

GENERAL PROVISIONS OF 1972 AMENDMENT

Pub. L. 92-318, § 2, June 23, 1972, 86 Stat. 236, provided that:

“(a) As used in this Act [See Short Title of 1972 Amendment note above]—

“(1) the term ‘Secretary’ means the Secretary of Health, Education, and Welfare [now Secretary of Education]; and

“(2) the term ‘Commissioner’ means the Commissioner of Education [now Secretary of Education]; unless the context requires another meaning.

“(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

“(c)(1) Unless otherwise specified, each provision of this Act and each amendment made by this Act shall be effective after June 30, 1972, and with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years.

“(2) Unless otherwise specified, in any case where an amendment made by this Act is to become effective after a date set herein, it shall be effective with the beginning of the day which immediately follows the date after which such amendment is effective.

“(3) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1971, such amendment shall be deemed to have been enacted on July 1, 1971.”

RULEMAKING REQUIREMENTS; PUBLICATION IN FEDERAL REGISTER

Pub. L. 90-575, title V, § 505, Oct. 16, 1968, 82 Stat. 1063, provided for publication of rules and regulations in Federal Register, prior to repeal by Pub. L. 91-230, title IV, § 401(e)(2), Apr. 13, 1970, 84 Stat. 173.

PRESIDENTIAL RECOMMENDATIONS BY DECEMBER 31, 1969, WITH RESPECT TO POST-SECONDARY EDUCATION FOR ALL

Pub. L. 90-575, title V, § 508, Oct. 16, 1968, 82 Stat. 1063, authorized the President, on or before Dec. 31, 1969, to submit to the Congress proposals relative to the feasibility of making available a post-secondary education to all young Americans who qualify and seek it.

§ 1002. Definition of institution of higher education for purposes of student assistance programs**(a) Definition of institution of higher education for purposes of student assistance programs****(1) Inclusion of additional institutions**

Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) a proprietary institution of higher education (as defined in subsection (b) of this section);

(B) a postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States**(A) In general**

For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001(a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) in the case of a graduate medical school located outside the United States—

(I)(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) the institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) in the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution’s students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel**(i) In general**

For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule

If the accreditation standards described in clause (i) are determined not to be com-

parable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information

The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule

If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B¹ while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) offers more than 50 percent of such institution's courses by correspondence (excluding courses offered by telecommunications as defined in section 1091(7)(4) of this title), unless the institution is an institution that meets the definition in section 2302(3)(C) of this title;

(B) enrolls 50 percent or more of the institution's students in correspondence courses (excluding courses offered by telecommunications as defined in section 1091(7)(4) of this title), unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's

degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) the institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification

The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility

An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria

For the purpose of this section, the term "proprietary institution of higher education" means a school that—

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1) and (2) of section 1001(a) of this title;

(C) does not meet the requirement of paragraph (4) of section 1001(a) of this title;

¹ So in original. Probably should be "part B of subchapter IV of this chapter".

(D) is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) has been in existence for at least 2 years; and

(F) has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions

The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution

(1) Principal criteria

For the purpose of this section, the term “postsecondary vocational institution” means a school that—

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001(a) of this title; and

(C) has been in existence for at least 2 years.

(2) Additional institutions

The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(Pub. L. 89-329, title I, §102, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1586; amended Pub. L. 108-98, §1(a), Oct. 10, 2003, 117 Stat. 1174; Pub. L. 109-171, title VIII, §8002, Feb. 8, 2006, 120 Stat. 155; Pub. L. 109-270, §2(c)(1), Aug. 12, 2006, 120 Stat. 746.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1088(a) to (c) of this title prior to repeal by Pub. L. 105-244.

A prior section 1002, Pub. L. 89-329, title I, §102, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 459, related to partnership agreements required for grant eligibility, prior to the general amendment of this subchapter by Pub. L. 105-244.

Another prior section 1002, Pub. L. 89-329, title I, §102, as added Pub. L. 99-498, title I, §101, Oct. 17, 1986, 100 Stat. 1278, defined terms “continuing education”, “adult learner”, “eligible institution”, and “qualified entity”, prior to the general amendment of this subchapter by Pub. L. 102-325.

Another prior section 1002, Pub. L. 89-329, title I, §102, as added Pub. L. 96-374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1374, provided for establishment of Commission on National Development in Postsecondary Education,

prior to the general amendment of this subchapter by Pub. L. 99-498.

Another prior section 1002, Pub. L. 89-329, title I, §102, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 94-482, title I, §101(b)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2083, 2086, defined the terms “community service program”, “continuing education program”, and “resource materials sharing programs”, prior to the general amendment of this subchapter by Pub. L. 96-374.

AMENDMENTS

2006—Subsec. (a)(3)(A). Pub. L. 109-270 substituted “2302(3)(C) of this title” for “2471(4)(C) of this title”.

Pub. L. 109-171, §8002(1), inserted “(excluding courses offered by telecommunications as defined in section 1091(l)(4) of this title)” after “courses by correspondence”.

Subsec. (a)(3)(B). Pub. L. 109-171, §8002(2), inserted “(excluding courses offered by telecommunications as defined in section 1091(l)(4) of this title)” after “correspondence courses”.

2003—Subsec. (a)(2)(A). Pub. L. 108-98 amended subpar. (A) generally. Prior to amendment, subpar. (A) required the Secretary to establish criteria for approval of institutions outside the United States for purposes of par. (1)(C), including certain requirements for graduate medical or veterinary schools.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title VIII, §8001(c), Feb. 8, 2006, 120 Stat. 155, provided that: “Except as otherwise provided in this subtitle [subtitle A (§§8001-8024) of title VIII of Pub. L. 109-171, see Short Title of 2006 Amendment note set out under section 1001 of this title] or the amendments made by this subtitle, the amendments made by this subtitle shall be effective July 1, 2006.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-98, §1(b), Oct. 10, 2003, 117 Stat. 1175, provided that: “This Act [amending this section] and the amendments made by this Act shall be effective as if enacted on October 1, 1998.”

§ 1003. Additional definitions

In this chapter:

(1) Combination of institutions of higher education

The term “combination of institutions of higher education” means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on the group's behalf.

(2) Department

The term “Department” means the Department of Education.

(3) Disability

The term “disability” has the same meaning given that term under section 12102(2) of title 42.

(4) Elementary school

The term “elementary school” has the same meaning given that term under section 7801 of this title.

(5) Gifted and talented

The term “gifted and talented” has the same meaning given that term under section 7801 of this title.