

Subsec. (b)(6). Pub. L. 100-50, §14(24)(B)–(D), added par. (6).

Subsec. (c). Pub. L. 100-50, §14(25), added subsec. (c).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-74 effective July 1, 2012, see section 309(g) of Pub. L. 112-74, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted as part of amendments made by section 602(a) of Pub. L. 110-84 and effective July 1, 2009, see section 406(b)(2) of Pub. L. 111-39, set out as a note under section 1087mm of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(N) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-84, title VI, §602(b), Sept. 27, 2007, 121 Stat. 805, provided that: “The amendments made by this section [amending this section] shall be effective on July 1, 2009.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 7, 1998, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk 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.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

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.

EVALUATION OF SIMPLIFIED NEEDS TEST

Pub. L. 109-171, title VIII, §8018(b), Feb. 8, 2006, 120 Stat. 175, provided that:

“(1) **ELIGIBILITY GUIDELINES.**—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

“(2) **MEANS-TESTED FEDERAL BENEFIT PROGRAM.**—For each 3-year period, the Secretary of Education shall evaluate the impact of including the receipt of benefits

by a student or parent under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)))] as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).”

**§ 1087tt. Discretion of student financial aid administrators**

**(a) In general**

Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. Special circumstances may include tuition expenses at an elementary or secondary school, medical, dental, or nursing home expenses not covered by insurance, unusually high child care or dependent care costs, recent unemployment of a family member or an independent student, a student or family member who is a dislocated worker (as defined in section 2801 of title 29), the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, a change in housing status that results in an individual being homeless (as defined in section 11302 of title 42), or other changes in a family’s income, a family’s assets, or a student’s status. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42, or (2) to offer a dependent student financial assistance under section 1078-8 of this title or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under section 1090 of this title if the student financial aid administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.

**(b) Adjustments to assets taken into account**

A student financial aid administrator shall be considered to be making a necessary adjustment

in accordance with subsection (a) of this section if—

(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

**(c) Refusal or adjustment of loan certifications**

On a case-by-case basis, an eligible institution may refuse to certify a statement that permits a student to receive a loan under part B or C of this subchapter, or may certify a loan amount or make a loan that is less than the student's determination of need (as determined under this part), if the reason for the action is documented and provided in written form to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.

(Pub. L. 89-329, title IV, §479A, as added Pub. L. 100-50, §14(26), June 3, 1987, 101 Stat. 352; amended Pub. L. 101-239, title II, §2009, Dec. 19, 1989, 103 Stat. 2122; Pub. L. 102-325, title IV, §471(a), July 23, 1992, 106 Stat. 605; Pub. L. 103-208, §2(g)(16), Dec. 20, 1993, 107 Stat. 2473; Pub. L. 105-244, title IV, §478, Oct. 7, 1998, 112 Stat. 1731; Pub. L. 110-84, title VI, §603(a), Sept. 27, 2007, 121 Stat. 805; Pub. L. 110-315, title IV, §472(a), Aug. 14, 2008, 122 Stat. 3269.)

**PRIOR PROVISIONS**

A prior section 1087tt, Pub. L. 89-329, title IV, §479A, as added Pub. L. 99-498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1472, related to discretion of student financial aid administrators under this part, prior to repeal by section 14(26) of Pub. L. 100-50.

**AMENDMENTS**

2008—Subsec. (a). Pub. L. 110-315 substituted “medical, dental, or nursing home expenses” for “medical or dental expenses”, inserted “or dependent care” after “child care” and “student or” before “family member who is a dislocated worker”, and substituted “In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42, or (2) to offer a dependent student financial assistance under section 1078-8 of this title or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under section 1090 of this title if the student financial aid administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form.” for “In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42.”

2007—Subsec. (a). Pub. L. 110-84, in third sentence, substituted “family member or an independent student, a family member who is a dislocated worker (as defined in section 2801 of title 29), the number of parents” for “family member, the number of parents” and inserted “a change in housing status that results in an individual being homeless (as defined in section 11302 of title 42),” after “under section 1094 of this title.”

1998—Subsec. (a). Pub. L. 105-244, §478(1), inserted after second sentence “Special circumstances may include tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance, unusually high child care costs, recent unemployment of a family member, the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, or other changes in a family's income, a family's assets, or a student's status.”

Subsec. (c). Pub. L. 105-244, §478(2), amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) related to student financial aid administrators making adjustments for special circumstances.

1993—Subsec. (c). Pub. L. 103-208 added subsec. (c).

1992—Pub. L. 102-325 amended section generally, revising and restating provisions of subssecs. (a) and (b) and striking out former subsec. (c) which related to asset adjustment as example.

1989—Subsec. (a). Pub. L. 101-239 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42.”

**EFFECTIVE DATE OF 2007 AMENDMENT**

Pub. L. 110-84, title VI, §603(b), Sept. 27, 2007, 121 Stat. 806, as amended by Pub. L. 110-315, title IV, §472(b), Aug. 14, 2008, 122 Stat. 3270, provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of the Higher Education Opportunity Act [Aug. 14, 2008].”

**EFFECTIVE DATE OF 1998 AMENDMENT**

Amendment by Pub. L. 105-244 effective Oct. 7, 1998, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk 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.

**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(a) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

**EFFECTIVE DATE**

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see sec-

tion 27 of Pub. L. 100-50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

### § 1087uu. Disregard of student aid in other Federal programs

Notwithstanding any other provision of law, student financial assistance received under this subchapter and part C of subchapter I of chapter 34 of title 42, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

(Pub. L. 89-329, title IV, § 479B, as added Pub. L. 100-50, § 14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 606.)

#### PRIOR PROVISIONS

A prior section 1087uu, Pub. L. 89-329, title IV, § 479B, as added Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472, related to exclusion of student financial assistance for attendance costs in determining student eligibility for assistance under any other program funded in whole or in part with Federal funds, prior to repeal by section 14(27) of Pub. L. 100-50.

#### AMENDMENTS

1992—Pub. L. 102-325 amended section generally, revising and restating as a single paragraph provisions formerly contained in subsec. (a) which proscribed consideration of aid for attendance costs as income or resources, and in subsec. (b) which delineated elements of attendance costs.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

#### EFFECTIVE DATE

Section 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 an Effective Date of 1987 Amendment note under section 1001 of this title.

Section applicable with respect to financial assistance provided for any academic year beginning after Oct. 17, 1986, see section 406(b)(4) of Pub. L. 99-498, as amended, set out as a note under section 1087kk of this title.

### § 1087uu-1. Native American students

In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of \$2,000 or less per individual payment received by the student (and spouse) and student's parents under Public Law 98-64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the "Per Capita Act") or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and

(2) any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) or the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721 et seq.).

(Pub. L. 89-329, title IV, § 479C, as added Pub. L. 100-50, § 14(27), June 3, 1987, 101 Stat. 353; amend-

ed Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 606; Pub. L. 111-39, title IV, § 406(a)(5), July 1, 2009, 123 Stat. 1949.)

#### REFERENCES IN TEXT

Public Law 98-64, referred to in par. (1), is Pub. L. 98-64, Aug. 2, 1983, 97 Stat. 365, commonly known as the Per Capita Act, which enacted sections 117a to 117c of Title 25, Indians, and repealed section 117 of Title 25. For complete classification of this Act to the Code, see Tables.

The Indian Tribal Judgment Funds Use or Distribution Act, referred to in par. (1), is Pub. L. 93-134, Oct. 19, 1973, 87 Stat. 466, which is classified generally to chapter 16 (§1401 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see section 1401(c) of Title 25 and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (2), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Maine Indian Claims Settlement Act of 1980, referred to in par. (2), is Pub. L. 96-420, Oct. 10, 1980, 94 Stat. 1785, which is classified generally to subchapter II (§1721 et seq.) of chapter 19 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1721 of Title 25 and Tables.

#### AMENDMENTS

2009—Par. (1). Pub. L. 111-39, § 406(a)(5)(A), substituted "under Public Law 98-64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the 'Per Capita Act') or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and" for "under the Per Capita Act or the Distribution of Judgment Funds Act; and".

Par. (2). Pub. L. 111-39, § 406(a)(5)(B), substituted "Alaska" for "Alaskan" and inserted "(43 U.S.C. 1601 et seq.)" after "Native Claims Settlement Act" and "of 1980 (25 U.S.C. 1721 et seq.)" after "Maine Indian Claims Settlement Act".

1992—Pub. L. 102-325 amended section generally, re-enacting provisions without change.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

#### EFFECTIVE DATE

Section 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 an Effective Date of 1987 Amendment note under section 1001 of this title.

### § 1087vv. Definitions

As used in this part:

#### (a) Total income

(1)(A) Except as provided in subparagraph (B) and paragraph (2), the term "total income" is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e) of this section).

(B) Notwithstanding section 1087rr(a) of this title, the Secretary may provide for the use of