

Subsec. (c)(1)(B). Pub. L. 111-39, §801(6)(B), substituted “in a reasonable” for “within a reasonable”.

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.

§ 11611-1. Model emergency response policies, procedures, and practices

The Secretary, in consultation with the Attorney General and the Secretary of Homeland Security, shall continue to—

- (1) advise institutions of higher education on model emergency response policies, procedures, and practices; and
- (2) disseminate information concerning those policies, procedures, and practices.

(Pub. L. 89-329, title VIII, §822, as added Pub. L. 110-315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3410.)

§ 11611-2. Preparation for future disasters plan by the Secretary

The Secretary shall continue to coordinate with the Secretary of Homeland Security and other appropriate agencies to develop and maintain procedures to address the preparedness, response, and recovery needs of institutions of higher education in the event of a natural or manmade disaster with respect to which the President has declared a major disaster or emergency (as such terms are defined in section 11611-3 of this title).

(Pub. L. 89-329, title VIII, §823, as added Pub. L. 110-315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3410.)

§ 11611-3. Education Disaster and Emergency Relief Loan Program

(a) Program authorized

The Secretary, in consultation with the Secretary of Homeland Security, is authorized to establish an Education Disaster and Emergency Relief Loan Program for institutions of higher education impacted by a major disaster or emergency declared by the President.

(b) Use of assistance

The Secretary shall, subject to the availability of appropriations, provide loans under this section to institutions of higher education after the declaration of a major disaster or emergency by the President. Loan funds provided under this section may be used for construction, replacement, renovation, and operations costs resulting from a major disaster or emergency declared by the President.

(c) Application requirements

To be considered for a loan under this section, an institution of higher education shall—

- (1) submit a financial statement and other appropriate data, documentation, or evidence requested by the Secretary that indicates that the institution incurred losses resulting from the impact of a major disaster or emergency declared by the President, and the monetary amount of such losses;

(2) demonstrate that the institution had appropriate insurance policies prior to the major disaster or emergency and filed claims, as appropriate, related to the major disaster or emergency; and

(3) demonstrate that the institution attempted to minimize the cost of any losses by pursuing collateral source compensation from the Federal Emergency Management Agency prior to seeking a loan under this section, except that an institution of higher education shall not be required to receive collateral source compensation from the Federal Emergency Management Agency prior to being eligible for a loan under this section.

(d) Audit

The Secretary may audit a financial statement submitted under subsection (c) and an institution of higher education shall provide any information that the Secretary determines necessary to conduct such an audit.

(e) Reduction in loan amounts

To determine the amount of a loan to make available to an institution of higher education under this section, the Secretary shall calculate the monetary amount of losses incurred by such institution as a result of a major disaster or emergency declared by the President, and shall reduce such amount by the amount of collateral source compensation the institution has already received from insurance, the Federal Emergency Management Agency, and the Small Business Administration.

(f) Establishment of loan program

Prior to disbursing any loans under this section, the Secretary shall prescribe regulations that establish the Education Disaster and Emergency Relief Loan Program, including—

- (1) terms for the loan program;
- (2) procedures for an application for a loan;
- (3) minimum requirements for the loan program and for receiving a loan, including—
 - (A) online forms to be used in submitting a request for a loan;
 - (B) information to be included in such forms; and
 - (C) procedures to assist in filing and pursuing a loan; and

(4) any other terms and conditions the Secretary may prescribe after taking into consideration the structure of other existing capital financing loan programs under this chapter and part C of subchapter I of chapter 34 of title 42.

(g) Definitions

In this section:

(1) Institution affected by a Gulf hurricane disaster

The term “institution affected by a Gulf hurricane disaster” means an institution of higher education that—

- (A) is located in an area affected by a Gulf hurricane disaster; and
- (B) is able to demonstrate that the institution—
 - (i) incurred physical damage resulting from the impact of a Gulf hurricane disaster; and

(ii) was not able to fully reopen in existing facilities or to fully reopen to the pre-hurricane levels for 30 days or more on or after August 29, 2005.

(2) Area affected by a Gulf hurricane disaster; Gulf hurricane disaster

The terms “area affected by a Gulf hurricane disaster” and “Gulf hurricane disaster” have the meanings given such terms in section 209 of the Higher Education Hurricane Relief Act of 2005 (Public Law 109-148, 119 Stat. 2808).

(3) Emergency

The term “emergency” has the meaning given such term in section 5122(1) of title 42.

(4) Institutions of higher education

The term “institution of higher education” has the meaning given such term in section 1001 of this title.

(5) Major disaster

The term “major disaster” has the meaning given the term in section 5122(2) of title 42.

(h) Effective date

Loans provided to institutions of higher education pursuant to this section shall be available only with respect to major disasters or emergencies declared by the President that occur after August 14, 2008, except that loans may be provided pursuant to this section to an institution affected by a Gulf hurricane disaster with respect to such disaster.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(Pub. L. 89-329, title VIII, §824, as added Pub. L. 110-315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3410; amended Pub. L. 111-39, title VIII, §801(7), July 1, 2009, 123 Stat. 1956.)

REFERENCES IN TEXT

Section 209 of the Higher Education Hurricane Relief Act of 2005, referred to in subsec. (g)(2), is section 209 of title IV of div. B of Pub. L. 109-148, 119 Stat. 2808, which is not classified to the Code.

AMENDMENTS

2009—Subsec. (f)(3)(A). Pub. L. 111-39, §801(7)(A), inserted “a” after “submitting”.

Subsec. (f)(3)(C). Pub. L. 111-39, §801(7)(B), substituted “pursuing” for “pursing”.

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.

§ 11611-4. Guidance on mental health disclosures for student safety

(a) Guidance

The Secretary shall continue to provide guidance that clarifies the role of institutions of higher education with respect to the disclosure of education records, including to a parent or legal guardian of a dependent student, in the event that such student demonstrates that the

student poses a significant risk of harm to himself or herself or to others, including a significant risk of suicide, homicide, or assault. Such guidance shall further clarify that an institution of higher education that, in good faith, discloses education records or other information in accordance with the requirements of this chapter and part C of subchapter I of chapter 34 of title 42 and section 1232g of this title (commonly known as the “Family Educational Rights and Privacy Act of 1974”) shall not be liable to any person for that disclosure.

(b) Information to Congress

The Secretary shall provide an update to the authorizing committees on the Secretary’s activities under subsection (a) not later than 180 days after August 14, 2008.

(Pub. L. 89-329, title VIII, §825, as added Pub. L. 110-315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3412; amended Pub. L. 111-39, title VIII, §801(8), July 1, 2009, 123 Stat. 1956.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-39 substituted “commonly known as the ‘Family Educational Rights and Privacy Act of 1974’” for “the Family Educational Rights and Privacy Act of 1974”.

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.

§ 11611-5. Rule of construction

Nothing in this part shall be construed—

(1) to provide a private right of action to any person to enforce any provision of this section;

(2) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability; or

(3) to affect section 1232g of this title (commonly known as the “Family Educational Rights and Privacy Act of 1974”) or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(Pub. L. 89-329, title VIII, §826, as added Pub. L. 110-315, title VIII, §801, Aug. 14, 2008, 122 Stat. 3412; amended Pub. L. 111-39, title VIII, §801(9), July 1, 2009, 123 Stat. 1956.)

REFERENCES IN TEXT

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in par. (3), is section 264 of title II of Pub. L. 104-191, Aug. 21, 1996, 110 Stat. 2033, which is set out as a note under section 1320d-2 of Title 42, The Public Health and Welfare.

AMENDMENTS

2009—Par. (3). Pub. L. 111-39 substituted “commonly known as the ‘Family Educational Rights and Privacy Act of 1974’” for “the Family Educational Rights and Privacy Act of 1974”.

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.