

chapter 34 of title 42 that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) a guaranty agency that has an agreement with the Secretary under section 1078(c) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part B of this subchapter after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(C) an institution that has an agreement with the Secretary pursuant to section 1087c or 1087cc(a) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part C or D of this subchapter after the default of the borrower on such loan; or

(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made under this subchapter and part C of subchapter I of chapter 34 of title 42, or for the repayment of the amount due from a borrower on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Assessment of costs and other charges

Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be required to pay, in addition to other charges specified in this subchapter and part C of subchapter I of chapter 34 of title 42 reasonable collection costs;

(2) in collecting any obligation arising from a loan made under part B of this subchapter, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy; and

(3) in collecting any obligation arising from a loan made under part D, an institution of higher education that has an agreement with the Secretary pursuant to section 1087cc(a) of this title shall not be subject to a defense raised by any borrower based on a claim of infancy.

(c) State court judgments

A judgment of a State court for the recovery of money provided as grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned or transferred to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 may be registered in any district court of the United States by filing a certified copy of the judgment and a copy of the assignment or transfer. A judgment so registered shall have the same force and effect, and may be enforced in the same manner, as a judgment of the district court of the district in which the judgment is registered.

(d) Special rule

This section shall not apply in the case of a student who is deceased, or to a deceased student's estate or the estate of such student's family. If a student is deceased, then the student's estate or the estate of the student's family shall not be required to repay any financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, including interest paid on the student's behalf, collection costs, or other charges specified in this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89-329, title IV, §484A, as added Pub. L. 99-498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 102-26, §3(a), Apr. 9, 1991, 105 Stat. 124; Pub. L. 105-244, title IV, §484, Oct. 7, 1998, 112 Stat. 1737; Pub. L. 110-315, title IV, §486, Aug. 14, 2008, 122 Stat. 3290.)

PRIOR PROVISIONS

A prior section 1091a, Pub. L. 89-329, title IV, §484A, as added Pub. L. 99-272, title XVI, §16033, Apr. 7, 1986, 100 Stat. 355, related to statute of limitations, collection costs, and defense of infancy, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 1091a, Pub. L. 89-329, title V, §502, as added Pub. L. 90-35, §2(c), June 29, 1967, 81 Stat. 82; amended Pub. L. 91-230, title IV, §401(h)(4), title VIII, §802, Apr. 13, 1970, 84 Stat. 174, 190; Pub. L. 92-318, title I, §141(c)(1)(A), June 23, 1972, 86 Stat. 285, established the National Advisory Council on Education Professions Development and set forth functions, composition, etc., of the Council, prior to repeal by Pub. L. 94-482, title I, §151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151, effective Sept. 30, 1976.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110-315, §486(1), added par. (3).

Subsec. (d). Pub. L. 110-315, §486(2), added subsec. (d). 1998—Pub. L. 105-244, §484(1), inserted “, and State court judgments” after “limitations” in section catchline.

Subsec. (c). Pub. L. 105-244, §484(2), added subsec. (c). 1991—Subsec. (a). Pub. L. 102-26 amended subsec. (a) generally, substituting provisions eliminating statute of limitations for student loan collections for provisions establishing six year limitations period for collection of such loans.

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 1991 AMENDMENT

Pub. L. 102-26, §3(c), Apr. 9, 1991, 105 Stat. 125, as amended by Pub. L. 102-325, title XV, §1551, July 23, 1992, 105 Stat. 838, provided that: “The amendments made by this section [amending this section] shall be effective as if enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), and shall apply to any actions pending on or after the date of enactment of the Higher Education Technical Amendments of 1991 [Apr. 9, 1991].”

§ 1091b. Institutional refunds

(a) Return of title IV funds

(1) In general

If a recipient of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 withdraws from an institution during a payment period or period of enroll-

ment in which the recipient began attendance, the amount of grant or loan assistance (other than assistance received under part C of subchapter I of chapter 34 of title 42) to be returned to the title IV programs is calculated according to paragraph (3) and returned in accordance with subsection (b) of this section.

(2) Leave of absence

(A) Leave not treated as withdrawal

In the case of a student who takes 1 or more leaves of absence from an institution for not more than a total of 180 days in any 12-month period, the institution may consider the student as not having withdrawn from the institution during the leave of absence, and not calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 that is to be returned in accordance with this section if—

- (i) the institution has a formal policy regarding leaves of absence;
- (ii) the student followed the institution's policy in requesting a leave of absence; and
- (iii) the institution approved the student's request in accordance with the institution's policy.

(B) Consequences of failure to return

If a student does not return to the institution at the expiration of an approved leave of absence that meets the requirements of subparagraph (A), the institution shall calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 that is to be returned in accordance with this section based on the day the student withdrew (as determined under subsection (c) of this section).

(3) Calculation of amount of title IV assistance earned

(A) In general

The amount of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that is earned by the recipient for purposes of this section is calculated by—

- (i) determining the percentage of grant and loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student, as described in subparagraph (B); and
- (ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment for which the assistance was awarded, as of the day the student withdrew.

(B) Percentage earned

For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student is—

- (i) equal to the percentage of the payment period or period of enrollment for

which assistance was awarded that was completed (as determined in accordance with subsection (d) of this section) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period or period of enrollment; or

- (ii) 100 percent, if the day the student withdrew occurs after the student has completed (as determined in accordance with subsection (d)) 60 percent of the payment period or period of enrollment.

(C) Percentage and amount not earned

For purposes of subsection (b) of this section, the amount of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student shall be calculated by—

- (i) determining the complement of the percentage of grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, C, and D, that has been earned by the student described in subparagraph (B); and
- (ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment, as of the day the student withdrew.

(4) Differences between amounts earned and amounts received

(A) In general

After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.

(B) Return

If the student has received more grant or loan assistance than the amount earned as calculated under paragraph (3)(A), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b) of this section, to the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 in the order specified in subsection (b)(3) of this section.

(b) Return of title IV program funds

(1) Responsibility of the institution

The institution shall return not later than 45 days from the determination of withdrawal, in the order specified in paragraph (3), the lesser of—

- (A) the amount of grant and loan assistance awarded under this subchapter and part

C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as calculated under subsection (a)(3)(C) of this section; or

(B) an amount equal to—

(i) the total institutional charges incurred by the student for the payment period or period of enrollment for which such assistance was awarded; multiplied by

(ii) the percentage of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as described in subsection (a)(3)(C)(i) of this section.

(2) Responsibility of the student

(A) In general

The student shall return assistance that has not been earned by the student as described in subsection (a)(3)(C)(ii) of this section in the order specified in paragraph (3) minus the amount the institution is required to return under paragraph (1).

(B) Special rule

The student (or parent in the case of funds due to a loan borrowed by a parent under part B or C of this subchapter) shall return or repay, as appropriate, the amount determined under subparagraph (A) to—

(i) a loan program under this subchapter and part C of subchapter I of chapter 34 of title 42 in accordance with the terms of the loan; and

(ii) a grant program under this subchapter and part C of subchapter I of chapter 34 of title 42, as an overpayment of such grant and shall be subject to—

(I) repayment arrangements satisfactory to the institution; or

(II) overpayment collection procedures prescribed by the Secretary.

(C) Grant overpayment requirements

(i) In general

Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

(II) 50 percent of the total grant assistance received by the student under this subchapter and part C of subchapter I of chapter 34 of title 42 for the payment period or period of enrollment.

(ii) Minimum

A student shall not be required to return amounts of \$50 or less.

(D) Waivers of Federal Pell Grant repayment by students affected by disasters

The Secretary may waive the amounts that students are required to return under this section with respect to Federal Pell Grants if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher edu-

cation that is located in an area in which the President has declared that a major disaster exists, in accordance with section 5170 of title 42;

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(E) Waivers of grant assistance repayment by students affected by disasters

In addition to the waivers authorized by subparagraph (D), the Secretary may waive the amounts that students are required to return under this section with respect to any other grant assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 5170 of title 42;

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(3) Order of return of title IV funds

(A) In general

Excess funds returned by the institution or the student, as appropriate, in accordance with paragraph (1) or (2), respectively, shall be credited to outstanding balances on loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 to the student or on behalf of the student for the payment period or period of enrollment for which a return of funds is required. Such excess funds shall be credited in the following order:

(i) To outstanding balances on loans made under section 1078-8 of this title for the payment period or period of enrollment for which a return of funds is required.

(ii) To outstanding balances on loans made under section 1078 of this title for the payment period or period of enrollment for which a return of funds is required.

(iii) To outstanding balances on unsubsidized loans (other than parent loans) made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(iv) To outstanding balances on subsidized loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(v) To outstanding balances on loans made under part D of this subchapter for

the payment period or period of enrollment for which a return of funds is required.

(vi) To outstanding balances on loans made under section 1078-2 of this title for the payment period or period of enrollment for which a return of funds is required.

(vii) To outstanding balances on parent loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(B) Remaining excesses

If excess funds remain after repaying all outstanding loan amounts, the remaining excess shall be credited in the following order:

(i) To awards under subpart 1 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(ii) To awards under subpart 3 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(iii) To other assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 for which a return of funds is required.

(c) Withdrawal date

(1) In general

In this section, the term “day the student withdrew”—

(A) is the date that the institution determines—

(i) the student began the withdrawal process prescribed by the institution;

(ii) the student otherwise provided official notification to the institution of the intent to withdraw; or

(iii) in the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that is the mid-point of the payment period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 was disbursed or a later date documented by the institution; or

(B) for institutions required to take attendance, is determined by the institution from such attendance records.

(2) Special rule

Notwithstanding paragraph (1), if the institution determines that a student did not begin the withdrawal process, or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student's control, the institution may determine the appropriate withdrawal date.

(d) Percentage of the payment period or period of enrollment completed

For purposes of subsection (a)(3)(B) of this section, the percentage of the payment period or period of enrollment for which assistance was awarded that was completed, is determined—

(1) in the case of a program that is measured in credit hours, by dividing the total number of calendar days comprising the payment period or period of enrollment for which assistance is awarded into the number of calendar days completed in that period as of the day the student withdrew; and

(2) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period or period of enrollment for which assistance is awarded into the number of clock hours scheduled to be completed by the student in that period as of the day the student withdrew.

(e) Effective date

The provisions of this section shall take effect 2 years after October 7, 1998. An institution of higher education may choose to implement such provisions prior to that date.

(Pub. L. 89-329, title IV, § 484B, as added Pub. L. 102-325, title IV, § 485(a), July 23, 1992, 106 Stat. 619; amended Pub. L. 103-208, § 2(h)(26), (27), Dec. 20, 1993, 107 Stat. 2477; Pub. L. 105-244, title IV, § 485, Oct. 7, 1998, 112 Stat. 1737; Pub. L. 109-66, § 2, Sept. 21, 2005, 119 Stat. 1999; Pub. L. 109-67, § 2, Sept. 21, 2005, 119 Stat. 2001; Pub. L. 109-171, title VIII, § 8022, Feb. 8, 2006, 120 Stat. 178.)

REFERENCES IN TEXT

Title IV, referred to in subsecs. (a) and (b), means title IV of the Higher Education Act of 1965, Pub. L. 89-329, which is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1091b, Pub. L. 89-329, title V, § 503, as added Pub. L. 90-35, § 2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 92-318, title IV, § 451(a), June 23, 1972, 86 Stat. 344, authorized the Commissioner to appraise and annually report on existing and future education personnel needs, prior to repeal, effective Sept. 30, 1976, by Pub. L. 94-482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

2006—Subsec. (a)(2)(A). Pub. L. 109-171, § 8022(1), substituted “1 or more leaves of” for “a leave of” in introductory provisions.

Subsec. (a)(3)(B)(ii). Pub. L. 109-171, § 8022(2), inserted “(as determined in accordance with subsection (d))” after “student has completed”.

Subsec. (a)(3)(C)(i). Pub. L. 109-171, § 8022(3), substituted “grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, C, and D,” for “grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42”.

Subsec. (a)(4)(A). Pub. L. 109-171, § 8022(4), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: “If the student has received less grant or loan assistance than the amount earned as calculated under subparagraph (A) of paragraph (3), the institution of higher education shall comply with the procedures for late disbursement specified by the Secretary in regulations.”

Subsec. (b)(1). Pub. L. 109-171, § 8022(5), inserted “not later than 45 days from the determination of withdrawal” after “return” in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 109-171, § 8022(6), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: “Notwithstanding subparagraphs (A) and (B), a student shall not be required to return 50 percent of the grant assistance re-

ceived by the student under this subchapter and part C of subchapter I of chapter 34 of title 42, for a payment period or period of enrollment, that is the responsibility of the student to repay under this section.”

Subsec. (d). Pub. L. 109-171, §8022(7), (8), in introductory provisions, substituted “(a)(3)(B)” for “(a)(3)(B)(i)” and, in par. (2), substituted “clock hours scheduled to be completed by the student in that period as of the day the student withdrew.” for “clock hours—

“(A) completed by the student in that period as of the day the student withdrew; or

“(B) scheduled to be completed as of the day the student withdrew, if the clock hours completed in the period are not less than a percentage, to be determined by the Secretary in regulations, of the hours that were scheduled to be completed by the student in the period.”

2005—Subsec. (b)(2)(D). Pub. L. 109-66 added subpar. (D).

Subsec. (b)(2)(E). Pub. L. 109-67 added subpar. (E).

1998—Pub. L. 105-244 amended section catchline and text generally. Prior to amendment, section consisted of subssecs. (a) to (c) requiring each institution of higher education participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 to have in effect a fair and equitable refund policy for refunding unearned tuition, fees, room and board, and other charges to students or parents who received grant or loan assistance under this subchapter or part C of subchapter I of chapter 34 of title 42.

1993—Subsec. (a). Pub. L. 103-208, §2(h)(26), substituted “grant or loan assistance” for “grant, loan, or work assistance” in introductory provisions.

Subsec. (b)(3). Pub. L. 103-208, §2(h)(27), substituted “subsection (c) of this section” for “subsection (d) of this section”.

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. 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.

§ 1091c. Readmission requirements for service-members

(a) Definition of service in the uniformed services

In this section, the term “service in the uniformed services” means service (whether voluntary or involuntary) on active duty in the Armed Forces, including such service by a member of the National Guard or Reserve, for a period of more than 30 days under a call or order to active duty of more than 30 days.

(b) Discrimination against students who serve in the uniformed services prohibited

A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform, service in the uniformed services shall not be denied readmission to an institution of higher education on the basis of that membership, application for

membership, performance of service, application for service, or obligation.

(c) Readmission procedures

(1) In general

Any student whose absence from an institution of higher education is necessitated by reason of service in the uniformed services shall be entitled to readmission to the institution of higher education if—

(A) the student (or an appropriate officer of the Armed Forces or official of the Department of Defense) gives advance written or verbal notice of such service to the appropriate official at the institution of higher education;

(B) the cumulative length of the absence and of all previous absences from that institution of higher education by reason of service in the uniformed services does not exceed five years; and

(C) except as otherwise provided in this section, the student submits a notification of intent to reenroll in the institution of higher education in accordance with the provisions of paragraph (4).

(2) Exceptions

(A) Military necessity

No notice is required under paragraph (1)(A) if the giving of such notice is precluded by military necessity, such as—

(i) a mission, operation, exercise, or requirement that is classified; or

(ii) a pending or ongoing mission, operation, exercise, or requirement that may be compromised or otherwise adversely affected by public knowledge.

(B) Failure to give advance notice

Any student (or an appropriate officer of the Armed Forces or official of the Department of Defense) who did not give advance written or verbal notice of service to the appropriate official at the institution of higher education in accordance with paragraph (1)(A) may meet the notice requirement by submitting, at the time the student seeks readmission, an attestation to the student's institution of higher education that the student performed service in the uniformed services that necessitated the student's absence from the institution of higher education.

(3) Applicability

This section shall apply to a student who is absent from an institution of higher education by reason of service in the uniformed services if such student's cumulative period of service in the Armed Forces (including the National Guard or Reserve), with respect to the institution of higher education for which a student seeks readmission, does not exceed five years, except that any such period of service shall not include any service—

(A) that is required, beyond five years, to complete an initial period of obligated service;

(B) during which such student was unable to obtain orders releasing such student from a period of service in the uniformed services