

**(3) Comparability**

The provisions of part C of this subchapter, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(Pub. L. 89-329, title III, §311, as added Pub. L. 99-498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1291; amended Pub. L. 100-50, §2(a)(1), June 3, 1987, 101 Stat. 335; Pub. L. 105-244, title III, §301(c)(1), 303(a), Oct. 7, 1998, 112 Stat. 1636, 1638; Pub. L. 110-315, title III, §301, Aug. 14, 2008, 122 Stat. 3166.)

## PRIOR PROVISIONS

A prior section 1057, Pub. L. 89-329, title III, §311, as added Pub. L. 96-374, title III, §301, Oct. 3, 1980, 94 Stat. 1391, enumerated purposes and established grant authority for program to strengthen eligible institutions, prior to the general revision of this subchapter by Pub. L. 99-498.

## AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110-315, §301(1)(A), made technical amendment to reference in original act which appears in text as reference to section 1068 of this title.

Subsec. (b)(3)(F). Pub. L. 110-315, §301(1)(B), inserted “, including services that will assist in the education of special populations” before period at end.

Subsec. (c)(6). Pub. L. 110-315, §301(2)(A), inserted “, including innovative, customized, instruction courses designed to help retain students and move the students rapidly into core courses and through program completion, which may include remedial education and English language instruction” before period at end.

Subsec. (c)(7) to (13). Pub. L. 110-315, §301(2)(B)-(E), added par. (7), redesignated former pars. (7) to (12) as pars. (8) to (13), respectively, in par. (12), substituted “distance education technologies” for “distance learning academic instruction capabilities” and, in introductory provisions of par. (13), substituted “subsection (b) and section 1068 of this title” for “subsection (c)”.

1998—Subsec. (b)(1). Pub. L. 105-244, §301(c)(1), substituted “section 1068h(a)(1)” for “section 1069f(a)(1)”.

Subsecs. (c), (d). Pub. L. 105-244, §303(a), added subsecs. (c) and (d).

1987—Subsec. (b)(1). Pub. L. 100-50 substituted “section 1069f(a)(1) of this title” for “section 1069d(a)(1) 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 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.

**§ 1058. Definitions; eligibility****(a) Educational and general expenditures**

For the purpose of this part, the term “educational and general expenditures” means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

**(b) Eligible institution**

For the purpose of this part, the term “eligible institution” means—

(1) an institution of higher education—

(A) which has an enrollment of needy students as required by subsection (d);

(B) except as provided in section 1068a(b) of this title, the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(C) which is—

(i) legally authorized to provide, and provides within the State, an educational program for which such institution awards a bachelor’s degree;

(ii) a junior or community college; or

(iii) the College of the Marshall Islands, the College of Micronesia/Federated States of Micronesia, and Palau Community College;

(D) which is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or which is, according to such an agency or association, making reasonable progress toward accreditation;

(E) which meets such other requirements as the Secretary may prescribe; and

(F) located in a State; and

(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph,<sup>1</sup> the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

**(c) Endowment fund**

For the purpose of this part, the term “endowment fund” means a fund that—

(1) is established by State law, by an institution of higher education, or by a foundation that is exempt from Federal income taxation;

(2) is maintained for the purpose of generating income for the support of the institution; and

(3) does not include real estate.

**(d) Enrollment of needy students**

Except as provided in section 1059e(b) of this title, for the purpose of this part, the term “enrollment of needy students” means an enrollment at an institution of higher education or a junior or community college which includes—

(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the second fiscal year preceding the fiscal year for which the determination is being

<sup>1</sup> So in original. Probably should be “subsection.”

made (other than loans for which an interest subsidy is paid pursuant to section 1078 of this title), or

(2) a substantial percentage of students receiving Pell Grants in the second fiscal year preceding the fiscal year for which determination is being made, in comparison with the percentage of students receiving Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this paragraph is waived under section 1068a(a) of this title.

**(e) Full-time equivalent students**

For the purpose of this part, the term “full-time equivalent students” means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

**(f) Junior or community college**

For the purpose of this part, the term “junior or community college” means an institution of higher education—

(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor’s degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semi-professional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

**(g) Low-income individual**

For the purpose of this part, the term “low-income individual” means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

**(h) Historically black college or university**

For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this subchapter is eligible for or may receive funds under this part.

(Pub. L. 89-329, title III, §312, as added Pub. L. 99-498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1292; amended Pub. L. 100-50, §2(a)(2)-(6), June 3, 1987, 101 Stat. 335; Pub. L. 100-369, §10(a), July 18, 1988, 102 Stat. 837; Pub. L. 102-325, title III, §302(a), (b), July 23, 1992, 106 Stat. 472; Pub. L.

103-208, §2(a)(5), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103-382, title III, §353, Oct. 20, 1994, 108 Stat. 3966; Pub. L. 105-244, title III, §§301(c)(2), 303(b), Oct. 7, 1998, 112 Stat. 1636, 1639; Pub. L. 110-315, title III, §§302, 305(b), Aug. 14, 2008, 122 Stat. 3167, 3173.)

PRIOR PROVISIONS

A prior section 1058, Pub. L. 89-329, title III, §312, as added Pub. L. 96-374, title III, §301, Oct. 3, 1980, 94 Stat. 1391, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 99-498.

AMENDMENTS

2008—Subsec. (b)(1)(A). Pub. L. 110-315, §302(1), substituted “subsection (d)” for “subsection (c) of this section”.

Subsec. (d). Pub. L. 110-315, §305(b), substituted “Except as provided in section 1059e(b) of this title, for the purpose” for “For the purpose” in introductory provisions.

Subsec. (d)(2). Pub. L. 110-315, §302(2), substituted “paragraph” for “subdivision”.

Subsecs. (g), (h). Pub. L. 110-315, §302(3), (4), added subsec. (g) and redesignated former subsec. (g) as (h).

1998—Subsec. (b)(1)(B). Pub. L. 105-244, §301(c)(2)(A), substituted “section 1068a(b)” for “section 1067(b)”.

Subsec. (c). Pub. L. 105-244, §303(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (c)(2). Pub. L. 105-244, §301(c)(2)(B), substituted “section 1068a(a)” for “section 1067(a)”.

Subsecs. (d) to (g). Pub. L. 105-244, §303(b)(1), redesignated subsecs. (c) to (f) as (d) to (g), respectively.

1994—Subsec. (b)(1)(C). Pub. L. 103-382, §353(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “(C)(i) which is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor’s degree, or (ii) which is a junior or community college;”.

Subsec. (b)(1)(F). Pub. L. 103-382, §353(2), (3), added subpar. (F).

1993—Subsec. (c)(2). Pub. L. 103-208 inserted “the” after “such institutions in”.

1992—Subsec. (b)(1), (2). Pub. L. 102-325, §302(a)(1), (2), inserted “and” at end of subpar. (D), struck out subpar. (E), redesignated subpar. (F) as (E) and inserted “and” at end, and substituted period for semicolon at end of par. (2). Prior to amendment, subpar. (E) of par. (1) read as follows: “except as provided in section 1067(b) of this title which has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

“(i) met the requirement of either subparagraph (C)(i) or (C)(ii), or of both such subparagraphs (simultaneously or consecutively); and

“(ii) met the requirement of subparagraph (D); and”.

Subsec. (b)(3) to (5). Pub. L. 102-325, §302(a)(3), struck out pars. (3) to (5) which read as follows:

“(3) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1);

“(4) any institution of higher education which has an enrollment of at least 60 percent American Indian, or in the case of Alaska natives, an enrollment of at least 5 percent, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1); and

“(5) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamanian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1).”

Subsec. (c)(2). Pub. L. 102-325, §302(b), substituted “second fiscal year preceding the fiscal year for which

the determination is made, unless the requirement” for “second preceding fiscal year, unless the requirement”.

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

1987—Subsec. (b)(1)(C), (D). Pub. L. 100-50, §2(a)(2)(A), inserted “which” before “is” wherever appearing.

Subsec. (b)(1)(E). Pub. L. 100-50, §2(a)(2)(B), inserted “which” before “has”.

Subsec. (b)(1)(F). Pub. L. 100-50, §2(a)(2)(C), inserted “which” before “meets”.

Subsec. (b)(3), (5). Pub. L. 100-50, §2(a)(3), (4), substituted “subparagraphs (A), (B), (C), and (D)” for “subparagraphs (A) and (B)”.

Subsec. (c)(1). Pub. L. 100-50, §2(a)(5), inserted “in the second fiscal year preceding the fiscal year for which the determination is being made” after “chapter 34 of title 42”.

Subsec. (c)(2). Pub. L. 100-50, §2(a)(6), substituted “fiscal year preceding the fiscal year for which determination is being made” for “preceding fiscal year” and “second preceding fiscal year” for “such fiscal year”.

#### 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 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 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.

### § 1059. Duration of grant

#### (a) Award period

The Secretary may award a grant to an eligible institution under this part for 5 years.

#### (b) Limitations

In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part, except that for the purpose of this subsection a grant under subsection (c) of this section and a grant under section 1068c(a)(1) of this title shall not be considered a grant under this part.

#### (c) Planning grants

Notwithstanding subsection (a) of this section, the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

#### (d) Wait-out-period

Each eligible institution that received a grant under this part for a 5-year period shall not be eligible to receive an additional grant under this part until 2 years after the date on which the 5-year grant period terminates.

(Pub. L. 89-329, title III, §313, as added Pub. L. 99-498, title III, §301(a), Oct. 17, 1986, 100 Stat.

1294; amended Pub. L. 102-325, title III, §302(c), July 23, 1992, 106 Stat. 472; Pub. L. 103-208, §2(a)(6), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105-244, title III, §§301(c)(3), 303(c), Oct. 7, 1998, 112 Stat. 1637, 1639.)

#### PRIOR PROVISIONS

A prior section 1059, Pub. L. 89-329, title III, §313, as added Pub. L. 96-374, title III, §301, Oct. 3, 1980, 94 Stat. 1392, provided for duration of grants under this part, prior to the general revision of this subchapter by Pub. L. 99-498.

#### AMENDMENTS

1998—Subsec. (b). Pub. L. 105-244, §303(c)(1), inserted “subsection (c) of this section and a grant under” after “this subsection a grant under”.

Pub. L. 105-244, §301(c)(3), substituted “section 1068c(a)(1)” for “section 1069(a)(1)”.

Subsec. (d). Pub. L. 105-244, §303(c)(2), added subsec. (d).

1993—Subsec. (b). Pub. L. 103-208 inserted before period at end “, except that for the purpose of this subsection a grant under section 1069(a)(1) of this title shall not be considered a grant under this part”.

1992—Subsecs. (a), (b). Pub. L. 102-325 amended subsecs. (a) and (b) generally, substituting present provisions for provisions which related: in subsec. (a), to the awarding of grants for not to exceed 3, 4, or 5 years; and in subsec. (b), to waiting periods for awarding of subsequent grants.

#### 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 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

### § 1059a. Applications

Each eligible institution desiring to receive assistance under this part shall submit an application in accordance with the requirements of section 1068 of this title.

(Pub. L. 89-329, title III, §314, as added Pub. L. 105-244, title III, §303(d), Oct. 7, 1998, 112 Stat. 1639.)

#### PRIOR PROVISIONS

A prior section 1059a, Pub. L. 89-329, title III, §314, as added Pub. L. 100-50, §2(b), June 3, 1987, 101 Stat. 336, related to application review process, prior to repeal by Pub. L. 105-244, §3, title III, §303(d), Oct. 7, 1998, 112 Stat. 1585, 1639, effective Oct. 1, 1998.

#### 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.

### § 1059b. Goals for financial management and academic program

#### (a) Goals

Any application for a grant under this part shall describe measurable goals for the institu-