

(6) establish such schools, departments, and other units as the Board of Trustees deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to section 4353 of this title, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

(Pub. L. 99-371, title I, §103, Aug. 4, 1986, 100 Stat. 782; Pub. L. 102-421, title I, §§101(c), 111, Oct. 16, 1992, 106 Stat. 2152; Pub. L. 103-73, title II, §203(c), Aug. 11, 1993, 107 Stat. 733.)

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 691d and 691e of this title prior to repeal by Pub. L. 99-371.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-73, §203(c)(1), in par. (1) substituted “members who shall include—” for “members selected as follows:” in introductory provisions and inserted comma after “Association” in subpar. (B), redesignated second sentence of par. (1) as par. (2), and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 103-73, §203(c)(2), inserted comma after “facilities” in par. (1), substituted “or hard of hearing;” for “or individuals who are hard of hearing;” in par. (4), and struck out “the provisions of” before “section 4353” in par. (8).

1992—Subsec. (a)(1)(B). Pub. L. 102-421, §111(1), struck out “, who on August 4, 1986, shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to August 4, 1986,” after “elected by the Board of Trustees”.

Subsec. (b)(1). Pub. L. 102-421, §111(2)(A), inserted “(including the construction of buildings and other facilities)” after “corporation”.

Subsec. (b)(4), (6). Pub. L. 102-421, §111(2)(B), (C), amended pars. (4) and (6) generally. Prior to amendment, pars. (4) and (6) read as follows:

“(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

“(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the Board deems necessary to carry out the purpose of Gallaudet University;”

Subsec. (b)(8). Pub. L. 102-421, §101(c), made technical amendment to reference to section 4353 of this title to reflect change in reference to corresponding section of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-421 effective Oct. 1, 1992, see section 161 of Pub. L. 102-421, set out as a note under section 4301 of this title.

§ 4304. Laurent Clerc National Deaf Education Center

(a) General authority

(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 4305 of this title, to maintain and operate the Laurent Clerc National Deaf Education Center (referred to in this section as the “Clerc Center”) to carry out exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf or hard of hearing throughout the Nation.

(B) The elementary and secondary education programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English-speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

(C) The elementary and secondary education programs described in subparagraph (A) shall include—

(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for students who are deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for high school and other secondary study; and

(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for students who are deaf from grades nine through twelve, inclusive, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for college, other postsecondary opportunities, or the workplace.

(2) The Model Secondary School for the Deaf may provide residential facilities for students enrolled in the school—

(A) who live beyond a reasonable commuting distance from the school; or

(B) for whom such residency is necessary for them to receive a free appropriate public education within the meaning of part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.].

(b) Administrative requirements

(1) The Clerc Center shall—

(A) provide technical assistance and outreach throughout the Nation to meet the training and information needs of parents of infants, children, and youth who are deaf or hard of hearing; and

(B) provide technical assistance and training to personnel for use in teaching (i) students who are deaf or hard of hearing, in various educational environments, and (ii) students

who are deaf or hard of hearing with a broad spectrum of needs as described in subsection (a) of this section.

(2) To the extent possible, the Clerc Center shall provide the services required under paragraph (1)(B) in an equitable manner, based on the national distribution of students who are deaf or hard of hearing in educational environments as determined by the Secretary for purposes of section 618(a)(1) of the Individuals with Disabilities Education Act [20 U.S.C. 1418(a)(1)]. Such educational environments shall include—

- (A) regular classes;
- (B) resource rooms;
- (C) separate classes;
- (D) separate, public or private, nonresidential schools; and
- (E) separate, public or private, residential schools and homebound or hospital environments.

(3) If a local educational agency, educational service agency, or State educational agency refers a child to, or places a child in, one of the elementary or secondary education programs to meet its obligation to make available a free appropriate public education under part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.], the agency or unit shall be responsible for ensuring that the special education and related services provided to the child by the education program are in accordance with part B of that Act and that the child is provided the rights and procedural safeguards under section 615 of that Act [20 U.S.C. 1415].

(4) If the parents or guardian places a child in one of the elementary or secondary education programs, the University shall—

(A) notify the appropriate local educational agency, educational service agency, or State educational agency of that child's attendance in the program;

(B) work with local educational agencies, educational service agencies, and State educational agencies, where appropriate, to ensure a smooth transfer of the child to and from that program; and

(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.] and procedural safeguards in accordance with the following provisions of section 615 of such Act [20 U.S.C. 1415]:

(i) Paragraphs (1), and (3) through (8) of subsection (b).

(ii) Subsections (c) through (g).

(iii) Subsection (h), except for the matter in paragraph (4) pertaining to transmission of findings and decisions to a State advisory panel.

(iv) Paragraphs (1) and (2) of subsection (i).

(v) Subsection (j)—

(I) except that such subsection shall not be applicable to a decision by the University to refuse to admit a child; or

(II) to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days written notice to the child's parents and to the local educational agency in which the child resides, unless the dismissal involves a suspension,

expulsion, or other change in placement covered under section 615(k) [20 U.S.C. 1415(k)].

(vi) Subsections (k) through (o).

(5) The University, for purposes of the elementary and secondary education programs carried out at the Clerc Center, shall—

(A)(i) select challenging academic content standards, challenging student academic achievement standards, and academic assessments of a State, adopted and implemented, as appropriate, pursuant to paragraphs (1) and (3) of section 6311(b) of this title and approved by the Secretary; and

(ii) implement such standards and assessments for such programs by not later than the beginning of the 2009-2010 academic year;

(B) annually determine whether such programs at the Clerc Center are making adequate yearly progress, as determined according to the definition of adequate yearly progress defined (pursuant to section 6311(b)(2)(C) of this title) by the State that has adopted and implemented the standards and assessments selected under subparagraph (A)(i); and

(C) publicly report the results of the academic assessments implemented under subparagraph (A), except where such reporting would not yield statistically reliable information or would reveal personally identifiable information about an individual student, and whether the programs at the Clerc Center are making adequate yearly progress, as determined under subparagraph (B).

(Pub. L. 99-371, title I, §104, as added Pub. L. 102-421, title I, §112, Oct. 16, 1992, 106 Stat. 2152; amended Pub. L. 103-73, title II, §203(d), Aug. 11, 1993, 107 Stat. 733; Pub. L. 105-244, title IX, §912, Oct. 7, 1998, 112 Stat. 1829; Pub. L. 108-446, title III, §305(d), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 110-315, title IX, §901, Aug. 14, 2008, 122 Stat. 3450.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(2)(B) and (b)(3), (4)(C), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110-315, §901(1), substituted “Laurent Clerc National Deaf Education Center” for “Elementary and secondary education programs” in section catchline.

Subsec. (a)(1)(A). Pub. L. 110-315, §901(2), inserted “the Laurent Clerc National Deaf Education Center (referred to in this section as the ‘Clerc Center’) to carry out” after “maintain and operate”.

Subsec. (b)(1). Pub. L. 110-315, §901(3)(A), substituted “Clerc Center” for “elementary and secondary education programs” in introductory provisions.

Subsec. (b)(2). Pub. L. 110-315, §901(3)(B)(ii), substituted “618(a)(1)” for “618(a)(1)(A)” in introductory provisions. See 2004 Amendment note below.

Pub. L. 110-315, §901(3)(B)(i), substituted “Clerc Center” for “elementary and secondary education programs” in introductory provisions.

Subsec. (b)(4)(C). Pub. L. 110-315, §901(3)(C)(i), realigned margins.

Subsec. (b)(4)(C)(i). Pub. L. 110-315, §901(3)(C)(ii), substituted “(8)” for “(6)”.

Subsec. (b)(4)(C)(vi). Pub. L. 110-315, §901(3)(C)(iii), substituted “(o)” for “(m)”.

Subsec. (b)(5). Pub. L. 110-315, §901(3)(D), added par. (5).

2004—Subsec. (b)(2). Pub. L. 108-446, which directed amendment of “section 104(b)(2) of the Education of the Deaf Act” by substituting “618(a)(1)” for “618(a)(1)(A)” in introductory provisions, was not executed to this section, which is section 104 of the Education of the Deaf Act of 1986. See 2008 Amendment note above.

1998—Subsec. (b)(1). Pub. L. 105-244, §912(1), inserted “and” after semicolon in subpar. (A), substituted a period for “; and” at end of subpar. (B), and struck out subpar. (C) which read as follows: “establish and publish priorities for research, development, and demonstration through a process that allows for public input.”

Subsec. (b)(2). Pub. L. 105-244, §912(2), in introductory provisions, substituted “paragraph (1)(B)” for “paragraph (1)” and “section 618(a)(1)(A)” for “section 618(b)”.

Subsec. (b)(3). Pub. L. 105-244, §912(3), substituted “educational service agency” for “intermediate educational unit”.

Subsec. (b)(4)(A). Pub. L. 105-244, §912(4)(A), substituted “educational service agency” for “intermediate educational unit”.

Subsec. (b)(4)(B). Pub. L. 105-244, §912(4)(B), substituted “educational service agencies” for “intermediate educational units”.

Subsec. (b)(4)(C). Pub. L. 105-244, §912(5), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act and procedural safeguards in accordance with the following provisions of section 615 of such Act:

“(i) Subparagraphs (A), (C), (D), and (E) of paragraph (1) of subsection (b), and paragraph (2) of such subsection.

“(ii) Subsection (d), except the portion of paragraph (4) requiring that findings and decisions be transmitted to a State advisory panel.

“(iii) Paragraphs (1) through (3) of subsection (e). Paragraph (3) of such subsection is not applicable to a decision by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child’s parents and to the local educational agency in which the child resides.

“(iv) Subsection (f).”

1993—Pub. L. 103-73, §203(d)(1), substituted “education” for “educational” in section catchline.

Subsec. (a)(1). Pub. L. 103-73, §203(d)(2), in subpar. (A) substituted “deaf or hard” for “deaf and individuals who are hard”, in subpar. (B) inserted “education” after “elementary and secondary” and substituted “non-English-speaking” for “non-English speaking”, and in subpar. (C), in introductory provisions, inserted “education” after “elementary and secondary”, in cl. (i) substituted “students” for “individuals” wherever appearing and “deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent,” for “deaf.”, and in cl. (ii) substituted “students” for “individuals” wherever appearing and “deaf from grades nine through twelve, inclusive,” for “deaf.”.

Subsec. (b)(1). Pub. L. 103-73, §203(d)(3), substituted “infants, children, and youth” for “infants and children” in subpar. (A) and a period for the semicolon at end of subpar. (C).

Subsec. (b)(4). Pub. L. 103-73, §203(d)(4), substituted “program” for “programs” in subpar. (A), “the child to and from that program” for “students to and from those programs” in subpar. (B), and “a decision” for “decisions” in subpar. (C)(iii).

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 sec-

tion 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102-421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§ 4305. Agreement with Gallaudet University

(a) General authority

The Secretary and Gallaudet University shall establish, and periodically update, an agreement governing the operation and national mission activities, including construction and provision of equipment, of the elementary and secondary education programs at the University. The Secretary or the University shall determine the necessity for the periodic update described in the preceding sentence.

(b) Provisions of agreement

The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this chapter and such agreement;

(2) provide that the University will make an annual report, to be part of the report required under section 4354 of this title, to the Secretary on the operations and national mission activities of the elementary and secondary education programs, including such other information as the Secretary may consider necessary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School or the Model Secondary School for the Deaf will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, commonly referred to as the Davis-Bacon Act; except that the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40; and

(5) include such other conditions as the Secretary or the University considers necessary to carry out the purposes of this part.

(Pub. L. 99-371, title I, §105, as added Pub. L. 102-421, title I, §113, Oct. 16, 1992, 106 Stat. 2154; amended Pub. L. 103-73, title II, §203(e), Aug. 11, 1993, 107 Stat. 734; Pub. L. 105-244, title IX, §913, Oct. 7, 1998, 112 Stat. 1830; Pub. L. 110-315, title IX, §902, Aug. 14, 2008, 122 Stat. 3451.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(4), is set out in the Appendix to Title 5, Government Organization and Employees.