

“(3) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

“(4) assess the adequacy of methods of monitoring student debt burden.”

Subsec. (k). Pub. L. 105-244, §490C(7), substituted “2004” for “1998”.

Subsec. (l). Pub. L. 105-244, §490C(8), struck out heading and text of subsec. (l) which directed Advisory Committee to conduct a study of means of simplifying all aspects of loan programs under part B of this subchapter.

1993—Subsec. (d)(1). Pub. L. 103-208, §2(h)(45), struck out “sections 1070a-1 through 1070a-5 of this title and” after “established under”.

Subsec. (h)(1). Pub. L. 103-208, §2(h)(46), substituted “subchapter III” for “subtitle III” before “of chapter 53 of such title”.

1992—Subsec. (b). Pub. L. 102-325, §496(a), inserted after first sentence “Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee’s administration and management shall be subject to the usual and customary Federal audit procedures.”

Subsec. (d)(3). Pub. L. 102-325, §496(b)(1), struck out “and in assessing the impact of legislative and administrative policy proposals” after “student aid”.

Subsec. (d)(4) to (9). Pub. L. 102-325, §496(b)(2)–(6), added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and added par. (9).

Subsec. (h)(4). Pub. L. 102-325, §496(c), substituted “without regard to” for “in accordance with” and inserted before period at end “and to set pay in accordance with such section”.

Subsec. (i). Pub. L. 102-325, §496(d), substituted “\$750,000” for “\$500,000”.

Subsecs. (j) to (l). Pub. L. 102-325, §496(e), added subsecs. (j) to (l) and struck out former subsec. (j), which related to special institutional lender study.

1987—Subsec. (b). Pub. L. 100-50, §15(16), inserted at end “The Secretary’s authority to terminate advisory committees of the Department pursuant to section 1233g(b) of this title ceased to be effective on June 23, 1983.”

Subsec. (i). Pub. L. 100-50, §15(17), substituted “In each fiscal year not less than \$500,000” for “An amount, not to exceed \$500,000 in any fiscal year”.

Subsec. (j). Pub. L. 100-50, §15(18), added subsec. (j).

#### 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 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.

#### 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.

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

### § 1098a. Regional meetings and negotiated rule-making

#### (a) Meetings

##### (1) In general

The Secretary shall obtain public involvement in the development of proposed regulations for this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall obtain the advice of and recommendations from individuals and representatives of the groups involved in student financial assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, such as students, legal assistance organizations that represent students, institutions of higher education, State student grant agencies, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

##### (2) Issues

The Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of this subchapter and part C of subchapter I of chapter 34 of title 42 through such mechanisms as regional meetings and electronic exchanges of information. The Secretary shall take into account the information received through such mechanisms in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

#### (b) Draft regulations

##### (1) In general

After obtaining the advice and recommendations described in subsection (a)(1) of this section and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this subchapter and part C of subchapter I of chapter 34 of title 42 and shall submit such regulations to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups described in subsection (a)(1) of this section, and shall include both representatives of such groups from Washington, D.C., and industry participants. The Secretary shall select individuals with demonstrated expertise or experience in the relevant subjects under negotiation, reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 360-day period described in section 1232(e) of this title.

**(2) Expansion of negotiated rulemaking**

All regulations pertaining to this subchapter and part C of subchapter I of chapter 34 of title 42 that are promulgated after October 7, 1998, shall be subject to a negotiated rulemaking (including the selection of the issues to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of paragraph (1), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiations process is maintained.

**(c) Applicability of Federal Advisory Committee Act**

The Federal Advisory Committee Act shall not apply to activities carried out under this section.

**(d) Authorization of appropriations**

There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

(Pub. L. 89-329, title IV, § 492, as added Pub. L. 102-325, title IV, § 497, July 23, 1992, 106 Stat. 633; amended Pub. L. 105-244, title IV, § 490D, Oct. 7, 1998, 112 Stat. 1755; Pub. L. 110-315, title IV, § 494D, Aug. 14, 2008, 122 Stat. 3324; Pub. L. 111-39, title IV, § 407(b)(12), July 1, 2009, 123 Stat. 1953.)

## REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

## AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111-39, § 407(b)(12)(A), substituted “regulations for this subchapter and part C of subchapter I of chapter 34 of title 42. The” for “regulations for parts B, F, and G of this subchapter. The”.

Subsec. (a)(2). Pub. L. 111-39, § 407(b)(12)(B), substituted “The Secretary shall provide” for text from beginning of par. (2) through “provide”, resulting in text identical to that after execution of the amendment by Pub. L. 105-244, § 490D(a)(2)(A). See 1998 Amendment note below.

2008—Subsec. (a)(1). Pub. L. 110-315, § 494D(a)(1), inserted “State student grant agencies,” after “institutions of higher education.”.

Subsec. (a)(2). Pub. L. 110-315, § 494D(a)(2), struck out “, as amended by the Higher Education Amendments of 1998” before “through such mechanisms”.

Subsec. (b)(1). Pub. L. 110-315, § 494D(b), struck out “as amended by the Higher Education Amendments of 1998” before “and shall submit”, substituted “The Secretary” for “To the extent possible, the Secretary”, and inserted “with demonstrated expertise or experience in the relevant subjects under negotiation,” after “select individuals”.

1998—Subsec. (a)(1). Pub. L. 105-244, § 490D(a)(1)(C), substituted “The Secretary shall obtain the advice of and recommendations from” for “Such meetings shall include”.

Pub. L. 105-244, § 490D(a)(1)(B), which directed the substitution of “this subchapter and part C of subchapter I of chapter 34 of title 42;” for “parts B, F, and G of this subchapter;”, could not be executed because “parts B, F, and G of this subchapter,” does not appear in text.

Pub. L. 105-244, § 490D(a)(1)(A), struck out “convene regional meetings to” before “obtain public involvement”.

Subsec. (a)(2). Pub. L. 105-244, § 490D(a)(2)(B)–(D), substituted “this subchapter and part C of subchapter I of chapter 34 of title 42” for “parts B, F, and G of this subchapter”, “1998 through such mechanisms as regional meetings and electronic exchanges of information” for “1992”, and “through such mechanisms in” for “at such meetings in”.

Pub. L. 105-244, § 490D(a)(2)(A), which directed substitution of “The” for “During such meetings the”, was executed by making the substitution for “During such meetings, the” before “Secretary shall provide”, to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 105-244, § 490D(b), designated existing provisions as par. (1), inserted par. (1) heading, substituted “obtaining the advice and recommendations described in subsection (a)(1) of this section” for “holding regional meetings”, “this subchapter and part C of subchapter I of chapter 34 of title 42” for “parts B, F, and G of this subchapter”, “1998” for “1992”, “360-day” for “240-day”, and “section 1232(e)” for “section 1232(g)”, struck out “The Secretary shall follow the guidance provided in sections 305.82-4 and 305.85-5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law.” after “rule-making process.” and “participating in the regional meetings” after “nominated by groups”, and added par. (2).

## 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 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.

## INAPPLICABILITY OF MASTER CALENDAR AND NEGOTIATED RULEMAKING REQUIREMENTS

This section inapplicable to amendment made by section 100302(a) of Pub. L. 112-141 or to any regulations promulgated under such amendment, see section 100302(b) of Pub. L. 112-141, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 309 of Pub. L. 112-74 or to any regulations promulgated under such amendments, see section 309(h) of Pub. L. 112-74, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by title V of Pub. L. 112-25 or to any regulations promulgated under such amendments, see section 504 of Pub. L. 112-25, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 1860(a)(2) of Pub. L. 112-10 or to any regulations promulgated under such amendments, see section

1860(c) of Pub. L. 112-10, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by title IV of Pub. L. 111-39 or to any regulations promulgated under such amendments, see section 409 of Pub. L. 111-39, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 402(a) of Pub. L. 110-315 or to any regulations promulgated under such amendments, see section 402(b) of Pub. L. 110-315, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by Pub. L. 110-227 or to any regulations promulgated under such amendments, see section 11 of Pub. L. 110-227, set out as a note under section 1089 of this title.

**§ 1098b. Authorization of appropriations for administrative expenses**

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this subchapter and part C of subchapter I of chapter 34 of title 42, including expenses for staff personnel, program reviews, and compliance activities.

(Pub. L. 89-329, title IV, § 493, as added Pub. L. 102-325, title IV, § 497, July 23, 1992, 106 Stat. 634.)

**§ 1098c. Repealed. Pub. L. 110-315, title IV, § 494E, Aug. 14, 2008, 122 Stat. 3324**

Section, Pub. L. 89-329, title IV, § 493A, as added Pub. L. 105-244, title IV, § 490E, Oct. 7, 1998, 112 Stat. 1756, related to Year 2000 requirements at the Department of Education.

**§ 1098d. Procedures for cancellations and deferments for eligible disabled veterans**

The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans' eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42. Not later than 6 months after October 7, 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.

(Pub. L. 89-329, title IV, § 493B, as added Pub. L. 105-244, title IV, § 490F, Oct. 7, 1998, 112 Stat. 1758.)

**EFFECTIVE DATE**

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

**§ 1098e. Income-based repayment**

**(a) Definitions**

In this section:

**(1) Excepted PLUS loan**

The term “excepted PLUS loan” means a loan under section 1078-2 of this title, or a

Federal Direct PLUS Loan, that is made, insured, or guaranteed on behalf of a dependent student.

**(2) Excepted consolidation loan**

The term “excepted consolidation loan” means a consolidation loan under section 1078-3 of this title, or a Federal Direct Consolidation Loan, if the proceeds of such loan were used to the discharge the liability on an excepted PLUS loan.

**(3) Partial financial hardship**

The term “partial financial hardship”, when used with respect to a borrower, means that for such borrower—

(A) the annual amount due on the total amount of loans made, insured, or guaranteed under part B or C (other than an excepted PLUS loan or excepted consolidation loan) to a borrower as calculated under the standard repayment plan under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period; exceeds

(B) 15 percent of the result obtained by calculating, on at least an annual basis, the amount by which—

(i) the borrower's, and the borrower's spouse's (if applicable), adjusted gross income; exceeds

(ii) 150 percent of the poverty line applicable to the borrower's family size as determined under section 9902(2) of title 42.

**(b) Income-based repayment program authorized**

Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall carry out a program under which—

(1) a borrower of any loan made, insured, or guaranteed under part B or C (other than an excepted PLUS loan or excepted consolidation loan) who has a partial financial hardship (whether or not the borrower's loan has been submitted to a guaranty agency for default aversion or had been in default) may elect, during any period the borrower has the partial financial hardship, to have the borrower's aggregate monthly payment for all such loans not exceed the result described in subsection (a)(3)(B) divided by 12;

(2) the holder of such a loan shall apply the borrower's monthly payment under this subsection first toward interest due on the loan, next toward any fees due on the loan, and then toward the principal of the loan;

(3) any interest due and not paid under paragraph (2)—

(A) shall, on subsidized loans, be paid by the Secretary for a period of not more than 3 years after the date of the borrower's election under paragraph (1), except that such period shall not include any period during which the borrower is in deferment due to an economic hardship described in section 1085(o) of this title; and

(B) be capitalized—

(i) in the case of a subsidized loan, subject to subparagraph (A), at the time the borrower—

(I) ends the election to make income-based repayment under this subsection; or