

## **Division 2—Gaining Early Awareness and Readiness for Undergraduate Programs**

### **CODIFICATION**

Chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965, comprising this division, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 492, and amended by Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105. Chapter 2 is shown herein, however, as having been added by Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1656, without reference to those intervening amendments because of the extensive revision of chapter 2 by Pub. L. 105–244.

### **§1070a–21. Early intervention and college awareness program authorized**

#### **(a) Program authorized**

The Secretary is authorized, in accordance with the requirements of this division, to establish a program that encourages eligible entities to provide support, and maintain a commitment, to eligible low-income students, including students with disabilities, to assist the students in obtaining a secondary school diploma (or its recognized equivalent) and to prepare for and succeed in postsecondary education, by providing—

(1) financial assistance, academic support, additional counseling, mentoring, outreach, and supportive services to secondary school students, including students with disabilities, to reduce—

(A) the risk of such students dropping out of school; or

(B) the need for remedial education for such students at the postsecondary level; and

(2) information to students and their families about the advantages of obtaining a postsecondary education and, college financing options for the students and their families.

#### **(b) Awards**

##### **(1) In general**

From funds appropriated under section 1070a–28 of this title for each fiscal year, the Secretary shall make awards to eligible entities described in paragraphs (1) and (2) of subsection (c) of this section to enable the entities to carry out the program authorized under subsection (a) of this section.

##### **(2) Award period**

The Secretary may award a grant under this division to an eligible entity described in paragraphs (1) and (2) of subsection (c) for—

(A) six years; or

(B) in the case of an eligible entity that applies for a grant under this division for seven years to enable the eligible entity to provide services to a student through the student's first year of attendance at an institution of higher education, seven years.

##### **(3) Priority**

In making awards to eligible entities described in subsection (c)(1), the Secretary shall—

(A) give priority to eligible entities that—

(i) on the day before August 14, 2008, carried out successful educational opportunity programs under this division (as this division was in effect on such day); and

(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies; and

(B) ensure that students served under this division on the day before August 14, 2008, continue to receive assistance through the completion of secondary school.

### **(c) “Eligible entity” defined**

For the purposes of this division, the term “eligible entity” means—

(1) a State; or

(2) a partnership—

(A) consisting of—

(i) one or more local educational agencies; and

(ii) one or more degree granting institutions of higher education; and

(B) which may include not less than two other community organizations or entities, such as businesses, professional organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.

(Pub. L. 89–329, title IV, §404A, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1656; amended Pub. L. 110–315, title IV, §404(a), Aug. 14, 2008, 122 Stat. 3206.)

### **PRIOR PROVISIONS**

A prior section 1070a–21, Pub. L. 89–329, title IV, §404A, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, §2(b)(12), Dec. 20, 1993, 107 Stat. 2459, authorized establishment of early intervention program, prior to the general amendment of this division by Pub. L. 105–244.

### **AMENDMENTS**

**2008**—Subsec. (a). Pub. L. 110–315, §404(a)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “The Secretary is authorized, in accordance with the requirements of this division, to establish a program that—

“(1) encourages eligible entities to provide or maintain a guarantee to eligible low-income students who obtain a secondary school diploma (or its recognized equivalent), of the financial assistance necessary to permit the students to attend an institution of higher education; and

“(2) supports eligible entities in providing—

“(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary school, middle school, and secondary school students who are at risk of dropping out of school; and

“(B) information to students and their parents about the advantages of obtaining a postsecondary education and the college financing options for the students and their parents.”

Subsec. (b)(2), (3). Pub. L. 110–315, §404(a)(2), added pars. (2) and (3) and struck out former par. (2) which related to priority in making awards to eligible entities.

Subsec. (c)(2). Pub. L. 110–315, §404(a)(3), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “a partnership consisting of—

“(A) one or more local educational agencies acting on behalf of—

“(i) one or more elementary schools or secondary schools; and

“(ii) the secondary schools that students from the schools described in clause (i) would normally attend;

“(B) one or more degree granting institutions of higher education; and

“(C) at least two community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4 of this part, or other public or private agencies or organizations.”

#### **EFFECTIVE DATE**

Division effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

#### **EVALUATION OF TUITION GUARANTY PROGRAMS**

Pub. L. 102–325, title XIV, §1407, July 23, 1992, 106 Stat. 819, directed Secretary of Education to conduct study of effectiveness of programs for disadvantaged children that promise the child financial resources needed to pursue postsecondary education in exchange for child's commitment to achieve satisfactory elementary and secondary education, and to submit reports regarding study by June 30, 1996, and by Jan. 1, 1997, to committees of Congress, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

## **§1070a–22. Requirements**

### **(a) Funding rules**

In awarding grants from the amount appropriated under section 1070a–28 of this title for a fiscal year, the Secretary shall make available—

(1) to eligible entities described in section 1070a–21(c)(1) of this title, not less than 33 percent of such amount;

(2) to eligible entities described in section 1070a–21(c)(2) of this title, not less than 33 percent of such amount; and

(3) to eligible entities described in paragraph (1) or (2) of section 1070a–21(c) of this title, the remainder of such amount taking into consideration the number, quality, and promise of the applications for the grants, and, to the extent practicable—

(A) the geographic distribution of such grant awards; and

(B) the distribution of such grant awards between urban and rural applicants.

### **(b) Coordination**

Each eligible entity shall ensure that the activities assisted under this division are, to the extent practicable, coordinated with, and complement and enhance—

(1) services under this division provided by other eligible entities serving the same school district or State; and

(2) related services under other Federal or non-Federal programs.

### **(c) Designation of fiscal agent**

An eligible entity described in section 1070a–21(c)(2) of this title shall designate an institution of higher education or a local educational agency as the fiscal agent for the eligible entity.

### **(d) Cohort approach**

#### **(1) In general**

The Secretary shall require that eligible entities described in section 1070a–21(c)(2) of this title—

(A) provide services under this division to at least one grade level of students, beginning not later than 7th grade, in a participating school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] (or, if an eligible entity determines that it would promote the effectiveness of a program, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 1437a(b)(1) of title 42);

(B) ensure that the services are provided through the 12th grade to students in the participating grade level and provide the option of continued services through the student's first year of attendance at an institution of higher education to the extent the provision of such services was described in the eligible entity's application for assistance under this division; and

(C) provide services under this division to students who have received services under a previous GEAR UP grant award but have not yet completed the 12th grade.

#### **(2) Coordination requirement**

In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

### **(e) Supplement, not supplant**

Grant funds awarded under this division shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this division.

(Pub. L. 89–329, title IV, §404B, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1657; amended Pub. L. 106–78, title VII, §752(b)(8), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 110–315, title IV, §404(b), Aug. 14, 2008, 122 Stat. 3207.)

#### **REFERENCES IN TEXT**

The Richard B. Russell National School Lunch Act, referred to in subsec. (d)(1)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

#### **PRIOR PROVISIONS**

A prior section 1070a–22, Pub. L. 89–329, title IV, §404B, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, §2(b)(13), (14), Dec. 20, 1993, 107 Stat. 2459, related to State eligibility and State plan, prior to the general amendment of this division by Pub. L. 105–244.

#### **AMENDMENTS**

**2008**—Subsec. (a). Pub. L. 110–315, §404(b)(1), added subsec. (a) and struck out former subsec. (a) which related to funding rules.

Subsecs. (b), (c). Pub. L. 110–315, §404(b)(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b). Text read as follows: “Each eligible entity described in section 1070a–21(c)(1) of this title, and each eligible entity described in section 1070a–21(c)(2) of this title that conducts a scholarship component under section 1070a–25 of this title, shall use not less than 25 percent and not more than 50 percent of grant funds received under this division for the early intervention component of an eligible entity's program under this division, except that the Secretary may waive the 50 percent limitation if the eligible entity demonstrates that the eligible entity has another means of providing the students with financial assistance that is described in the plan submitted under section 1070a–23 of this title.”

Subsec. (d). Pub. L. 110–315, §404(b)(3), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(1)(B), (C). Pub. L. 110–315, §404(b)(4), inserted “and provide the option of continued services through the student's first year of attendance at an institution of higher education to the extent the provision of such services was described in the eligible entity's application for assistance under this division” after “grade level” in par. (B) and added par. (C).

Subsec. (e). Pub. L. 110–315, §404(b)(2), (5), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: “An eligible entity described in section 1070a–21(c)(2) of this title shall have a full-time program coordinator or a part-time program coordinator, whose primary responsibility is a project under section 1070a–23 of this title.”

Subsec. (f). Pub. L. 110–315, §404(b)(2), struck out subsec. (f). Text read as follows: “An eligible entity described in 1070a–21(c)(2) of this title shall ensure that the activities assisted under this division will not displace an employee or eliminate a position at a school assisted under this division, including a partial displacement such as a reduction in hours, wages or employment benefits.”

Subsec. (g). Pub. L. 110–315, §404(b)(3), redesignated subsec. (g) as (d).

**1999**—Subsec. (g)(1)(A). Pub. L. 106–78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

## **§1070a–23. Applications**

### **(a) Application required for eligibility**

#### **(1) In general**

In order for an eligible entity to qualify for a grant under this division, the eligible entity shall submit to the Secretary an application for carrying out the program under this division.

#### **(2) Contents**

Each application submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may reasonably require. Each such application shall, at a minimum—

(A) describe the activities for which assistance under this division is sought, including how the eligible entity will carry out the required activities described in section 1070a–24(a) of this title;

(B) describe, in the case of an eligible entity described in section 1070a–21(c)(2) of this title that chooses to provide scholarships, or an eligible entity described in section 1070a–21(c)(1) of this title, how the eligible entity will meet the requirements of section 1070a–25 of this title;

(C) describe, in the case of an eligible entity described in section 1070a–21(c)(2) of this title that requests a reduced match percentage under subsection (b)(2), how such reduction will assist the entity to provide the scholarships described in subsection (b)(2)(A)(ii);

(D) provide assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 1070a–24 of this title;

(E) provide assurances that activities assisted under this division will not displace an employee or eliminate a position at a school assisted under this division, including a partial displacement such as a reduction in hours, wages, or employment benefits;

(F) describe, in the case of an eligible entity described in section 1070a–21(c)(1) of this title that chooses to use a cohort approach, or an eligible entity described in section 1070a–21(c)(2) of this title, how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 1070a–22(d) of this title, and how the eligible entity will serve the cohorts through grade 12, including—

(i) how vacancies in the program under this division will be filled; and

(ii) how the eligible entity will serve students attending different secondary schools;

(G) describe how the eligible entity will coordinate programs under this division with other existing Federal, State, or local programs to avoid duplication and maximize the number of students served;

(H) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this division;

(I) provide information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit; and

(J) describe the sources of matching funds that will enable the eligible entity to meet the matching requirement described in subsection (b).

## **(b) Matching requirement**

### **(1) In general**

The Secretary shall not approve an application submitted under subsection (a) unless such application—

(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than 50 percent of the cost of the program, which matching funds may be provided in cash or in kind and may be accrued over the full duration of the grant award period, except that the eligible entity shall make substantial progress towards meeting the matching requirement in each year of the grant award period;

(B) specifies the methods by which matching funds will be paid; and

(C) includes provisions designed to ensure that funds provided under this division shall supplement and not supplant funds expended for existing programs.

### **(2) Special rule**

Notwithstanding the matching requirement described in paragraph (1)(A), the Secretary may by regulation modify the percentage requirement described in paragraph (1)(A) for eligible entities described in section 1070a–21(c)(2) of this title. The Secretary may approve an eligible entity's request for a reduced match percentage—

(A) at the time of application—

(i) if the eligible entity demonstrates significant economic hardship that precludes the eligible entity from meeting the matching requirement; or

(ii) if the eligible entity is described in section 1070a–21(c)(2) of this title and requests that contributions to the eligible entity's scholarship fund established under section 1070a–25 of this title be matched on a two to one basis; or

(B) in response to a petition by an eligible entity subsequent to a grant award under this section if the eligible entity demonstrates that the matching funds described in its application are no longer available and the eligible entity has exhausted all revenues for replacing such matching funds.

### **(c) Methods for complying with matching requirement**

An eligible entity may count toward the matching requirement described in subsection

(b)(1)(A)—

(1) the amount of the financial assistance obligated to students from State, local, institutional, or private funds under this division, including pre-existing non-Federal financial assistance programs, including—

(A) the amount contributed to a student scholarship fund established under section 1070a–25 of this title; and

(B) the amount of the costs of administering the scholarship program under section 1070a–25 of this title;

(2) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under this division;

(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations; and

(4) other resources recognized by the Secretary, including equipment and supplies, cash contributions from non-Federal sources, transportation expenses, in-kind or discounted program services, indirect costs, and facility usage.

### **(d) Peer review panels**

The Secretary shall convene peer review panels to assist in making determinations regarding the awarding of grants under this division.

(Pub. L. 89–329, title IV, §404C, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1658; amended Pub. L. 110–315, title IV, §404(c), Aug. 14, 2008, 122 Stat. 3208.)

#### **PRIOR PROVISIONS**

A prior section 1070a–23, Pub. L. 89–329, title IV, §404C, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 493; amended Pub. L. 103–208, §2(b)(15)–(17), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 104–193, title I, §110(h)(1), Aug. 22, 1996, 110 Stat. 2172, related to early intervention, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–24 of this title.

#### **AMENDMENTS**

**2008**—Pub. L. 110–315, §404(c)(1), substituted “Applications” for “Eligible entity plans” in section catchline.

Subsec. (a). Pub. L. 110–315, §404(c)(2)(A), substituted “Application” for “Plan” in heading.

Subsec. (a)(1). Pub. L. 110–315, §404(c)(2)(B), substituted “an application” for “a plan” and struck out at end “Such plan shall provide for the conduct of a scholarship component if required or undertaken pursuant to section 1070a–25 of this title and an early intervention component required pursuant to section 1070a–24 of this title.”

Subsec. (a)(2). Pub. L. 110–315, §404(c)(2)(C), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “Each plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation. Each such plan shall—

“(A) describe the activities for which assistance under this division is sought; and

“(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this division.”

Subsec. (b)(1). Pub. L. 110–315, §404(c)(3)(A), substituted “an application” for “a plan” and “such application” for “such plan” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 110–315, §404(c)(3)(B), which directed insertion of “and may be accrued over the full duration of the grant award period, except that the eligible entity shall make substantial progress towards meeting the matching requirement in each year of the grant award period” after “in cash or in-kind”, was executed by making the insertion after “in cash or in kind” to reflect the probable intent of Congress.

Subsec. (b)(2). Pub. L. 110–315, §404(c)(3)(C), inserted at end “The Secretary may approve an eligible entity’s request for a reduced match percentage—” and subpars. (A) and (B).

Subsec. (c)(1). Pub. L. 110–315, §404(c)(4)(A), substituted “obligated to students from State, local, institutional, or private funds under this division, including pre-existing non-Federal financial assistance programs, including—” and subpars. (A) and (B) for “paid to students from State, local, institutional, or private funds under this division;”.

Subsec. (c)(4). Pub. L. 110–315, §404(c)(4)(B)–(D), added par. (4).

## **§1070a–24. Activities**

### **(a) Required activities**

Each eligible entity receiving a grant under this division shall provide comprehensive mentoring, outreach, and supportive services to students participating in the programs under this division. Such activities shall include the following:

(1) Providing information regarding financial aid for postsecondary education to participating students in the cohort described in section 1070a–22(d)(1)(A) of this title or to priority students described in subsection (d).

(2) Encouraging student enrollment in rigorous and challenging curricula and coursework, in order to reduce the need for remedial coursework at the postsecondary level.

(3) Improving the number of participating students who—

(A) obtain a secondary school diploma; and

(B) complete applications for and enroll in a program of postsecondary education.



(4) In the case of an eligible entity described in section 1070a–21(c)(1) of this title, providing for the scholarships described in section 1070a–25 of this title.

**(b) Permissible activities for States and partnerships**

An eligible entity that receives a grant under this division may use grant funds to carry out one or more of the following activities:

(1) Providing tutors and mentors, who may include adults or former participants of a program under this division, for eligible students.

(2) Conducting outreach activities to recruit priority students described in subsection (d) to participate in program activities.

(3) Providing supportive services to eligible students.

(4) Supporting the development or implementation of rigorous academic curricula, which may include college preparatory, Advanced Placement, or International Baccalaureate programs, and providing participating students access to rigorous core academic courses that reflect challenging State academic standards.

(5) Supporting dual or concurrent enrollment programs between the secondary school and institution of higher education partners of an eligible entity described in section 1070a–21(c)(2) of this title, and other activities that support participating students in—

- (A) meeting challenging State academic standards;
- (B) successfully applying for postsecondary education;
- (C) successfully applying for student financial aid; and
- (D) developing graduation and career plans.

(6) Providing special programs or tutoring in science, technology, engineering, or mathematics.

(7) In the case of an eligible entity described in section 1070a–21(c)(2) of this title, providing support for scholarships described in section 1070a–25 of this title.

(8) Introducing eligible students to institutions of higher education, through trips and school-based sessions.

(9) Providing an intensive extended school day, school year, or summer program that offers—

- (A) additional academic classes; or
- (B) assistance with college admission applications.

(10) Providing other activities designed to ensure secondary school completion and postsecondary education enrollment of at-risk children, such as—

- (A) the identification of at-risk children;
- (B) after-school and summer tutoring;
- (C) assistance to at-risk children in obtaining summer jobs;
- (D) academic counseling;
- (E) financial literacy and economic literacy education or counseling;
- (F) volunteer and parent involvement;
- (G) encouraging former or current participants of a program under this division to serve as peer counselors;
- (H) skills assessments;
- (I) personal and family counseling, and home visits;
- (J) staff development; and
- (K) programs and activities described in this subsection that are specially designed for students who are limited English proficient.

(11) Enabling eligible students to enroll in Advanced Placement or International Baccalaureate courses, or college entrance examination preparation courses.

(12) Providing services to eligible students in the participating cohort described in section 1070a–22(d)(1)(A) of this title, through the first year of attendance at an institution of higher education.

(13) Fostering and improving parent and family involvement in elementary and secondary education by promoting the advantages of a college education, and emphasizing academic admission requirements and the need to take college preparation courses, through parent engagement and leadership activities.

(14) Disseminating information that promotes the importance of higher education, explains college preparation and admission requirements, and raises awareness of the resources and services provided by the eligible entities to eligible students, their families, and communities.

(15) In the event that matching funds described in the application are no longer available, engaging entities described in section 1070a–21(c)(2) of this title in a collaborative manner to provide matching resources and participate in other activities authorized under this section.

### **(c) Additional permissible activities for States**

In addition to the required activities described in subsection (a) and the permissible activities described in subsection (b), an eligible entity described in section 1070a–21(c)(1) of this title receiving funds under this division may use grant funds to carry out one or more of the following activities:

(1) Providing technical assistance to—

(A) secondary schools that are located within the State; or

(B) partnerships described in section 1070a–21(c)(2) of this title that are located within the State.

(2) Providing professional development opportunities to individuals working with eligible cohorts of students described in section 1070a–22(d)(1)(A) of this title.

(3) Providing administrative support to help build the capacity of eligible entities described in section 1070a–21(c)(2) of this title to compete for and manage grants awarded under this division.

(4) Providing strategies and activities that align efforts in the State to prepare eligible students to attend and succeed in postsecondary education, which may include the development of graduation and career plans.

(5) Disseminating information on the use of scientifically valid research and best practices to improve services for eligible students.

(6)(A) Disseminating information on effective coursework and support services that assist students in obtaining the goals described in subparagraph (B)(ii).

(B) Identifying and disseminating information on best practices with respect to—

(i) increasing parental involvement; and

(ii) preparing students, including students with disabilities and students who are limited English proficient, to succeed academically in, and prepare financially for, postsecondary education.

(7) Working to align State academic standards and curricula with the expectations of postsecondary institutions and employers.

(8) Developing alternatives to traditional secondary school that give students a head start on attaining a recognized postsecondary credential (including an industry-

recognized certificate, an apprenticeship, or an associate's or a bachelor's degree), including school designs that give students early exposure to college-level courses and experiences and allow students to earn transferable college credits or an associate's degree at the same time as a secondary school diploma.

(9) Creating community college programs for drop-outs that are personalized drop-out recovery programs that allow drop-outs to complete a regular secondary school diploma and begin college-level work.

#### **(d) Priority students**

For eligible entities not using a cohort approach, the eligible entity shall treat as a priority student any student in secondary school who is—

- (1) eligible to be counted under section 6333(c) of this title;
- (2) eligible for assistance under a State program funded under part A or E of title IV of the Social Security Act (42 U.S.C. 601 et seq., 670 et seq.);
- (3) eligible for assistance under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.); or
- (4) otherwise considered by the eligible entity to be a disconnected student.

#### **(e) Allowable providers**

In the case of eligible entities described in section 1070a–21(c)(1) of this title, the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4, and other organizations the State determines appropriate.

(Pub. L. 89–329, title IV, §404D, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1659; amended Pub. L. 106–78, title VII, §752(b)(8), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 110–315, title IV, §404(d), Aug. 14, 2008, 122 Stat. 3210.)

#### **REFERENCES IN TEXT**

The Social Security Act, referred to in subsec. (d)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A and E of title IV of the Act are classified generally to parts A (§601 et seq.) and E (§670 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (d)(3), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482. Subtitle B of title VII of the Act is classified generally to part B (§11431 et seq.) of subchapter VI of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

#### **PRIOR PROVISIONS**

A prior section 1070a–24, Pub. L. 89–329, title IV, §404D, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, §2(b)(18), (19), Dec. 20, 1993, 107 Stat. 2459, related to scholarship component, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–25 of this title.

#### **AMENDMENTS**

**2008**—Pub. L. 110–315 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) providing for services, use of funds, priority students, and allowable providers relating to early intervention.

**1999**—Subsec. (c)(2). Pub. L. 106–78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

## **§1070a–25. Scholarship component**

### **(a) In general**

#### **(1) States**

In order to receive a grant under this division, an eligible entity described in section 1070a–21(c)(1) of this title shall establish or maintain a financial assistance program that awards scholarships to students in accordance with the requirements of this section. The Secretary shall encourage the eligible entity to ensure that a scholarship provided pursuant to this section is available to an eligible student for use at any institution of higher education.

#### **(2) Partnerships**

An eligible entity described in section 1070a–21(c)(2) of this title may award scholarships to eligible students in accordance with the requirements of this section.

### **(b) Limitation**

#### **(1) In general**

Subject to paragraph (2), each eligible entity described in section 1070a–21(c)(1) of this title that receives a grant under this division shall use not less than 25 percent and not more than 50 percent of the grant funds for activities described in section 1070a–24 of this title (except for the activity described in subsection (a)(4) of such section), with the remainder of such funds to be used for a scholarship program under this section in accordance with such subsection.

#### **(2) Exception**

Notwithstanding paragraph (1), the Secretary may allow an eligible entity to use more than 50 percent of grant funds received under this division for such activities, if the eligible entity demonstrates that the eligible entity has another means of providing the students with the financial assistance described in this section and describes such means in the application submitted under section 1070a–23 of this title.

### **(c) Notification of eligibility**

Each eligible entity providing scholarships under this section shall provide information on the eligibility requirements for the scholarships to all participating students upon the students' entry into the programs assisted under this division.

### **(d) Grant amounts**

The maximum amount of a scholarship that an eligible student shall be eligible to receive under this section shall be established by the eligible entity. The minimum amount of the scholarship for each fiscal year shall not be less than the minimum Federal Pell Grant award under section 1070a of this title for such award year.

### **(e) Portability of assistance**

#### **(1) In general**

Each eligible entity described in section 1070a–21(c)(1) of this title that receives a grant under this division shall hold in reserve, for the students served by such grant as described in section 1070a–22(d)(1)(A) or 1070a–24(d) of this title, an amount that is not less than the minimum scholarship amount described in subsection (d), multiplied by the number of students the eligible entity estimates will meet the requirements of paragraph (2).

#### **(2) Requirement for portability**

Funds held in reserve under paragraph (1) shall be made available to an eligible student when the eligible student has—

- (A) completed a secondary school diploma, its recognized equivalent, or another recognized alternative standard for individuals with disabilities; and
- (B) enrolled in an institution of higher education.

### **(3) Qualified educational expenses**

Funds available to an eligible student under this subsection may be used for—

- (A) tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the eligible student at an institution of higher education; and
- (B) in the case of an eligible student with special needs, expenses for special needs services that are incurred in connection with such enrollment or attendance.

### **(4) Return of funds**

#### **(A) Redistribution**

##### **(i) In general**

Funds held in reserve under paragraph (1) that are not used by an eligible student within six years of the student's scheduled completion of secondary school may be redistributed by the eligible entity to other eligible students.

##### **(ii) Return of excess to the Secretary**

If, after meeting the requirements of paragraph (1) and, if applicable, redistributing excess funds in accordance with clause (i) of this subparagraph, an eligible entity has funds held in reserve under paragraph (1) that remain available, the eligible entity shall return such remaining reserved funds to the Secretary for distribution to other grantees under this division in accordance with the funding rules described in section 1070a–22(a) of this title.

#### **(B) Nonparticipating entity**

Notwithstanding subparagraph (A), in the case of an eligible entity that does not receive assistance under this subpart for six fiscal years, the eligible entity shall return any funds held in reserve under paragraph (1) that are not awarded or obligated to eligible students to the Secretary for distribution to other grantees under this division.

### **(f) Relation to other assistance**

Scholarships provided under this section shall not be considered for the purpose of awarding Federal grant assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, except that in no case shall the total amount of student financial assistance awarded to a student under this subchapter and part C of subchapter I of chapter 34 of title 42 exceed such student's total cost of attendance.

### **(g) Eligible students**

A student eligible for assistance under this section is a student who—

- (1) is less than 22 years old at time of first scholarship award under this section;
- (2) receives a secondary school diploma or its recognized equivalent on or after January 1, 1993;
- (3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries, except that, at the State's option, an eligible entity may offer scholarship program portability for recipients who attend institutions of higher education outside such State; and

(4) who participated in the activities required under section 1070a–24(a) of this title.

(Pub. L. 89–329, title IV, §404E, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1661; amended Pub. L. 110–315, title IV, §404(e), Aug. 14, 2008, 122 Stat. 3213.)

#### **PRIOR PROVISIONS**

A prior section 1070a–25, Pub. L. 89–329, title IV, §404E, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, §2(b)(20), Dec. 20, 1993, 107 Stat. 2459, related to distribution of funds, prior to the general amendment of this division by Pub. L. 105–244.

#### **AMENDMENTS**

**2008**—Subsecs. (b), (c). Pub. L. 110–315, §404(e)(3), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (f), respectively.

Subsec. (d). Pub. L. 110–315, §404(e)(4), substituted “the minimum Federal Pell Grant award under section 1070a of this title for such award year” for “the lesser of—

“(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

“(2) the maximum Federal Pell Grant funded under section 1070a of this title for such fiscal year”.

Pub. L. 110–315, §404(e)(2), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (g).

Subsec. (e). Pub. L. 110–315, §404(e)(1), (5), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: “The Secretary shall ensure that each eligible entity places a priority on awarding scholarships to students who will receive a Federal Pell Grant for the academic year for which the scholarship is awarded under this section.”

Subsec. (f). Pub. L. 110–315, §404(e)(1), (2), redesignated subsec. (c) as (f) and struck out former subsec. (f). Text read as follows: “An eligible entity may consider students who have successfully participated in programs funded under division 1 of this subpart to have met the requirements of subsection (d)(4) of this section.”

Subsec. (g). Pub. L. 110–315, §404(e)(2), redesignated subsec. (d) as (g).

Subsec. (g)(4). Pub. L. 110–315, §404(e)(6), substituted “activities required under section 1070a–24(a) of this title” for “early intervention component required under section 1070a–24 of this title”.

#### **EFFECTIVE DATE OF 2008 AMENDMENT**

Pub. L. 110–315, title IV, §404(i), as added by Pub. L. 111–39, title IV, §401(c), July 1, 2009, 123 Stat. 1940, provided that:

“(1) In general.—The amendments made by subsection (e) [amending this section] shall apply to grants made under chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–21 et seq.) on or after the date of enactment of this Act [Aug. 14, 2008], except that a recipient of a grant under such chapter that is made prior to such date may elect to apply the requirements contained in the amendments made by subsection (e) to that grant if the grant recipient informs the Secretary of the election.

“(2) Special rule.—A grant recipient may make the election described in paragraph (1) only if the election does not decrease the amount of the scholarship promised to an individual student under the grant.”

## **§1070a–26. 21st Century Scholar Certificates**

### **(a) In general**

An eligible entity that receives a grant under this division shall provide certificates, to be known as 21st Century Scholar Certificates, to all students served by the eligible entity who are participating in a program under this division.

### **(b) Information required**

A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college and the estimated amount of any scholarship provided under section 1070a–25 of this title, if applicable, that a student may be eligible to receive.

(Pub. L. 89–329, title IV, §404F, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1662; amended Pub. L. 106–78, title VII, §752(b)(8), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 110–315, title IV, §404(f), Aug. 14, 2008, 122 Stat. 3214.)

#### **PRIOR PROVISIONS**

A prior section 1070a–26, Pub. L. 89–329, title IV, §404F, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, §2(b)(21), (22), Dec. 20, 1993, 107 Stat. 2459, related to evaluation and report, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–27 of this title.

#### **AMENDMENTS**

**2008**—Pub. L. 110–315 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b), which related to the provision of 21st Century Scholar Certificates and required that such Certificates be personalized for each student.

**1999**—Subsec. (a)(2). Pub. L. 106–78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

## **§1070a–27. Evaluation and report**

### **(a) Evaluation**

Each eligible entity receiving a grant under this division shall biennially evaluate the activities assisted under this division in accordance with the standards described in subsection (b) of this section and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the activities and shall be consistent with the standards developed by the Secretary pursuant to subsection (b) of this section.

### **(b) Evaluation standards**

The Secretary shall prescribe standards for the evaluation described in subsection (a) of this section. Such standards shall—

- (1) provide for input from eligible entities and service providers; and
- (2) ensure that data protocols and procedures are consistent and uniform.

### **(c) Federal evaluation**

In order to evaluate and improve the impact of the activities assisted under this division, the Secretary shall, from not more than 0.75 percent of the funds appropriated under section 1070a–28 of this title for a fiscal year, award one or more grants, contracts, or cooperative

agreements to or with public and private institutions and organizations, to enable the institutions and organizations to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation. Such evaluation shall include a separate analysis of—

(1) the implementation of the scholarship component described in section 1070a–25 of this title; and

(2) the use of methods for complying with matching requirements described in paragraphs (1) and (2) of section 1070a–23(c) of this title.

#### **(d) Report**

The Secretary shall biennially report to Congress regarding the activities assisted under this division and the evaluations conducted pursuant to this section.

(Pub. L. 89–329, title IV, §404G, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1662; amended Pub. L. 110–315, title IV, §404(g), Aug. 14, 2008, 122 Stat. 3215.)

#### **PRIOR PROVISIONS**

A prior section 1070a–27, Pub. L. 89–329, title IV, §404G, as added Pub. L. 102–325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, §2(b)(23), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 103–382, title III, §354, Oct. 20, 1994, 108 Stat. 3967, authorized appropriations for grants under this division, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–28 of this title.

#### **AMENDMENTS**

**2008**—Subsec. (c). Pub. L. 110–315 inserted at end “Such evaluation shall include a separate analysis of—” and pars. (1) and (2).

### **§1070a–28. Authorization of appropriations**

There are authorized to be appropriated to carry out this division \$400,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(Pub. L. 89–329, title IV, §404H, as added Pub. L. 105–244, title IV, §403, Oct. 7, 1998, 112 Stat. 1663; amended Pub. L. 110–315, title IV, §404(h), Aug. 14, 2008, 122 Stat. 3215.)

#### **AMENDMENTS**

**2008**—Pub. L. 110–315 substituted “\$400,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years” for “\$200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years”.