

86 Stat. 255; amended Pub. L. 94-482, title I, §123(a), (c)(1), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 95-43, §1(b)(3), June 15, 1977, 91 Stat. 218; Pub. L. 96-49, §5(a)(4), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96-374, title IV, §404(a), Oct. 3, 1980, 94 Stat. 1406, related to purpose and authorization of appropriations for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2008—Subsec. (b)(1), (2). Pub. L. 110-315 added pars. (1) and (2) and struck out former pars. (1) and (2) which related to appropriations and reservation of funding for section 1070c-3a of this title for fiscal year 1999 and the 4 succeeding fiscal years.

2000—Subsec. (a)(2). Pub. L. 106-554, which directed amendment of section 415 of the Higher Education Act of 1965 in section 415A(a)(2) by substituting “section 1070c-3a of this title” for “section 1070c-4 of this title”, was executed by making the substitution in subsec. (a)(2) of this section, which is section 415A of the Higher Education Act of 1965, to reflect the probable intent of Congress.

1998—Subsec. (a). Pub. L. 105-244, §407(c)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “It is the purpose of this subpart to make incentive grants available to States to assist States in providing grants to—

“(1) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

“(2) eligible students for campus-based community service work-study.”

Subsec. (b)(1). Pub. L. 105-244, §407(b)(1), substituted “1999” for “1993”.

Subsec. (b)(2), (3). Pub. L. 105-244, §407(b)(2), (3), added par. (2) and redesignated former par. (2) as (3).

1992—Pub. L. 102-325 amended section generally. Prior to amendment, section read as follows:

“(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education and grants to eligible students for campus-based community service work learning study.

“(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—(1) There are authorized to be appropriated \$85,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

“(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

§ 1070c-1. Allotment among States

(a) Allotment based on number of eligible students in attendance

(1) From the sums appropriated pursuant to section 1070c(b)(1) of this title and not reserved under section 1070c(b)(2) of this title for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

(b) Reallotment

The amount of any State's allotment under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such fiscal year for the leveraging educational assistance partnership program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 1070c(b)(1) of this title shall be deemed part of its allotment under subsection (a) of this section for such year.

(c) Allotments subject to continuing compliance

The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 1070c-2(b) of this title.

(Pub. L. 89-329, title IV, §415B, as added Pub. L. 99-498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1333; amended Pub. L. 105-244, title IV, §407(a)(2)(A), (c)(2), Oct. 7, 1998, 112 Stat. 1666, 1667.)

PRIOR PROVISIONS

A prior section 1070c-1, Pub. L. 89-329, title IV, §415B, as added Pub. L. 92-318, title I, §131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94-482, title I, §123(c)(2), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96-374, title IV, §404(b), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1407, 1503, related to allotment among States of amounts for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-244, §407(c)(2), inserted “and not reserved under section 1070c(b)(2) of this title” after “1070c(b)(1) of this title”.

Subsec. (b). Pub. L. 105-244, §407(a)(2)(A), substituted “leveraging educational assistance partnership” for “State student grant incentive”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

§ 1070c-2. Applications for leveraging educational assistance partnership programs

(a) Submission and contents of applications

A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through

the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) Payment of Federal share of grants made by qualified program

From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not to exceed the lesser of \$12,500 or the student's cost of attendance per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

(3) provides that—

(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

(C) grants for such jobs be made in accordance with the provisions of section 2753(b)(1) of title 42;

(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary, except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State;

(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(7) provides that if the State's allocation under this subpart is based in part on the fi-

ancial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the State's allocation shall be made available to such students;

(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart;

(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through State funds for the program under this subpart; and

(11) provides notification to eligible students that such grants are—

(A) Leveraging Educational Assistance Partnership Grants; and

(B) funded by the Federal Government, the State, and, where applicable, other contributing partners.

(c) Reservation and disbursement of allotments and reallocations

Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallocation) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallocation) shall be equal to the Federal share of the cost of the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallocation) available at the time of such approval.

(Pub. L. 89-329, title IV, §415C, as added Pub. L. 99-498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1333; amended Pub. L. 102-325, title IV, §404(b)-(d), July 23, 1992, 106 Stat. 507; Pub. L. 103-208, §2(b)(27), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105-244, title IV, §407(a)(2)(B), Oct. 7, 1998, 112 Stat. 1666; Pub. L. 110-315, title IV, §407(b), Aug. 14, 2008, 122 Stat. 3215.)

PRIOR PROVISIONS

A prior section 1070c-2, Pub. L. 89-329, title IV, §415C, as added Pub. L. 92-318, title I, §131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94-482, title I, §123(b), Oct.

12, 1976, 90 Stat. 2094; Pub. L. 95-43, §1(a)(6), June 15, 1977, 91 Stat. 213; Pub. L. 95-566, §3, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96-374, title IV, §404(c), title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1407, 1503, related to payment of grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110-315, §407(b)(1), substituted “not to exceed the lesser of \$12,500 or the student’s cost of attendance per academic year” for “not in excess of \$5,000 per academic year”.

Subsec. (b)(9). Pub. L. 110-315, §407(b)(2), struck out “and” after semicolon.

Subsec. (b)(10). Pub. L. 110-315, §407(b)(3), struck out “a direct appropriation of” before “State funds” and substituted “; and” for period at end.

Subsec. (b)(11). Pub. L. 110-315, §407(b)(4), added par. (11).

1998—Pub. L. 105-244 substituted “leveraging educational assistance partnership” for “State student incentive grant” in section catchline.

1993—Subsec. (b)(7). Pub. L. 103-208 substituted a semicolon for period at end.

1992—Subsec. (b)(2). Pub. L. 102-325, §404(b), substituted “\$5,000” for “\$2,500”.

Subsec. (b)(4). Pub. L. 102-325, §404(c), inserted before semicolon at end “, except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State”.

Subsec. (b)(7). Pub. L. 102-325, §404(d), amended par. (7) generally. Prior to amendment, par. (7) read as follows: “provides that, if the institution’s allocation under this subpart is based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution’s allocation shall be made available to such students;”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

§ 1070c-3. Administration of State programs; judicial review

(a) Disapproval of applications; suspension of eligibility

(1) The Secretary shall not finally disapprove any application for a State program submitted under section 1070c-2 of this title, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to

participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b) Review of decisions

(1) If any State is dissatisfied with the Secretary’s final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, section 1254.

(Pub. L. 89-329, title IV, §415D, as added Pub. L. 99-498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1335.)

PRIOR PROVISIONS

A prior section 1070c-3, Pub. L. 89-329, title IV, §415D, as added Pub. L. 92-318, title I, §131(b)(1), June 23, 1972, 86 Stat. 257; amended Pub. L. 96-374, title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503, related to administration of State programs and judicial review, prior to the general revision of this part by Pub. L. 99-498.

§ 1070c-3a. Grants for access and persistence

(a) Purpose

It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties, including community-based organizations, in order to—

(A) carry out activities under this section; and

(B) provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend an institution of higher education;

(2) provide need-based grants for access and persistence to eligible low-income students;

(3) provide early notification to low-income students of the students’ eligibility for financial aid; and