) of this section, was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student, or

(4) because of a fair hearing process described in subsection (h)(5)(B) of this section.

**(j) Validity of loan guarantees for loan payments made before immigration status verification completed**

Notwithstanding subsection (h) of this section, if—

(1) a guaranty is made under this subchapter and part C of subchapter I of chapter 34 of Title 42 for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h) of this section had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise

nullified with respect to such payments made before the date the entity receives the notice.

(Pub.L. 98-329, Title IV, § 484, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1479, and amended Pub.L. 99-603, Title I, § 121(a)(3), Nov. 6, 1986, 100 Stat. 3388; Pub.L. 100-50, § 15(7)-(9), June 3, 1987, 101 Stat. 356, 357; Pub.L. 100-369, §§ 1, 2, 6, July 18, 1988, 102 Stat. 835, 836; Pub.L. 100-525, § 2(g), Oct. 24, 1988, 102 Stat. 2611.)

### HISTORICAL AND STATUTORY NOTES

**Revision Notes and Legislative Reports**  
**1986 Act.** House Reports Nos. 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 2572.

**1987 Act.** House Report No. 100-44, see 1987 U.S.Code Cong. and Adm.News, p. 339.

**1988 Act.** House Report No. 100-669, see 1988 U.S.Code Cong. and Adm.News, p. 1070.

#### Amendments

**1988 Amendments.** Subsec. (a)(1), Pub.L. 100-369, § 6(1), substituted "subsections (b)(3) and (b)(4)" for "subsection (b)(2)".

Subsec. (b)(1), Pub.L. 100-369, § 1(1), substituted "section 1078-2 or 1078-3" for "section 1078-1, 1078-2, or 1978-3".

Subsec. (b)(1)(A), Pub.L. 100-369, § 1(2), substituted "(A)(i)" for "(A)", "Pell Grant" for "grant", struck out "or" following "period of enrollment", and added subcl. (ii).

Subsec. (b)(2), Pub.L. 100-369, § 2, added par. (2). Former par. (2) was redesignated (3).

Subsec. (b)(3), Pub.L. 100-369, § 2(1), redesignated former par. (2) as (3).

Subsec. (b)(4), Pub.L. 100-369, § 6(2), added par. (4).

Subsecs. (c) to (e), (h) to (j). Pub.L. 100-525, redesignated the additional subsecs. (c) to (e) enacted by Pub.L. 99-603 as (h) to (j), respectively, in subsecs. (h) to (j), as so redesignated, added subsection headings and substituted references to subsec. (h) for references to subsec. (c) wherever appearing, and in subsec. (j), as so redesignated, in provisions following numbered pars., substi-

tuted "the date the entity receives" for "the date of the entity receives".

**1987 Amendment.** Subsec. (a)(1), Pub.L. 100-50, § 15(7)(A), inserted ", except as provided in subsection (b)(2) of this section" after "of this title".

Subsec. (b), Pub.L. 100-50, § 15(7)(B)-(D), designed existing provision as par. (1), and in par. (1) as so designated, redesignated pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (d), Pub.L. 100-50, § 15(8)(B), following numbered pars., inserted provision that in order to be eligible for assistance a student cannot be enrolled in either an elementary or secondary school.

Subsec. (d)(1), Pub.L. 100-50, § 15(8)(A)(i), struck out "or" after "earlier".

Subsec. (d)(2), Pub.L. 100-50, § 15(8)(A)(ii), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(3), Pub.L. 100-50, § 15(8)(A)(ii), redesignated par. (2) as (3), and in par. (3)(A) as so redesignated, struck out "be counseled prior to admissions or" before "be administered" and substituted "recognized, standardized," for "recognized standardized", and in par. (3)(B) as so redesignated, inserted "and successfully complete" before "an institutionally" and substituted "development education not" for "development education, not".

Subsec. (f), Pub.L. 100-50, § 15(9), inserted provision that in carrying out provisions of this subsection no eligible institution be required to verify more than 30 percent of such applications in any award year.

**1986 Amendment.** Subsec. (c), Pub.L. 99-603 added subsec. (c) requiring immigration status verification.

Subsec. (d). Pub.L. 99-603 added subsec. (d) limiting enforcement actions against institutions.

Subsec. (e). Pub.L. 99-603 added subsec. (e) relating to validity of loan guarantees for loan payments made before completion of immigration status verification.

#### Effective Dates

**1988 Acts.** Amendment by Pub.L. 100-525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub.L. 99-603, see section 2(s) of Pub.L. 100-525, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Amendment by sections 1 and 2 of Pub.L. 100-369 effective for any loan for which eligibility of borrower is certified by institution 30 days after July 18, 1988, and amendment by section 6 of Pub.L. 100-369 effective July 18, 1988, see section 13(a), (b)(2) of Pub.L. 100-369, set out as a note under section 1078-1 of this title.

**1987 Act.** Amendment by Pub.L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub.L. 99-498, see section 27 of Pub.L. 100-50, set out as a note under section 1001 of this title.

**1986 Acts.** Amendment by Pub.L. 99-603 effective Oct. 1, 1988, with certain exceptions and qualifications, see section 121(c)(3), (4) of Pub.L. 99-603, set out as a note under section 1320b-7 of Title 42, The Public Health and Welfare.

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

Section 407(b) of Pub.L. 99-498 provided that:

"(1) Sections 483(e) and 484(d) of the Act [subsec. (d) of this section and section 1090(e) of this title] as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

"(2) The changes made in section 484(a)(1) of the Act [subsec. (a)(1) of this section] shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

"(3) Section 484(c) of the Act [subsec. (c) of this section] as amended by this

section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

"(4) Sections 484(f), 485(b), and 487(a)(10) of the Act [subsec. (f) of this section and sections 1092(b) and 1094(a)(10) of this title] as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987."

#### Prior Provisions

A prior section 1091, Pub.L. 89-329, Title IV, § 484, as added Pub.L. 96-374, Title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1448, and amended Pub.L. 99-272, Title XVI, § 16032(a), (b), Apr. 7, 1986, 100 Stat. 354, also related to student eligibility, with provisions covering eligibility requirements and special application to permanent residents of the Trust Territory of the Pacific Islands and Northern Mariana Islands, prior to the general revision of this part by Pub.L. 99-498.

Another prior section 1091, Pub.L. 89-329, Title V, § 501, Nov. 8, 1965, 79 Stat. 1254; Pub.L. 90-35, § 2(c), June 29, 1967, 81 Stat. 82; Pub.L. 92-318, Title I, § 141(b)(1), June 23, 1972, 86 Stat. 285, setting out the Congressional statement of purpose and authorization of appropriations for education professions development program, was repealed effective Sept. 30, 1976, by Pub.L. 94-482, Title I, § 151(a)(2), Oct. 12, 1976, 90 Stat. 2151.

#### Denial of Student Assistance to Certain Noncitizens

Section 1361 of Pub.L. 99-498 provided that:

"(a) **Establishment of Panel.—(1)** There is established in the Department of Education a panel to be known as the 'Alien Youth Education Opportunity Panel' (hereinafter in this section referred to as the 'Panel').

"(2) The Panel shall be composed of 7 members, 3 of whom shall be appointed by the Secretary, 2 of whom shall be appointed by the Speaker of the House of Representatives, and 2 of whom shall be appointed by the Majority Leader of the Senate.

"(b) **Duties of Panel.**—The Panel shall study and investigate the extent to which the requirements of section 484(a)(5) of the Act [subsec. (a)(5) of this section] result in the denial of student assistance to long-term residents of the United States who have graduated from United States high schools and the extent to which that denial deprives those individuals of an equal educational opportunity.

"(c) **Report and recommendations.**—The Panel shall submit a report of its findings and recommendations to the Secretary, the President, and the Congress not later than 2 years after the date of enactment of this section [Oct. 17, 1986].

"(d) **Administrative and clerical support.**—The Secretary shall provide the Panel with such administrative and clerical support as it may require to carry out its activities under this section.

"(e) **Compensation and expenses.**—(1) Members of the Panel who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code [section 5703 of Title 5, Government Organization and Employees], for persons in the Government service employed intermittently.

"(2) Members of the Panel who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Panel meetings, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, United States Code, for persons in the Government service employed intermittently.

"(f) **Access to information.**—The Panel is authorized to secure directly from any executive department, bureau, agen-

cy, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Panel."

**Financial Aid to Students Not Deemed Income or Resources for Purposes of Certain Social Security Act Programs**

Pub.L. 90-575, Title V, § 507, Oct. 16, 1968, 82 Stat. 1063, as amended by Pub.L. 96-88, Title III, § 301(a)(1), Oct. 17, 1979, 93 Stat. 677, provided that: "For the purpose of any program assisted under Title I, IV, X, XIV, XVI, or XIX of the Social Security Act [subchapters I, IV, X, XIV, XVI, or XIX of chapter 7 of Title 42, The Public Health and Welfare], no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Secretary of Education shall be considered to be income or resources."

**Satisfactory Progress**

Section 1301 of Pub.L. 99-498, as amended Pub.L. 100-50, § 23(1), June 3, 1987, 101 Stat. 362, provided that: "The Secretary, through the Office of Educational Research and Improvement, shall conduct a survey on the impact, if any, on grades of students of the amendments made by this Act to section 484(c) of the Act [subsec. (c) of this section]. The study required by this subsection shall be conducted over the 5-year period ending September 30, 1991. The Secretary, after the end of each year of the study, shall submit to the Congress a report of the survey required by this subsection, together with such recommendations as the Secretary deems appropriate."

**CROSS REFERENCES**

Contents of agreements to make grants for work-study programs, see 42 USCA § 2753.

**LIBRARY REFERENCES**

**Administrative Law**

Guaranteed student loan program, see 34 C.F.R. § 682.100 et seq.  
Pell Grant Program, see 34 C.F.R. § 690.1 et seq.

Perkins loan program, see 34 C.F.R. § 674.1 et seq.  
Student assistance generally, see 34 C.F.R. § 668.1 et seq.  
Supplemental educational opportunity grant program, see 34 C.F.R. § 676.1 et seq.

**American Digest System**

Financial aid to students, see Colleges and Universities ¶9.25(1).  
Loans and loan guarantees or insurance, see Colleges and Universities ¶9.25(2).

**Encyclopedias**

Financial aid to students, see C.J.S. Colleges and Universities § 28.  
Loans and loan guarantees or insurance, see C.J.S. Colleges and Universities § 28.

**WESTLAW ELECTRONIC RESEARCH**

Colleges and universities cases: 81k[add key number].  
See WESTLAW guide following the Explanation pages of this volume.

**§ 1091a. Statute of limitations**

**(a) In general**

Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

(1) an institution which receives funds under this subchapter and part C of subchapter I of chapter 34 of Title 42 may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this subchapter and part C of subchapter I of chapter 34 of Title 42 during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due;

(2) a guaranty agency which has an agreement with the Secretary under section 1078(c) of this title may file suit for collection of the amount due from a borrower on a loan made under part B of this subchapter during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(3) an institution which has an agreement with the Secretary pursuant to section 1087cc(a) of this title may file suit for collection of the amount due from a borrower on a loan made under part D of this subchapter during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

(4) subject to the provisions of section 2416 of Title 28, the Attorney General may file suit—

(A) for payment of a refund due from a student on a grant made under this subchapter and part C of subchapter I of chapter 34 of Title 42 until 6 years following the date on which the refund first became due;

(B) for collection of the amount due the Secretary from a borrower pursuant to section 1078(c)(2)(D) and (c)(8) of this title until 6 years following the date on which the loan is assigned to the Secretary under part B of this subchapter; and

(C) for collection of the amount due from a borrower on a loan made under part D until 6 years following the date on which the loan is assigned, transferred, or referred to the Secretary under part D of this subchapter.

**(b) Assessment of costs and other charges**

Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall be required to pay, in addition to other charges specified in this subchapter and part C of subchapter I of chapter 34 of Title 42, reasonable collection costs; and

(2) in collecting any obligation arising from a loan made under part B of this subchapter, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

(Pub.L. 89-329, Title IV, § 484A, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1482.)

**HISTORICAL AND STATUTORY NOTES**

**Revision Notes and Legislative Reports**  
1986 Act. House Reports Nos. 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 2572.

**Effective Dates**

1986 Act. Section effective Oct. 17, 1986, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

**Prior Provisions**

A prior section 1091a, Pub.L. 89-329, Title IV, § 484A, as added Pub.L. 99-272, Title XVI, § 16033, Apr. 7, 1986, 100 Stat. 355, related to the statute of limitations, collection costs, and the defense of

infancy, prior to the general revision of this part by Pub.L. 99-498.

Prior sections 1091a to 1091f were repealed, effective Sept. 30, 1976, by Pub.L. 94-482, Title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

Section 1091a, Pub.L. 89-329, Title V, § 502, as added Pub.L. 90-35, § 2(c), June 29, 1967, 81 Stat. 82, and amended Pub.L. 91-230, Title IV, § 401(h)(4), Title VIII, § 802, Apr. 13, 1970, 84 Stat. 174, 190; Pub.L. 92-318, Title I, § 141(c)(1)(A), June 23, 1972, 86 Stat. 285, established the National Advisory Council on Education Professions Development and set forth functions, composition, etc., of the Council.

Section 1091b, Pub.L. 89-329, Title V, § 503, as added Pub.L. 90-35, § 2(c), June 29, 1967, 81 Stat. 83, and amended Pub.L. 92-318, Title IV, § 451(a), June 23, 1972, 86 Stat. 344, authorized the Commissioner to appraise and annually report on existing and future education personnel needs.

Section 1091c, Pub.L. 89-329, Title V, § 504, as added Pub.L. 90-35, § 2(c), June 29, 1967, 81 Stat. 83, and amended Pub.L. 90-575, Title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub.L. 92-318, Title I, § 141(a)(1)(B), (c)(1)(B), June 23, 1972, 86 Stat. 284, 285, authorized the Commissioner to make grants or contracts with State or local educational agencies for attracting qualified persons to the field of education.

Section 1091d, Pub.L. 89-329, Title V, § 505, as added Pub.L. 90-35, § 2(c), June 29, 1967, 81 Stat. 84, required the Commissioner to consult with the National Science Foundation and the National Foundation on the Arts and the Humanities in development and review of programs.

Section 1091e, Pub.L. 89-329, Title V, § 506, as added Pub.L. 90-35, § 2(c), June 29, 1967, 81 Stat. 84, authorized the transfer of funds for programs for education professions development.

Section 1091f, Pub.L. 89-329, Title V, § 507, as added Pub.L. 90-35, § 2(c), June 29, 1967, 81 Stat. 84, authorized the employment of experts and consultants and set forth provisions for compensation and travel expenses.

**LIBRARY REFERENCES**

**American Digest System**

Actions by educational institutions, see Colleges and Universities ¶10.  
Financial aid to students, see Colleges and Universities ¶9.25(1).  
Limitation of actions by and against United States, see United States ¶133.  
Loans and loan guarantees or insurance, see Colleges and Universities ¶9.25(2).

**Encyclopedias**

Actions by educational institutions, see C.J.S. Colleges and Universities §§ 37 to 44.  
Financial aid to students, see C.J.S. Colleges and Universities § 28.  
Limitation of actions by and against United States, see C.J.S. United States § 192.  
Loans and loan guarantees or insurance, see C.J.S. Colleges and Universities § 28.

**WESTLAW ELECTRONIC RESEARCH**

Colleges and universities cases: 81k[add key number].  
United States cases: 393k[add key number].  
See WESTLAW guide following the Explanation pages of this volume.

**NOTES OF DECISIONS**

**Counterclaims 2**  
**Law governing 1**  
**Transfer to Secretary 3**

**1. Law governing**

Statute establishing federal statute of limitations for student loan debts, by creating federal limitation period for collection of defaulted national defense student loans commencing on date on which Secretary of Education accepts assignment of loan applies notwithstanding any provision of state law setting earlier deadline for filing suit. U.S. v. Hunter, M.D.Fla.1988, 700 F.Supp. 26.

**2. Counterclaims**

Six-year limitation period on suits filed to collect default of loans applied to government's counterclaim, in suit by debtor seeking refund after IRS offset student loan debt against debtor's income tax refund, even if statute allowing government to file counterclaim if action giving rise to counterclaim arises out of same transaction or occurrence is not stated in original complaint did apply, and thus, counterclaim was time barred. Hurst v. U.S. Dept. of Educ., D.Kan.1988, 695 F.Supp. 1137.

**3. Transfer to Secretary**

Department of Education's action to collect on student loan was timely filed

within six years after date loans were assigned to Department by university, despite fact that four-year state statute of limitations for contract actions had expired. U.S. v. Zue, D.Vt.1988, 704 F.Supp. 535.

## § 1092. Institutional and financial assistance information for students

### (a) Information dissemination activities

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this subchapter and part C of subchapter I of chapter 34 of Title 42. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this subchapter and part C of subchapter I of chapter 34 of Title 42;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any

person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to handicapped students;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 1091(a)(2) of this title.

(2) For the purpose of this section, the term "prospective student" means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

### (b) Exit counseling for borrowers

Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers (individually or in groups) of loans which are made, insured, or guaranteed under part B of this subchapter (other than loans made pursuant to section 1078-2 of this title) or made under part D of this subchapter prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

(1) general information with respect to the average indebtedness of students who have loans under part B or part D of this subchapter; and

(2) the average anticipated monthly repayments, a review of the repayment options available, together with such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness.

In the case of a borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information to the student in writing.

### (c) Financial assistance information personnel

Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a) of this section. The Secretary may, by regulation,

waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this subchapter and part C of subchapter I of chapter 34 of Title 42 at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

**(d) Departmental publication of descriptions of assistance programs**

The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this subchapter and part C of subchapter I of chapter 34 of Title 42. In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

(Pub. L. 89-329, Title IV, § 485, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1482, and amended Pub.L. 100-50, § 15(10), (11), June 3, 1987, 101 Stat. 357.)

**HISTORICAL AND STATUTORY NOTES**

**Revision Notes and Legislative Reports**

**1986 Act.** House Reports Nos. 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 2572.

**1987 Act.** House Report No. 100-44, see 1987 U.S.Code Cong. and Adm.News, p. 339.

**Amendments**

**1987 Amendment.** Subsec. (b). Pub.L. 100-500, § 15(10), inserted "(other than loans made pursuant to section 1078-2 of this title)" after "part B of this subchapter".

Subsec. (d). Pub.L. 100-50, § 15(11), inserted provision that, in addition, such information include information to enable borrowers to assess the practical

cluding differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences.

**Effective Dates**

**1987 Act.** Amendment by Pub.L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub.L. 99-498, see section 27 of Pub.L. 100-50, set out as a note under section 1001 of this title.

**1986 Act.** Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

Subsec. (b) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section

407(b) of Pub.L. 99-498, set out as a note under section 1091 of this title.

**Prior Provisions**

A prior section 1092, Pub.L. 89-329, Title IV, § 485, as added Pub.L. 96-374, Title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1449, related to institutional and financial assistance information for students, prior to the general revision of this part by Pub.L. 99-498.

Another prior section 1092, Pub.L. 89-329, Title V, § 508, formerly § 502, Nov. 8, 1965, 79 Stat. 1255, renumbered and amended Pub.L. 90-35, §§ 2(b), 7, June 29, 1967, 81 Stat. 82, 93, prohibiting the making of payments for religious purposes for authorized programs, was repealed by Pub.L. 94-482, Title I, § 151(a)(2), Oct. 12, 1976, 90 Stat. 2151.

**LIBRARY REFERENCES**

**Administrative Law**

Student assistance generally, see 34 C.F.R. § 668.1 et seq.

**WESTLAW ELECTRONIC RESEARCH**

See WESTLAW guide following the Explanation pages of this volume.

**§ 1092a. Combined payment plan**

**(a) Eligibility for plan**

Upon the request of the borrower, a lender described in subparagraph (A), (B), or (C) of section 1078-3(a)(1) of this title, or defined in subpart I of part C of Title VII of the Public Health Service Act [42 U.S.C.A. § 294 et seq.] may, with respect to a consolidation loan made under section 1078-3 of this title (and section 1087-2(o) of this title as in effect prior to the enactment of section 1078-3 of this title) and loans guaranteed under subpart I of part C of Title VII of the Public Health Service Act (known as Health Education Assistance Loans), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

**(b) Applicability of other requirements**

A lender offering a combined payment plan shall comply with all provisions of section 1078-3 of this title applicable to loans consolidated or to be consolidated and shall comply with all provisions of subpart I of part C of Title VII of the Public Health Service Act [42 U.S.C.A. § 294 et seq.] applicable to loans under that subpart which

offering a combined payment plan under this section may offer consolidation loans pursuant to section 1078-3(b)(1)(A) of this title if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

**(c) Lender eligibility**

Such lender may offer a combined payment plan only if—

(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

**(d) Borrower selection of competing offers**

In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

**(e) Effect of plan**

Upon selection of a lender to administer the combined payment plan, the lender may reissue any Health Education Assistance Loan selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

(2) the loan being reissued was not in default (as defined in section 733(e)(3) of the Public Health Service Act [42 U.S.C.A. § 294f(e)(3)]) at the time the request for a combined payment plan is made.

**(f) Notes and insurance certificates**

(1) Each loan reissued under subsection (e) of this section shall be evidenced by a note executed by the borrower. The Secretary of

Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under subpart I of part C of Title VII of the Public Health Service Act [42 U.S.C.A. § 294 et seq.] (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 728(a) of the Public Health Service Act [42 U.S.C.A. § 294a(a)]. Notwithstanding the provisions of section 729(a) of the Public Health Service Act [42 U.S.C.A. § 294b(a)], the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under subpart I of part C of title VII of the Public Health Service Act [42 U.S.C.A. § 294 et seq.], the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act [42 U.S.C.A. § 201 et seq.], and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

**(g) Termination of borrower eligibility**

The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

**(h) Fees and premiums**

No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

**(l) Commencement of repayment**

Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e) of this section.

(Pub.L. 89-329, Title IV, § 485A, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1484, and amended Pub.L. 100-50, § 15(12), June 3, 1987, 101 Stat. 357.)

**HISTORICAL AND STATUTORY NOTES****Revision Notes and Legislative Reports**

**1986 Act.** House Reports Nos. 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 2572.

**1987 Act.** House Report No. 100-44, see 1987 U.S.Code Cong. and Adm.News, p. 339.

**References in Text**

The Public Health Service Act, referred to in subsecs. (a), (b), and (f), is Act July 1, 1944, c. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (section 201 et seq.) of Title 42, The Public Health and Welfare. Subpart I of part C of Title VII of the Public Health Service Act is classified generally to subpart I (section 294 et seq.) of part C of subchapter V of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

**Amendments**

**1987 Amendment.** Subsec. (a). Pub.L. 100-50 substituted "subparagraph (A), (B), or (C)" for "clause (i), (ii), or (iii)".

**Effective Dates**

**1987 Act.** Amendment by Pub.L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub.L. 99-498, see section 27 of Pub.L. 100-50, set out as a note under section 1001 of this title.

**1986 Act.** Section effective Oct. 17, 1986, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

**WESTLAW ELECTRONIC RESEARCH**

See WESTLAW guide following the Explanation pages of this volume.

**§ 1092b. National student loan data system****(a) Development of the system**

The Secretary shall consult with a representative group of guaranty agencies, eligible lenders, and eligible institutions to develop a mutually agreeable proposal for the establishment of a National Student Loan Data System containing information regarding loans made, insured, or guaranteed under part B and loans made under part E. The information in the data system shall include (but is not limited to)—

- (1) the amount and type of each such loan made;
- (2) the names and social security numbers of the borrowers;

(3) the guaranty agency responsible for the guarantee of the loan;

(4) the institution of higher education or organization responsible for loans made under part E;

(5) the eligible institution in which the student was enrolled or accepted for enrollment at the time the loan was made, and any additional institutions attended by the borrower;

(6) the total amount of loans made to any borrower and the remaining balance of the loans;

(7) the lender, holder, and servicer of such loans;

(8) information concerning the date of any default on the loan and the collection of the loan, including any information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan;

(9) information regarding any deferments or forbearance granted on such loans; and

(10) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

**(b) Additional information**

For the purposes of research and policy analysis, the proposal shall also contain provisions for obtaining additional data concerning the characteristics of borrowers and the extent of student loan indebtedness on a statistically valid sample of borrowers under part B. Such data shall include—

(1) information concerning the income level of the borrower and his family and the extent of the borrower's need for student financial assistance, including loans;

(2) information concerning the type of institution attended by the borrower and the year of the program of education for which the loan was obtained;

(3) information concerning other student financial assistance received by the borrower; and

(4) information concerning Federal costs associated with the student loan program under part B of this subchapter, including the costs of interest subsidies, special allowance payments, and other subsidies.

**(c) Verification**

The Secretary may require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility

or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan made under part B or part E.

**(d) Report to Congress**

The Secretary shall prepare and submit to the appropriate committees of the Congress, in each fiscal year, a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section.

(Pub.L. 89-329, Title IV, § 485B, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1486, and amended Pub.L. 100-50, § 15(13), June 3, 1987, 101 Stat. 357; Pub.L. 101-239, Title II, § 2008, Dec. 19, 1989, 103 Stat. 2121.)

**HISTORICAL AND STATUTORY NOTES**

**Revision Notes and Legislative Reports**

**1986 Act.** House Reports Nos. 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 2572.

**1987 Act.** House Report No. 100-44, see 1987 U.S.Code Cong. and Adm.News, p. 339.

**1989 Act.** House Report No. 101-247 and House Conference Report No. 101-386, see 1989 U.S.Code Cong. and Adm.News, p. 1906.

**Amendments**

**1989 Amendment.** Subsec. (a). Pub.L. 101-239 substituted provisions which related to development of the system, for provisions which related to authority of the Secretary.

Subsec. (b). Pub.L. 101-239 substituted provisions which related to additional information, for provisions which related to access to information.

Subsec. (c). Pub.L. 101-239 in heading struck out "not required" following "Verification", and in text substituted "may require" for "shall not require",

and struck out "of this subchapter" following "part E".

Subsec. (d). Pub.L. 101-239 substituted "submit to the appropriate committees of the Congress, in each fiscal year, a report" for "submit to the Congress twice in each fiscal year a report".

**1987 Amendment.** Subsec. (b)(1). Pub.L. 100-50, § 15(13)(A), substituted "public agencies" for "Federal agencies".

Subsec. (b)(2)(D). Pub.L. 100-50, § 15(13)(B), substituted "of any borrower" for "of a borrower for whom the guaranty agency provides insurance".

Subsec. (b)(3). Pub.L. 100-50, § 15(13)(C), substituted "public agency" for "Federal agency".

**Effective Dates**

**1987 Act.** Amendment by Pub.L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub.L. 99-498, see section 27 of Pub.L. 100-50, set out as a note under section 1001 of this title.

**1986 Act.** Section effective Oct. 17, 1986, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

**WESTLAW ELECTRONIC RESEARCH**

See WESTLAW guide following the Explanation pages of this volume.

**§ 1093. Training in financial aid and student support services**

**(a) Program authority**

The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institu-

tions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities, or statewide programs.

**(b) Use of funds**

Financial assistance under this section may be used for—

(1) development of materials and in-service training and career awareness programs;

(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under subchapter III of this chapter.

**(c) Authorization of appropriations**

There are authorized to be appropriated \$1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1986.

(Pub. L. 89-329, Title IV, § 486, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1487.)

**HISTORICAL AND STATUTORY NOTES**

**Revision Notes and Legislative Reports**

**1986 Act.** House Reports Nos. 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 2572.

**Effective Dates**

**1986 Act.** Section effective Oct. 17, 1986, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

**Prior Provisions**

A prior section 1093, Pub.L. 89-329, Title IV, § 486, as added Pub.L. 96-374, Title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1450, also provided for a program of training in financial aid and student support services for each of the fiscal years ending prior to Oct. 1, 1985, prior to the general revision of this part by Pub.L. 99-498.

**WESTLAW ELECTRONIC RESEARCH**

See WESTLAW guide following the Explanation pages of this volume.

**§ 1094. Program participation agreements**

**(a) Required for programs of assistance; contents**

In order to be an eligible institution for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of Title 42, an institution must be an institution of

higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 3 of part A of this subchapter, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this subchapter and part C of subchapter I of chapter 34 of Title 42 or the amount of such assistance, or for completing or handling the Federal Student Assistance Report provided for in section 1090(e) of this title.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this subchapter and part C of subchapter I of chapter 34 of Title 42.

(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part D of this subchapter, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this subchapter and part C of subchapter I of chapter 34 of Title 42.

(6) The institution will not provide any student with any statement or certification to any lender under part B of this subchapter that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 1075(a), 1078(a)(2) and 1078(b)(1)(A) and (B) of this title.

(7) The institution will comply with the requirements of section 1092 of this title.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institu-

tion, the institution will make available to prospective students, at or before the time of application, the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements.

(9) In the case of an institution participating in a program under part B of this subchapter, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

(11) In the case of any institution which admits students on the basis of their ability to benefit from the education or training provided by such institution (as determined under section 1091(d) of this title), the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.

#### (b) Hearings

(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing on the record and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

#### (c) Audits; financial responsibility; enforcement of standards

(1) Notwithstanding any other provisions of this subchapter and part C of subchapter I of chapter 34 of Title 42, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this subchapter and part C of subchapter I of chapter 34 of Title 42 or obtained from a student or a parent

who has a loan insured or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of Title 42, at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to an eligible institution which is audited under chapter 75 of Title 31, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this subchapter and part C of subchapter I of chapter 34 of Title 42;

(C) the establishment, by each eligible institution under part B of this subchapter responsible for furnishing to the lender the statement required by section 1078(a)(2)(A)(i) of this title, of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll;

(D) the limitation, suspension, or termination of the eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of Title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of Title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(E) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and

statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this subchapter, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this subchapter, any regulation prescribed under this subchapter, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(F) the limitation, suspension, or termination of the eligibility of an individual or an organization to contract with any institution to administer any aspect of an institution's student assistance program under this subchapter, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing on the record, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this subchapter, any regulation prescribed under this subchapter, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(G) an emergency action against an individual or an organization that has contracted with an institution to administer any aspect of the institution's student assistance program under this subchapter, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or orga-

nization's authority to act on behalf of an institution under any program under this subchapter, if the Secretary—

(I) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this subchapter, any regulation prescribed under this subchapter, or any applicable special arrangement, agreement, or limitation,

(II) determines that immediate action is necessary to prevent misuse of Federal funds, and

(III) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this subchapter and part C of subchapter I of chapter 34 of Title 42 of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution—

(I) has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of Title 42 or any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of Title 42; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed \$25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed

upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(d) "Eligible institution" defined

For the purpose of this section, the term "eligible institution" means any such institution described in section 1085(a) of this title.

(Pub. L. 89-329, Title IV, § 487, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1488, and amended Pub.L. 101-239, Title II, §§ 2003(c)(2), 2006(c), Dec. 19, 1989, 103 Stat. 2114, 2118.)

#### HISTORICAL AND STATUTORY NOTES

##### Revision Notes and Legislative Reports

**1986 Act.** House Reports Nos. 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 2572.

**1989 Act.** House Report No. 101-247 and House Conference Report No. 101-386, see 1989 U.S.Code Cong. and Adm.News, p. 1906.

##### References in Text

Section 1090(e) of this title, referred to in subsec. (a)(2), was redesignated section 1090(f) of this title by Pub.L. 100-50, § 15(6)(A), June 3, 1987, 101 Stat. 356.

##### Amendments

**1989 Amendment.** Subsec. (a)(11). Pub.L. 101-239, § 2003(c)(2), added par. (11).

Subsec. (c)(1)(C). Pub.L. 101-239, § 2006(c)(1), struck out "and" following "failure to re-enroll;"

Subsec. (c)(1)(D). Pub.L. 101-239, § 2006(c)(2), substituted "Title 42, any" for "Title 42 or any", added "or any applicable special arrangement, agreement, or limitation," following "Title 42", and substituted "period of time;" for "period of time."

Subsec. (c)(1)(E)-(G). Pub.L. 101-239, § 2006(c)(3), added subpars. (E) to (G).

##### Effective Dates

**1989 Act.** Enactment of subsec. (a)(11) by Pub.L. 101-239 applicable with respect to periods of enrollment beginning on or after Jan. 1, 1990, see section 2003(c)(3) of Pub.L. 101-239, set out as a note under section 1078-1 of this title.

**1986 Act.** Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

Subsec. (a)(10) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub.L. 99-498, set out as a note under section 1091 of this title.

##### Prior Provisions

A prior section 1094, Pub.L. 89-329, Title IV, § 487, as added Pub.L. 96-374, Title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1451, and amended Pub.L. 99-272, Title XVI, § 16034, Apr. 7, 1986, 100 Stat. 356, provided for program participation agreements, prior to the general revision of this part by Pub.L. 99-498.

## LIBRARY REFERENCES

**American Digest System**

Loans and loan guarantees or insurance, see Colleges and Universities ¶9.25(2).

**Encyclopedias**

Loans and loan guarantees or insurance, see C.J.S. Colleges and Universities § 28.

## WESTLAW ELECTRONIC RESEARCH

Colleges and universities cases: 81k[add key number].  
See, also, WESTLAW guide following the Explanation pages of this volume.

## NOTES OF DECISIONS

**Hearing 1  
Termination of eligibility 2****1. Hearing**

Seminary had no right to hearing prior to Department of Education determination that it was not entitled to participate in federal student financial assistance programs because its credits were not accepted at three accredited colleges to which its students actually transferred. *Beth Rochel Seminary v. Bennett*, 1987, 825 F.2d 478, 263 App.D.C. 341.

**2. Termination of eligibility**

University established likelihood of prevailing on merits of its claim that statutes governing guaranteed student loan program did not give Department

of Education authority to take emergency action to terminate university's participation in program, and thus, university was entitled to preliminary injunction preventing emergency action; statute required agency action to take place only after reasonable notice and opportunity to be heard on the merits. *Ross University School of Medicine, School of Veterinary Medicine (St. Kitts) Ltd. v. Cavazos*, D.D.C.1989, 716 F.Supp. 638.

Institution which was previously found eligible to participate in federal student financial assistance programs was entitled to procedural protections under Higher Education Act prior to termination of its eligibility status. *Continental Training Services, Inc. v. Cavazos*, S.D.Ind.1989, 709 F.Supp. 1443.

**§ 1095. Transfer of allotments**

Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 1070b-3 of this title or 2752 of Title 42, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(Pub. L. 89-329, Title IV, § 488, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1490, and amended Pub.L. 100-50, § 15(14), June 3, 1987, 101 Stat. 357.)

## HISTORICAL AND STATUTORY NOTES

**Revision Notes and Legislative Reports** 99-861, and Statement by President, see 1986 Act. House Reports Nos. 99-383, 1986 U.S.Code Cong. and Adm.News, p. 99-598, House Conference Report No. 2572.

**1987 Act.** House Report No. 100-44, see 1987 U.S.Code Cong. and Adm.News, p. 339.

**Amendments**

**1987 Amendment.** Pub.L. 100-50 substituted "section 2752 of Title 42" for "section 2756 of Title 42".

**Effective Dates**

**1987 Act.** Amendment by Pub.L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub.L. 99-498, see section 27 of

Pub.L. 100-50, set out as a note under section 1001 of this title.

**1986 Act.** Section effective Oct. 17, 1986, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

**Prior Provisions**

A prior section 1095, Pub.L. 89-329, Title IV, § 488, as added Pub.L. 96-374, Title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1452, provided for the transfer of allotments, prior to the general revision of this part by Pub.L. 99-498.

## CROSS REFERENCES

Use of funds from grants for work-study programs, see 42 USCA § 2753.

## WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

**§ 1096. Administrative expenses****(a) Amount of payments**

From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A of this subchapter, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 1094 of this title, an amount equal to \$5 for each student at that institution who receives assistance under subpart 1 of part A of this subchapter. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A of this subchapter or part C of subchapter I of chapter 34 of Title 42 (other than section 2756a of Title 42) or under part D of this subchapter shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b) of this section. The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first \$2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than \$2,750,000 and less than \$5,500,000, plus 3 percent of the institution's expenditures in excess of \$5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A of this subchapter, its expenditures during such fiscal year under part C of subchapter I of chapter 34 of Title 42 for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part D of this subchapter, excluding the principal amount of any such loans

which the institution has agreed to assign under section 1087cc(a)(6)(B) of this title. The payment for a fiscal year for the purpose of subsection (b) of this section with respect to section 2756a of Title 42 shall be payable from each allotment under part C of subchapter I of chapter 34 of Title 42 in accordance with regulations of the Secretary, and shall be 10 percent of the institution's expenditures during such fiscal year under such section. In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 1091(c) of this title.

#### (b) Purpose of payments

The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a) of this section.

(Pub. L. 89-329, Title IV, § 489, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1491, and amended Pub.L. 99-603, Title I, § 121(b)(7), Nov. 6, 1986, 100 Stat. 3391; Pub.L. 100-50, § 15(15), June 3, 1987, 101 Stat. 357.)

### HISTORICAL AND STATUTORY NOTES

**Revision Notes and Legislative Reports 1986 Acts.** House Reports Nos. 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S.Code Cong. and Adm. News, p. 2572.

House Report No. 99-682 (Parts I-V), and House Conference Report No. 99-1000, see 1986 U.S.Code Cong. and Adm. News, p. 5649.

**1987 Act.** House Report No. 100-44, see 1987 U.S.Code Cong. and Adm. News, p. 339.

#### Amendments

**1987 Amendment.** Subsec. (a). Pub.L. 100-50 substituted in the original "other than section 447", which translates as "other than section 2756a of Title 42", for "other than section 448", which had been previously translated also as "other than section 2756a of Title 42" as the probable intent of Congress. The amendment therefore required no change in text.

**1986 Amendment.** Subsec. (a). Pub.L. 99-603 added provision directing the Secretary to pay the costs incurred by institutions of higher education in

implementing and operating the immigration status verification system under section 1091(c) of this title.

#### Effective Dates

**1987 Act.** Amendment by Pub.L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub.L. 99-498, see section 27 of Pub.L. 100-50, set out as a note under section 1001 of this title.

**1986 Acts.** Amendment by Pub.L. 99-603 effective Oct. 1, 1987, see section 121(c)(2) of Pub.L. 99-603, set out as a note under section 502 of Title 42, The Public Health and Welfare.

Section effective Oct. 17, 1986, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

#### Prior Provisions

A prior section 1096, Pub.L. 89-329, Title IV, § 489, as added Pub.L. 96-374, Title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1453, and amended Pub.L. 97-35, Title V, § 537(a)(2), Aug. 13, 1981, 95 Stat. 456, related to administrative expenses, prior to the general revision of this part by Pub.L. 99-498.

### CROSS REFERENCES

Funding for community-service-learning programs, see 42 USCA § 2756a.  
Use of funds from grants for work-study programs, see 42 USCA § 2753.

### WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

## § 1097. Criminal penalties

### (a) In general

Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall be fined not more than \$10,000 or imprisoned for not more than 5 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed \$200, the fine shall not be more than \$1,000 and imprisonment shall not exceed one year, or both.

### (b) Assignment of loans

Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both.

### (c) Inducements to lend or assign

Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B of this subchapter as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both.

### (d) Obstruction of justice

Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this subchapter and part C of subchapter I of chapter 34 of Title 42 with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than \$10,000 or imprisoned not more than 5 years, or both.

(Pub. L. 89-329, Title IV, § 490, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1491.)

**HISTORICAL AND STATUTORY NOTES**

**Revision Notes and Legislative Reports**  
**1986 Act.** House Reports Nos. 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S. Code Cong. and Adm. News, p. 2572.

**Effective Dates**

**1986 Act.** Section effective Oct. 17, 1986, see section 2 of Pub.L. 99-498, set

out as a note under section 1001 of this title.

**Prior Provisions**

A prior section 1097, Pub.L. 89-329, Title IV, § 490, as added Pub.L. 96-374, Title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1453, related to criminal penalties, prior to the general revision of this part by Pub.L. 99-498.

**WESTLAW ELECTRONIC RESEARCH**

See WESTLAW guide following the Explanation pages of this volume.

**§ 1098. Advisory Committee on Student Financial Assistance****(a) Establishment and purpose**

(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the "Advisory Committee") which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

**(b) Independence of Advisory Committee**

In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the Congress in accordance with subsection (f) of this section. The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b) of this title ceased to be effective on June 23, 1983.

**(c) Membership**

(1) The Advisory Committee shall have 11 members of which—

(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

**(d) Functions of the Committee**

The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under sections 1070a-1 through 1070a-5 of this title and part E of this subchapter;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this subchapter and part C of subchapter I of chapter 34 of Title 42 and assist the Department of Education in improving the delivery of student aid and in assessing the impact of legislative and administrative policy proposals;

(4) review and comment upon, prior to promulgation, all regulations affecting programs under this subchapter and part C of subchapter I of chapter 34 of Title 42, including proposed regulations;

(5) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses;

(6) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs; and

(7) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs.

**(e) Operations of the Committee**

(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

(3) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(4) Six members of the Advisory Committee shall constitute a quorum.

(5) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

**(f) Submission to Department for comment**

The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

**(g) Compensation and expenses**

(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, for persons in the Government service employed intermittently.

(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, for persons in the Government service employed intermittently.

**(h) Personnel and resources**

(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of Title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle 1 III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

(2) In carrying out its duties under this chapter, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants in accordance with section 3109 of Title 5.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

## (l) Availability of funds

In each fiscal year not less than \$500,000 shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

## (j) Special institutional lender study

(1) The Advisory Committee shall conduct a thorough study of institutional lender policy. In carrying out the study, the Advisory Committee shall examine, but not be limited to—

(A) the relevance and current applicability of the institutional lender criteria established in section 1085(d) of this title;

(B) the appropriateness of using default rates for loans made under part D of this subchapter or other institutional criteria to determine institutional participation;

(C) whether or not a portion or all of any special allowance or other payments paid to institutional lenders should benefit need-based scholarship or grant programs;

(D) whether or not institutional lenders should be required to hold loans made to eligible borrowers through graduation or termination of matriculation;

(E) examine the extent and degree to which student access to loan capital would be adversely affected by the restrictions contained in section 1085(d)(2) of this title; and

(F) assess the potential impact on State secondary markets and lender portfolios if student borrowers at higher cost colleges and universities, who come from higher income families, concentrate their lending with a few large lenders and secondary markets.

(2) The Advisory Committee shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate in carrying out the study required by this subsection.

(3) The Advisory Committee shall, not later than 2 years after June 3, 1987, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report of the study required by this section.

(Pub. L. 89-329, Title IV, § 491, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1492, and amended Pub.L. 100-50, § 15(16)-(18), June 3, 1987, 101 Stat. 357.)

<sup>1</sup> So in original. Probably should be "subchapter".

## HISTORICAL AND STATUTORY NOTES

## Revision Notes and Legislative Reports

**1986 Act.** House Reports Nos: 99-383, 99-598, House Conference Report No. 99-861, and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 2572.

**1987 Act.** House Report No. 100-44, see 1987 U.S.Code Cong. and Adm.News, p. 339.

## References in Text

The provisions of Title 5 governing appointments in the competitive service, referred to in subsec. (h)(1), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

GS-18 of the General Schedule, referred to in subsec. (h)(1), is set out under section 5332 of Title 5.

This chapter, referred to in subsec. (h)(2), was in the original "the Act", meaning Pub.L. 89-329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

## Amendments

**1987 Amendment.** Subsec. (b). Pub.L. 100-50, § 15(16), inserted provision that the Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b) of this title ceased to be effective June 23, 1983.

Subsec. (i). Pub.L. 100-50, § 15(17), substituted "In each fiscal year not less than \$500,000" for "An amount, not to exceed \$500,000 in any fiscal year".

Subsec. (j). Pub.L. 100-50, § 15(18), added subsec. (j).

## Effective Dates

**1987 Act.** Amendment by Pub.L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub.L. 99-498, see section 27 of Pub.L. 100-50, set out as a note under section 1001 of this title.

**1986 Act.** Section effective Oct. 17, 1986, see section 2 of Pub.L. 99-498, set out as a note under section 1001 of this title.

## Prior Provisions

A prior section 1098, Pub.L. 89-329, Title IV, § 491, as added Pub.L. 96-374, Title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1454, and amended Pub.L. 98-79, § 11, Aug. 15, 1983, 97 Stat. 484, provided for the establishment of a 12-member independent agency within the executive branch known as the National Commission on Student Financial Assistance, prior to the general revision of this part by Pub.L. 99-498.

## Termination of Advisory Committees

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub.L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in Appendix 2 to Title 5, Government Organization and Employees.

## WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

## § 1099. Exemption from State disclosure requirements

Loans made, insured, or guaranteed pursuant to a program authorized by this subchapter shall not be subject to any disclosure requirements of any State law.

(Pub.L. 97-320, Title VII, § 701(b), Oct. 15, 1982, 96 Stat. 1538.)