

## EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title I, §106(c), Aug. 14, 2008, 122 Stat. 3093, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2009.”

## TRANSITION

Pub. L. 110-315, title I, §106(b), Aug. 14, 2008, 122 Stat. 3093, provided that: “Notwithstanding section 114 of the Higher Education Act of 1965 (20 U.S.C. 1011c) (as in effect before, during, and after the date of enactment of this Act [Aug. 14, 2008])—

“(1) the term of each member appointed to the National Advisory Committee on Institutional Quality and Integrity before the date of enactment of this Act shall expire on the date of enactment of this Act;

“(2) no new members shall be appointed to the National Advisory Committee on Institutional Quality and Integrity during the period beginning on the date of enactment of this Act and ending on January 31, 2009; and

“(3) no meeting of the National Advisory Committee on Institutional Quality and Integrity shall be convened during such period.”

**§ 1011d. Student representation**

The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this chapter, include individuals who are, at the time of appointment, attending an institution of higher education.

(Pub. L. 89-329, title I, §115, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1593.)

## PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145b of this title prior to repeal by Pub. L. 105-244.

A prior section 1011d, Pub. L. 89-329, title I, §125, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 463, related to articulation agreements, prior to the general amendment of this subchapter by Pub. L. 105-244.

**§ 1011e. Financial responsibility of foreign students**

Nothing in this chapter or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by—

(1) making advance payment of such tuition and fees;

(2) making deposits in an escrow account administered by such institution for such payments; or

(3) obtaining a bond or other insurance that such payments will be made.

(Pub. L. 89-329, title I, §116, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1593.)

## PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145c of this title prior to repeal by Pub. L. 105-244.

A prior section 1011e, Pub. L. 89-329, title I, §126, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 464, related to State administrative costs, prior to

the general amendment of this subchapter by Pub. L. 105-244.

**§ 1011f. Disclosures of foreign gifts****(a) Disclosure report**

Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is \$250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

**(b) Contents of report**

Each report to the Secretary required by this section shall contain the following:

(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

**(c) Additional disclosures for restricted and conditional gifts**

Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose the following:

(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

**(d) Relation to other reporting requirements****(1) State requirements**

If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of

this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

**(2) Use of other Federal reports**

If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this section, a copy of the report may be filed with the Secretary in lieu of a report required under subsection (a).

**(e) Public inspection**

All disclosure reports required by this section shall be public records open to inspection and copying during business hours.

**(f) Enforcement**

**(1) Court orders**

Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated under this section, a civil action may be brought by the Attorney General, at the request of the Secretary, in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of this section.

**(2) Costs**

For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

**(g) Regulations**

The Secretary may promulgate regulations to carry out this section.

**(h) Definitions**

For the purpose of this section—

(1) the term “contract” means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

(2) the term “foreign source” means—

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

(3) the term “gift” means any gift of money or property;

(4) the term “institution” means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State, that—

(A) is legally authorized within such State to provide a program of education beyond secondary school;

(B) provides a program for which the institution awards a bachelor’s degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of the institution’s subunits; and

(5) the term “restricted or conditional gift or contract” means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding—

(A) the employment, assignment, or termination of faculty;

(B) the establishment of departments, centers, research or lecture programs, or new faculty positions;

(C) the selection or admission of students;

or  
(D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

(Pub. L. 89-329, title I, §117, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1593.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145d of this title prior to repeal by Pub. L. 105-244.

A prior section 1011f, Pub. L. 89-329, title I, §127, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 464, related to priority grant applications, prior to the general amendment of this subchapter by Pub. L. 105-244.

**§ 1011g. Application of peer review process**

All applications submitted under the provisions of this chapter which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary, which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(Pub. L. 89-329, title I, §118, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1595.)