

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

data from the second preceding tax year when and to the extent necessary to carry out the simplification of applications (including simplification for a subset of applications) used for the estimation and determination of financial aid eligibility. Such simplification may include the sharing of data between the Internal Revenue Service and the Department, pursuant to the consent of the taxpayer.

(2) No portion of any student financial assistance received from any program by an individual, no portion of veterans' education benefits received by an individual, no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.), no portion of any tax credit taken under section 25A of title 26, and no distribution from any qualified education benefit described in subsection (f)(3) that is not subject to Federal income tax, shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Untaxed income and benefits

(1) The term "untaxed income and benefits" means—

- (A) child support received;
- (B) workman's compensation;
- (C) veteran's benefits such as death pension, dependency, and indemnity compensation, but excluding veterans' education benefits as defined in subsection (c);
- (D) interest on tax-free bonds;
- (E) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits), except that the value of on-base military housing or the value of basic allowance for housing determined under section 403(b) of title 37 received by the parents, in the case of a dependent student, or the student or student's spouse, in the case of an independent student, shall be excluded;
- (F) cash support or any money paid on the student's behalf, except, for dependent students, funds provided by the student's parents;
- (G) untaxed portion of pensions;
- (H) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and
- (I) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, or railroad retirement benefits, or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(2) The term "untaxed income and benefits" shall not include—

- (A) the amount of additional child tax credit claimed for Federal income tax purposes;
- (B) welfare benefits, including assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] and aid to dependent children;
- (C) the amount of earned income credit claimed for Federal income tax purposes;

(D) the amount of credit for Federal tax on special fuels claimed for Federal income tax purposes;

(E) the amount of foreign income excluded for purposes of Federal income taxes; or

(F) untaxed social security benefits.

(c) Veteran and veterans' education benefits

(1) The term "veteran" means any individual who—

(A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and

(B) was released under a condition other than dishonorable.

(2) The term "veterans' education benefits" means veterans' benefits the student will receive during the award year, including but not limited to benefits under the following provisions of law:

(A) Chapter 103 of title 10 (Senior Reserve Officers' Training Corps).

(B) Chapter 106A of title 10 (Educational Assistance for Persons Enlisting for Active Duty).

(C) Chapter 1606 of title 10 (Selected Reserve Educational Assistance Program).

(D) Chapter 1607 of title 10 (Educational Assistance Program for Reserve Component Members Supporting Contingency Operations and Certain Other Operations).

(E) Chapter 30 of title 38 (All-Volunteer Force Educational Assistance Program, also known as the "Montgomery GI Bill—active duty").

(F) Chapter 31 of title 38 (Training and Rehabilitation for Veterans with Service-Connected Disabilities).

(G) Chapter 32 of title 38 (Post-Vietnam Era Veterans' Educational Assistance Program).

(H) Chapter 33 of title 38 (Post-9/11 Educational Assistance).

(I) Chapter 35 of title 38 (Survivors' and Dependents' Educational Assistance Program).

(J) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note) (Educational Assistance Pilot Program).

(K) Section 156(b) of the "Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes" (42 U.S.C. 402 note) (Restored Entitlement Program for Survivors, also known as "Quayle benefits").

(L) The provisions of chapter 3 of title 37, related to subsistence allowances for members of the Reserve Officers Training Corps.

(d) Independent student

(1) Definition

The term "independent", when used with respect to a student, means any individual who—

(A) is 24 years of age or older by December 31 of the award year;

(B) is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;

(C) is, or was immediately prior to attaining the age of majority, an emancipated

minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;

(D) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of this section) or is currently serving on active duty in the Armed Forces for other than training purposes;

(E) is a graduate or professional student;

(F) is a married individual;

(G) has legal dependents other than a spouse;

(H) has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a]), or as unaccompanied, at risk of homelessness, and self-supporting, by—

(i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11432(g)(1)(J)(ii)];

(ii) the director of a program funded under the Runaway and Homeless Youth Act [42 U.S.C. 5701 et seq.] or a designee of the director;

(iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11371 et seq.] (relating to emergency shelter grants) or a designee of the director; or

(iv) a financial aid administrator; or

(I) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(2) Simplifying the dependency override process

A financial aid administrator may make a determination of independence under paragraph (1)(I) based upon a documented determination of independence that was previously made by another financial aid administrator under such paragraph in the same award year.

(e) Excludable income

The term “excludable income” means—

(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of subchapter I of chapter 34 of title 42;

(2) any income earned from work under a cooperative education program offered by an institution of higher education;

(3) any living allowance received by a participant in a program established under the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.];

(4) child support payments made by the student or parent;

(5) payments made and services provided under part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.]; and

(6) special combat pay.

(f) Assets

(1) The term “assets” means cash on hand, including the amount in checking and savings ac-

counts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, qualified education benefits (except as provided in paragraph (3)), and the net value of real estate, income producing property, and business and farm assets.

(2) With respect to determinations of need under this subchapter and part C of subchapter I of chapter 34 of title 42, other than for subpart 4 of part A of this subchapter, the term “assets” shall not include the net value of—

(A) the family's principal place of residence;

(B) a family farm on which the family resides; or

(C) a small business with not more than 100 full-time or full-time equivalent employees (or any part of such a small business) that is owned and controlled by the family.

(3) A qualified education benefit shall be considered an asset of—

(A) the student if the student is an independent student; or

(B) the parent if the student is a dependent student, regardless of whether the owner of the account is the student or the parent.

(4) In determining the value of assets in a determination of need under this subchapter and part C of subchapter I of chapter 34 of title 42 (other than for subpart 4 of part A of this subchapter), the value of a qualified education benefit shall be—

(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

(5) In this subsection:

(A) The term “qualified education benefit” means—

(i) a qualified tuition program (as defined in section 529(b)(1)(A) of title 26) or other prepaid tuition plan offered by a State; and

(ii) a Coverdell education savings account (as defined in section 530(b)(1) of title 26).

(B) The term “qualified higher education expenses” has the meaning given the term in section 529(e) of title 26.

(g) Net assets

The term “net assets” means the current market value at the time of application of the assets (as defined in subsection (f) of this section), minus the outstanding liabilities or indebtedness against the assets.

(h) Treatment of income taxes paid to other jurisdictions

(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

(2) References in this part to title 26, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

(i) Current balance

The term “current balance of checking and savings accounts” does not include any funds over which an individual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

(j) Other financial assistance

(1) For purposes of determining a student’s eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student’s need is made, including national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.), but excluding veterans’ education benefits as defined in subsection (c).

(2) Notwithstanding paragraph (1), a tax credit taken under section 25A of title 26, or a distribution that is not includable in gross income under section 529 of such title, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such title, shall not be treated as estimated financial assistance for purposes of section 1087kk(3) of this title.

(3) Notwithstanding paragraph (1) and section 1087ll of this title, assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.

(4) Notwithstanding paragraph (1), special combat pay shall not be treated as estimated financial assistance for purposes of section 1087kk(3) of this title.

(k) Dependents

(1) Except as otherwise provided, the term “dependent of the parent” means the student, dependent children of the student’s parents, including those children who are deemed to be dependent students when applying for aid under this subchapter and part C of subchapter I of chapter 34 of title 42, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

(2) Except as otherwise provided, the term “dependent of the student” means the student’s

dependent children and other persons (except the student’s spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

(l) Family size

(1) In determining family size in the case of a dependent student—

(A) if the parents are not divorced or separated, family members include the student’s parents, and the dependents of the student’s parents including the student;

(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent’s dependents, including the student; and

(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse’s income is included in determining the parents’ adjusted available income.

(2) In determining family size in the case of an independent student—

(A) family members include the student, the student’s spouse, and the dependents of the student; and

(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student’s dependents.

(m) Business assets

The term “business assets” means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(n) Special combat pay

The term “special combat pay” means pay received by a member of the Armed Forces because of exposure to a hazardous situation.

(Pub. L. 89-329, title IV, § 480, as added Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100-50, § 14(28), June 3, 1987, 101 Stat. 353; Pub. L. 100-369, § 7(b), July 18, 1988, 102 Stat. 837; Pub. L. 101-610, title I, § 185(3), (4), Nov. 16, 1990, 104 Stat. 3168; Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 606; Pub. L. 103-82, title I, § 102(c)(4), (5), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103-208, § 2(g)(17)-(20), Dec. 20, 1993, 107 Stat. 2474; Pub. L. 104-193, title I, § 110(h)(2), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 105-78, title VI, § 609(j), (k), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105-244, title IV, § 479, Oct. 7, 1998, 112 Stat. 1732; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 405(d)(15)(B), (f)(12)(B)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-421, 2681-431; Pub. L. 109-171, title VIII, § 8019, Feb. 8, 2006, 120 Stat. 176; Pub. L. 110-84, title VI, § 604(a), Sept. 27, 2007, 121 Stat. 806; Pub. L. 110-153, § 1(a), Dec. 21, 2007, 121 Stat. 1824; Pub. L. 110-315, title IV, § 473(a)-(e), Aug. 14, 2008, 122 Stat. 3270, 3271; Pub. L. 111-39, title IV, § 406(a)(6)-(8), July 1, 2009, 123 Stat. 1949, 1950.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsecs. (a)(2), (e)(3), and (j)(1), is Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to chapter 129 (§12501 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act enacted subchapter I (§12511 et seq.) of chapter 129 of Title 42 and amended this section and section 1070a-6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (b)(1)(I), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Social Security Act, referred to in subsecs. (b)(2)(B) and (e)(5), 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.

Section 903 of the Department of Defense Authorization Act, 1981, referred to in subsec. (c)(2)(J), is section 903 of Pub. L. 96-342, which is set out as a note under section 2141 of Title 10, Armed Forces.

Section 156(b) of the “Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes”, referred to in subsec. (c)(2)(K), is section 156(b) of Pub. L. 97-377, which is set out as a note under section 402 of Title 42, The Public Health and Welfare.

The Runaway and Homeless Youth Act, referred to in subsec. (d)(1)(H)(ii), is title III of Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1129, which is classified generally to subchapter III (§5701 et seq.) of chapter 72 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 5601 of Title 42 and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (d)(1)(H)(iii), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482. Subtitle B of title IV of the Act is classified generally to part B (§11371 et seq.) of subchapter IV 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.

CODIFICATION

Amendment by section 2(g)(19) of Pub. L. 103-208 (which was effective as if included in Pub. L. 102-325) was executed to this section as amended by Pub. L. 102-325 and Pub. L. 103-82, to reflect the probable intent of Congress.

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111-39, §406(a)(6), substituted “12511” for “12571”.

Subsec. (c)(2). Pub. L. 111-39, §406(a)(7), substituted “benefits under the following provisions of law” for “the following” in introductory provisions, added subpars. (A) to (L), and struck out former subpars. (A) to (J) which listed, respectively, the following provisions of law: title 10, chapter 2; title 10, chapter 106; title 10, chapter 107; title 37, chapter 2; title 38, chapter 30; title 38, chapter 31; title 38, chapter 32; title 38, chapter 35; Public Law 97-376, section 156; and Public Law 96-342, section 903.

Subsec. (j)(1). Pub. L. 111-39, §406(a)(8), substituted “12511” for “12571”.

2008—Subsec. (a)(1). Pub. L. 110-315, §473(a)(1), designated existing provisions as subpar. (A), inserted “subparagraph (B) and” after “provided in”, and added subpar. (B).

Subsec. (a)(2). Pub. L. 110-315, §473(a)(2), inserted “no portion of veterans’ education benefits received by an individual,” after “any program by an individual.”.

Subsec. (b)(1)(E). Pub. L. 110-315, §473(b), inserted “, except that the value of on-base military housing or the value of basic allowance for housing determined under section 403(b) of title 37 received by the parents, in the case of a dependent student, or the student or student’s spouse, in the case of an independent student, shall be excluded” before semicolon.

Subsec. (d)(1)(B), (C). Pub. L. 110-315, §473(c), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

“(B) is an orphan, in foster care, or a ward of the court, at any time when the individual is 13 years of age or older;

“(C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual’s State of legal residence;”.

Subsec. (e)(2) to (6). Pub. L. 110-315, §473(d), added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

Subsec. (j)(1). Pub. L. 110-315, §473(e), struck out “veterans’ education benefits as defined in subsection (c) of this section, and” before “national service educational awards” and inserted “, but excluding veterans’ education benefits as defined in subsection (c)” before period at end.

2007—Subsec. (a)(2). Pub. L. 110-84, §604(a)(1), substituted “no portion of any” for “and no portion of any” and inserted “and no distribution from any qualified education benefit described in subsection (f)(3) that is not subject to Federal income tax,” after “section 25A of title 26.”.

Subsec. (b). Pub. L. 110-84, §604(a)(2), added subsec. (b) and struck out former subsec. (b) which defined “untaxed income and benefits”.

Subsec. (b)(2). Pub. L. 110-153 added par. (2) and struck out former par. (2) which read as follows: “The term ‘untaxed income and benefits’ shall not include the amount of additional child tax credit claimed for Federal income tax purposes.”

Subsec. (d). Pub. L. 110-84, §604(a)(3)(A), (B), designated existing provisions as par. (1), inserted par. heading, redesignated former pars. (1), (2), (3) to (6), and (7) as subpars. (A), (B), (D) to (G), and (I), respectively, and realigned margins.

Subsec. (d)(1)(B), (C). Pub. L. 110-84, §604(a)(3)(C), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: “is an orphan or ward of the court or was a ward of the court until the individual reached the age of 18;”.

Subsec. (d)(1)(H). Pub. L. 110-84, §604(a)(3)(D), (E), added subpar. (H).

Subsec. (d)(2). Pub. L. 110-84, §604(a)(3)(F), added par. (2).

Subsec. (e)(5). Pub. L. 110-84, §604(a)(4), added par. (5).

Subsec. (f)(3). Pub. L. 110-84, §604(a)(5), added par. (3) and struck out former par. (3) which read as follows: “A qualified education benefit shall not be considered an asset of a student for purposes of section 108700 of this title.”

Subsec. (j)(2). Pub. L. 110-84, §604(a)(6)(A), inserted “, or a distribution that is not includable in gross income under section 529 of such title, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such title,” after “title 26”.

Subsec. (j)(4). Pub. L. 110-84, §604(a)(6)(B), added par. (4).

Subsec. (n). Pub. L. 110-84, §604(a)(7), added subsec. (n).

2006—Subsec. (d)(3). Pub. L. 109-171, §8019(a), inserted “or is currently serving on active duty in the Armed Forces for other than training purposes” before semicolon at end.

Subsec. (f)(1). Pub. L. 109-171, §8019(b), inserted “qualified education benefits (except as provided in paragraph (3)),” after “tax shelters.”.

Subsec. (f)(2)(C). Pub. L. 109-171, §8019(c), added subpar. (C).

Subsec. (f)(3) to (5). Pub. L. 109-171, §8019(d), added pars. (3) to (5).

Subsec. (j). Pub. L. 109-171, § 8019(e)(1), struck out “; tuition prepayment plans” at end of heading.

Subsec. (j)(2), (3). Pub. L. 109-171, § 8019(e)(2)-(4), struck out par. (2), redesignated par. (3) as (2), and added par. (3). Prior to amendment, par. (2) read as follows:

“(2)(A) Except as provided in subparagraph (B), for purposes of determining a student’s eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, tuition prepayment plans shall reduce the cost of attendance (as determined under section 1087ll of this title) by the amount of the prepayment, and shall not be considered estimated financial assistance.

“(B) If the institutional expense covered by the prepayment must be part of the student’s cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance.”

1998—Subsec. (b)(14). Pub. L. 105-277, § 101(f) [title VIII, § 405(f)(12)(B)], struck out “Job Training Partnership Act noneducational benefits or” after “railroad retirement benefits, or”.

Pub. L. 105-277, § 101(f) [title VIII, § 405(d)(15)(B)], substituted “Job Training Partnership Act noneducational benefits or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998” for “Job Training Partnership Act noneducational benefits”.

Subsec. (j)(1). Pub. L. 105-244, § 479(1), inserted before period at end “, and national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990”.

Subsec. (j)(3), (4). Pub. L. 105-244, § 479(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “Notwithstanding paragraph (1), a national service educational award or post-service benefit under title I of the National and Community Service Act of 1990 shall not be treated as financial assistance for purposes of section 1087kk(3) of this title.”

1997—Subsec. (a)(2). Pub. L. 105-78, § 609(j), substituted “program by an individual, no” for “program by an individual, and no” and inserted “and no portion of any tax credit taken under section 25A of title 26,” before “shall be included”.

Subsec. (j)(4). Pub. L. 105-78, § 609(k), added par. (4).

1996—Subsec. (b)(2). Pub. L. 104-193 substituted “assistance under a State program funded” for “aid to families with dependent children under a State plan approved”.

1993—Subsec. (a)(2). Pub. L. 103-82, § 102(c)(4), inserted “, and no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990,” after “by an individual”.

Subsec. (c)(2). Pub. L. 103-208, § 2(g)(17), made technical amendment to references to titles of the United States Code in subpars. (A) to (H).

Subsec. (d)(2). Pub. L. 103-208, § 2(g)(18), inserted before semicolon “or was a ward of the court until the individual reached the age of 18”.

Subsec. (j)(3). Pub. L. 103-208, § 2(g)(19), realigned margin. See Codification note above.

Pub. L. 103-82, § 102(c)(5), added par. (3).

Subsecs. (k) to (m). Pub. L. 103-208, § 2(g)(20), added subsecs. (k) to (m).

1992—Pub. L. 102-325 amended section generally, substituting subsecs. (a) to (j) for former subsecs. (a) to (i).

1990—Subsec. (d)(2)(F). Pub. L. 101-610, § 185(4), inserted “and living allowances as a result of participation in a program established under the National and Community Service Act of 1990” after “other than parents”.

Subsec. (f)(3). Pub. L. 101-610, § 185(3), added par. (3).

1988—Subsec. (i). Pub. L. 100-369 added subsec. (i).

1987—Subsec. (a)(1). Pub. L. 100-50, § 14(28)(A), (B), substituted “paragraphs (2) through (4)” for “paragraphs (2) and (3)” and inserted “minus excludable income (as defined in subsection (f) of this section)” before period at end.

Subsec. (a)(2). Pub. L. 100-50, § 14(28)(C), added par. (2) and struck out former par. (2) which read as follows:

“The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42 for any academic year the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.”

Subsec. (a)(4). Pub. L. 100-50, § 14(28)(D), added par. (4).

Subsecs. (b), (c). Pub. L. 100-50, § 14(28)(E), substituted subsec. (b) consisting of pars. (1) to (14) for former subsec. (b) consisting of pars. (1) to (19), and substituted subsec. (c) consisting of pars. (1) to (14) for former subsec. (c) consisting of pars. (1) to (16).

Subsec. (d)(2)(F). Pub. L. 100-50, § 14(28)(F), substituted “annual total resources (including all sources of resources other than parents)” for “an annual total income”.

Subsecs. (f) to (h). Pub. L. 100-50, § 14(28)(G), added subsecs. (f) to (h).

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 2008 AMENDMENT

Pub. L. 110-315, title IV, § 473(f), Aug. 14, 2008, 122 Stat. 3271, as amended by Pub. L. 111-39, title IV, § 406(c), July 1, 2009, 123 Stat. 1950, provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 2010, except that the amendments made in subsection (e) [amending this section] shall take effect on July 1, 2009.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-153, § 1(b), Dec. 21, 2007, 121 Stat. 1824, provided that: “This section [amending this section] and the amendment made by this section shall take effect on July 1, 2009.”

Pub. L. 110-84, title VI, § 604(b), Sept. 27, 2007, 121 Stat. 808, 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 AMENDMENTS

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.

Amendment by section 101(f) [title VIII, § 405(d)(15)(B)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(12)(B)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENTS

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.

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

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.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DEFINITION OF "INDEPENDENT STUDENT"; APPLICATION TO SPECIFIED PERIODS OF ENROLLMENT

Pub. L. 99-498, title IV, § 406(b)(5), formerly § 406(b)(4), Oct. 17, 1986, 100 Stat. 1475; renumbered § 406(b)(5), Pub. L. 100-50, § 22(e)(2), June 3, 1987, 101 Stat. 361, provided that: "The definition of independent student contained in section 480(d) of the Act [20 U.S.C. 1087vv(d)] as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987, in the case of programs operated under part B of title IV of the Act [part B of this subchapter], or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter]."

[References to subpart 2 of part A of title IV of Pub. L. 89-329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102-325, set out as a note under section 1070a-11 of this title.]

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

CODIFICATION

This part was originally added as part E of title IV of Pub. L. 89-329 by Pub. L. 90-575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, and subsequently redesignated part F of said title IV by Pub. L. 92-318, title I, § 137(b), June 23, 1972, 86 Stat. 273, and then part G of said title IV by Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454. For codification purposes, the letter designation of this part was originally changed from "E" to "D." It was subsequently rechanged to "E" when this part was redesignated "F", and then to "F" when this part was redesignated "G". See Codification notes preceding sections 1087a and 1087aa of this title.

Part G of title IV of the Higher Education Act of 1965, comprising this part which was editorially designated as part F of this subchapter, see Codification note above, was originally enacted by Pub. L. 89-329, title IV, §§ 461 to 464 and 469, as added by Pub. L. 90-575, title I, §§ 151, 152, Oct. 16, 1968, 82 Stat. 1032, 1033; amended Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92-318, June 23, 1972, 86 Stat. 235; Pub. L. 94-482, Oct. 12, 1976,

90 Stat. 2081; Pub. L. 95-43, June 15, 1977, 91 Stat. 213; Pub. L. 95-180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95-566, Nov. 1, 1978, 92 Stat. 2402; S. Res. 30, Mar. 7, 1979; Pub. L. 96-49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96-374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98-79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99-272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1475, without reference to such intervening amendments because of the extensive revision of the part's provisions by Pub. L. 99-498.

§ 1088. Definitions

(a) Academic and award year

(1) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term "award year" shall be defined as the period beginning July 1 and ending June 30 of the following year.

(2)(A) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term "academic year" shall—

(i) require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours; or

(ii) require a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and

(iii) require an undergraduate course of study to contain an amount of instructional time whereby a full-time student is expected to complete at least—

(I) 24 semester or trimester hours or 36 quarter credit hours in a course of study that measures its program length in credit hours; or

(II) 900 clock hours in a course of study that measures its program length in clock hours.

(B) The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree and that measures program length in credit hours or clock hours.

(b) Eligible program

(1) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term "eligible program" means a program of at least—

(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

(ii) admits students who have not completed the equivalent of an associate degree; or

(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or