amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315 substituted “The” for “Not later than 30 days after August 4, 1986, the”.

1993—Subsec. (b). Pub. L. 103–73, which directed amendment of subsec. (b) by inserting “or hard of hearing” after “individuals who are deaf”, was executed by making the insertion in introductory provisions but not in par. (2) to reflect the probable intent of Congress.


Subsec. (a). Pub. L. 102–421, § 151(a)(4), substituted “individuals who are deaf” for “the deaf” in two places. Pub. L. 102–421, § 136(1), substituted “the Rehabilitation Act of 1973, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing” for “and the Rehabilitation Act of 1973.”


Subsec. (b)(1) to (3). Pub. L. 102–421, § 136(2), struck out “and” at end of par. (1), added par. (2), and redesignated former par. (2) as (3).


EFFECTIVE DATE OF 1992 AMENDMENT

EFFECTIVE DATE OF 1990 AMENDMENT

§ 4357. Federal endowment programs for Gallaudet University and the National Technical Institute for the Deaf

(a) Establishment of programs

(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 4332 of this title are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

(b) Federal payments

(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) of this section from amounts appropriated under subsection (h) of this section for the fund involved.

(2) Subject to the availability of appropriations, the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources during the fiscal year in which the appropriations are made available (excluding transfers from other endowment funds of the institution involved).

(c) Investments

(1) Except as provided in subsection (e) of this section, the University and NTID, respectively, shall invest the Federal contribution of its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of title 26, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person’s own business affairs.

(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the advisory group established under section 4332 of this title is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothecate,1 encourage, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

(d) Withdrawals and expenditures

(1) Except as provided in paragraph (3), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

(2) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on

1So in original. Probably should be “hypothecate.”
an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the current fiscal year.

(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;
(ii) a life-threatening situation occasioned by natural disaster or arson; or
(iii) another unusual occurrence or exigent circumstance.

(e) Investment and expenditure flexibility

The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) of this section after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations or to the withdrawal and expenditure limitations of subsection (d)(3) of this section.

(f) Recovery of payments

After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;
(2) fails to comply with the investment standards and limitations under this section; or
(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

(g) Definitions

As used in this section:

(1) The term "corpus", with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.
(2) The term "Federal endowment fund" means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.
(3) The term "income", with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.
(4) The term "institution involved" means the University or NTID, as the case may be.

(h) Authorization of appropriations

(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 2009 through 2014.

(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 2009 through 2014.

3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

(i) Effective date

The provisions of this section shall take effect as if included in this chapter as enacted on August 4, 1986.


Prior Provisions


Amendments

1998—Subsec. (b)(2), Pub. L. 105–244, §919(1)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).”
Subsec. (b)(3), Pub. L. 105–244, §919(1)(B), struck out par. (3) which read as follows: “Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed $1,000,000, the non-Federal contribution to the Federal endowment fund shall be $2 for each Federal dollar provided in excess of $1,000,000 (excluding transfers from other endowment funds of the institution involved).”
Subsec. (c)(1), Pub. L. 105–244, §919(2), inserted “the Federal contribution of” after “shall invest”.
Subsec. (d)(2)(C), Pub. L. 105–244, §919(3)(A), substituted “The University” for “Beginning on October 1, 1992, the University”.
Subsec. (d)(3)(A), Pub. L. 105–244, §919(3)(B), substituted “current” for “prior”.
1993—Subsec. (c)(3), Pub. L. 103–73, §204(f)(1), substituted “advisory group established under section 4332 of this title” for “Advisory Board of NTID”.
Subsec. (e), Pub. L. 103–73, §204(f)(2), substituted “such investment limitations or” for “such investment limitations and”.
Subsec. (i), Pub. L. 103–73, §204(f)(3), substituted “this chapter as enacted on August 4, 1986” for “the provisions of the Education of the Deaf Act of 1966”.

Effective Date of 1998 Amendment


**Effective Date of Repeal**


§ 4359. Oversight and effect of agreements

(a) Oversight activities

Nothing in this chapter shall be construed to diminish the oversight activities of the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under part B of subchapter I of this chapter.

(b) Construction of agreements

The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with this chapter.


**Prior Provisions**

A prior section 208 of Pub. L. 99–371 was classified to section 4358 of this title, prior to repeal by Pub. L. 105–244.

Another prior section 208 of Pub. L. 99–371 was classified to section 4358 of this title, prior to repeal by Pub. L. 102–421.

**Amendments**


1996—Subsec. (a). Pub. L. 103–73, § 204(g)(1), substituted “‘an agreement under part B of subchapter I of this chapter’ for ‘an agreement under title II’”.

Subsec. (b). Pub. L. 103–73, § 204(g)(2), struck out “the provisions of” after “inconsistent with”.

§ 4359a. International students

(a) Enrollment

(1) In general

Except as provided in paragraph (2), effective with new admissions for academic year 1993–1994 and each succeeding academic year, the University (including undergraduate and graduate students) and NTID shall limit the enrollment of international students to approximately 15 percent of the total postsecondary student population enrolled respectively at the University or NTID, except that in any school year no United States citizen who is qualified to be admitted to the University or NTID and applies for admission to the University or NTID shall be denied admission because of the admission of an international student.

(2) Distance learning

International students who participate in distance learning courses that are at the University or the NTID, who are residing outside of the United States, and are not enrolled in a degree program at the University or the NTID shall—

(A) not be counted as international students for purposes of the cap on international students under paragraph (1), except that in any school year no United States citizen who applies to participate in distance learning courses that are at the University or NTID shall be denied participation in such courses because of the participation of an international student in such courses; and

(B) not be charged a tuition surcharge, as described in subsection (b).

(b) Tuition surcharge

Except as provided in subsections (a)(2)(B) and (c), the tuition for postsecondary international students enrolled in the University (including undergraduate and graduate students) or NTID shall include, for academic year 2009–2010 and each succeeding academic year, a surcharge of—

(1) 100 percent for a postsecondary international student from a developing country; and

(2) 50 percent for a postsecondary international student from a non-developing country.