

(g) Exception

With the approval of the Chief Executive Officer, an approved national service program funded under section 12571 of this title, may offer participants the option of waiving their right to receive a national service educational award, summer of service educational award, or silver scholar educational award, as appropriate, in order to receive an alternative post-service benefit funded by the program entirely with non-Federal funds.

(h) "Institution of higher education" defined

Notwithstanding section 12511 of this title, for purposes of this section the term "institution of higher education" has the meaning provided by section 102 of the Higher Education Act of 1965 [20 U.S.C. 1002].

(Pub. L. 101-610, title I, §148, as added Pub. L. 103-82, title I, §102(a), Sept. 21, 1993, 107 Stat. 820; amended Pub. L. 105-244, title I, §102(c)(2), Oct. 7, 1998, 112 Stat. 1622; Pub. L. 111-13, title I, §1405, Apr. 21, 2009, 123 Stat. 1515.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (b)(7)(A), (C)(ii) and (c)(2)(C)(ii), (6)(B), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of this title. Parts A and D of title IV of the Act are classified generally to parts A (§1070 et seq.) and C (§1087a et seq.), respectively, of subchapter IV of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (b)(7)(B), is act July 1, 1944, ch. 373, 58 Stat. 682. Titles VII and VIII of the Act are classified generally to subchapters V (§292 et seq.) and VI (§296 et seq.), respectively, of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

PRIOR PROVISIONS

A prior section 148 of Pub. L. 101-610 was classified to section 12578 of this title prior to the general amendment of subtitle D of title I of Pub. L. 101-610 [former part D of this subchapter] by Pub. L. 103-82, §102(a).

AMENDMENTS

2009—Pub. L. 111-13, §1405(1), substituted section catchline for former section catchline.

Subsec. (a)(2) to (5). Pub. L. 111-13, §1405(2), substituted "cost of attendance or other educational expenses" for "cost of attendance" in par. (2), added par. (4), and redesignated former par. (4) as (5).

Subsec. (b)(1). Pub. L. 111-13, §1405(3)(A), inserted "an eligible individual under section 12602(a) of this title who served in a summer of service program and desires to apply that individual's summer of service educational award, or an eligible individual under section 12602(a) of this title who served in a silver scholar program and desires to apply that individual's silver scholar educational award," after "the national service educational award of the individual" in introductory provisions.

Subsec. (b)(2). Pub. L. 111-13, §1405(3)(B), inserted "the summer of service educational award, or the silver scholar educational award, as applicable," after "the national service educational award".

Subsec. (b)(5). Pub. L. 111-13, §1405(3)(C), inserted "the summer of service educational award, or the silver scholar educational award, as applicable" after "the national service educational award".

Subsec. (b)(7)(C). Pub. L. 111-13, §1405(3)(D), added subpar. (C).

Subsec. (c)(1). Pub. L. 111-13, §1405(4)(A), inserted "an eligible individual under section 12602(a) of this title who desires to apply the individual's summer of service educational award, or an eligible individual under section 12602(a) of this title who served in a silver scholar program and desires to apply that individual's silver scholar educational award," after "national service educational award".

Subsec. (c)(2)(A). Pub. L. 111-13, §1405(4)(B)(i), inserted "summer of service educational award, or silver scholar educational award, as applicable," after "national service educational award".

Subsec. (c)(2)(C)(iii). Pub. L. 111-13, §1405(4)(B)(ii), inserted "summer of service educational award, or silver scholar educational awards, as applicable," after "national service educational awards".

Subsec. (c)(3). Pub. L. 111-13, §1405(4)(C), inserted "summer of service educational awards, or silver scholar educational awards" after "national service educational awards".

Subsec. (c)(5). Pub. L. 111-13, §1405(4)(D), inserted "summer of service educational award, or silver scholar educational award, as applicable," after "national service educational award" and "additional approved summer of service positions, and additional approved silver scholar positions" before period at end.

Subsec. (c)(6). Pub. L. 111-13, §1405(4)(E)(i), inserted "summer of service educational award, or silver scholar educational award" after "national service educational award" in introductory provisions.

Subsec. (c)(6)(A). Pub. L. 111-13, §1405(4)(E)(ii), inserted "and other educational expenses" after "cost of attendance".

Subsec. (c)(6)(B). Pub. L. 111-13, §1405(4)(E)(iii), added subpar. (B) and struck out former subpar. (B) which read as follows: "the sum of—

"(i) the student's estimated financial assistance for such period under part A of title IV of such Act (20 U.S.C. 1070 et seq.); and

"(ii) the student's veterans' education benefits, determined in accordance with section 480(c) of such Act (20 U.S.C. 1087vv(c))."

Subsec. (d). Pub. L. 111-13, §1405(5), inserted "summer of service educational awards, and silver scholar educational awards" after "national service educational awards".

Subsec. (e). Pub. L. 111-13, §1405(6), substituted "subsection (b)(7)" for "subsection (b)(6)".

Subsec. (f). Pub. L. 111-13, §1405(9), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 111-13, §1405(7), substituted "Chief Executive Officer" for "Director" and inserted "summer of service educational award, or silver scholar educational award, as appropriate," after "national service educational award".

Subsecs. (g), (h). Pub. L. 111-13, §1405(8), redesignated subsecs. (f) and (g) as (g) and (h), respectively.

1998—Subsec. (g). Pub. L. 105-244 substituted "section 102 of the Higher Education Act of 1965" for "section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a))".

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 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 Title 20, Education.

§ 12605. Repealed. Pub. L. 111-13, title I, § 1406(b), Apr. 21, 2009, 123 Stat. 1521

Section, Pub. L. 108-45, §2, July 3, 2003, 117 Stat. 844, related to the process of approval of national service positions.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§ 12606. Approval process for approved positions**(a) Timing and recording requirements****(1) In general**

Notwithstanding divisions C, D, and H, and any other provision of law, in approving a position as an approved national service position, an approved summer of service position, or an approved silver scholar position, the Corporation—

(A) shall approve the position at the time the Corporation—

(i) enters into an enforceable agreement with an individual participant to serve in a program carried out under division E of this subchapter, section 12653b or 12653c(a) of this title, or under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), a summer of service program described in section 12563(c)(8) of this title, or a silver scholarship program described in section 12653c(a) of this title; or

(ii) except as provided in clause (i), awards a grant to (or enters into a contract or cooperative agreement with) an entity to carry out a program for which such a position is approved under section 12573 of this title; and

(B) shall record as an obligation an estimate of the net present value of the national service educational award, summer of service educational award, or silver scholar educational award associated with the position, based on a formula that takes into consideration historical rates of enrollment in such a program, and of earning and using national service educational awards, summer of service educational awards, or silver scholar educational awards, as appropriate, for such a program and remain available.

(2) Formula

In determining the formula described in paragraph (1)(B), the Corporation shall consult with the Director of the Congressional Budget Office.

(3) Certification report

The Chief Executive Officer of the Corporation shall annually prepare and submit to the authorizing committees a report that contains a certification that the Corporation is in compliance with the requirements of paragraph (1).

(4) Approval

The requirements of this subsection shall apply to each approved national service position, approved summer of service position, or approved silver scholarship position that the Corporation approves—

(A) during fiscal year 2010; and

(B) during any subsequent fiscal year.

(b) Reserve account**(1) Establishment and contents****(A) Establishment**

Notwithstanding divisions C, D, and H, and any other provision of law, within the Na-

tional Service Trust established under section 12601 of this title, the Corporation shall establish a reserve account.

(B) Contents

To ensure the availability of adequate funds to support the awards of approved national service positions, approved summer of service positions, and approved silver scholar positions, for each fiscal year, the Corporation shall place in the account—

(i) during fiscal year 2010, a portion of the funds that were appropriated for fiscal year 2010 or a previous fiscal year under section 12681 of this title or section 501 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081), were made available to carry out division C, D, or E of this subchapter, section 12653b or 12653c(a) of this title, subtitle A¹ of title I of the Domestic Volunteer Service Act of 1973, or summer of service programs described in section 12563(c)(8) of this title, and remain available; and

(ii) during fiscal year 2011 or a subsequent fiscal year, a portion of the funds that were appropriated for that fiscal year under section 12681 of this title or section 501 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081), were made available to carry out division C, D, or E of this subchapter, section 12653b or 12653c(a) of this title, subtitle A¹ of title I of the Domestic Volunteer Service Act of 1973, or summer of service programs described in section 12563(c)(8) of this title, and remain available.

(2) Obligation

The Corporation shall not obligate the funds in the reserve account until the Corporation—

(A) determines that the funds will not be needed for the payment of national service educational awards associated with previously approved national service positions, summer of service educational awards associated with previously approved summer of service positions, and silver scholar educational awards associated with previously approved silver scholar positions; or

(B) obligates the funds for the payment of national service educational awards for such previously approved national service positions, summer of service educational awards for such previously approved summer of service positions, or silver scholar educational awards for such previously approved silver scholar positions, as applicable.

(c) Audits

The accounts of the Corporation relating to the appropriated funds for approved national service positions, approved summer of service positions, and approved silver scholar positions, and the records demonstrating the manner in which the Corporation has recorded estimates described in subsection (a)(1)(B) as obligations, shall be audited annually by independent certified public accountants or independent li-

¹ See References in Text note below.