

(c) Regulations**(1) In general**

The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

(A) the periodic review of a representative sample of programs required by subsection (a); and

(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) Rehabilitation program

The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.

(d) Appeals

Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

(e) Alcohol and drug abuse prevention grants**(1) Program authority**

The Secretary may make grants to institutions of higher education or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use. Such grants or contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

(2) Awards

Grants and contracts shall be awarded under paragraph (1) on a competitive basis.

(3) Applications

An institution of higher education, a consortium of such institutions, or another organization that desires to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such

manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

(4) Additional requirements**(A) Participation**

In awarding grants and contracts under this subsection the Secretary shall make every effort to ensure—

(i) the equitable participation of private and public institutions of higher education (including community and junior colleges); and

(ii) the equitable geographic participation of such institutions.

(B) Consideration

In awarding grants and contracts under this subsection the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

(5) Authorization of appropriations

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

(Pub. L. 89-329, title I, §120, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1596; amended Pub. L. 110-315, title I, §107, Aug. 14, 2008, 122 Stat. 3093.)

PRIOR PROVISIONS

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

AMENDMENTS

2008—Subsec. (a)(2)(B) to (D). Pub. L. 110-315, §107(1), added subpars. (B) and (C) and redesignated former subpar. (B) as (D).

Subsec. (e)(5). Pub. L. 110-315, §107(2), substituted “such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years” for “\$5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years”.

Subsec. (f). Pub. L. 110-315, §107(3), struck out subsec. (f) which related to National Recognition Awards for outstanding alcohol and drug abuse prevention programs.

§ 1011j. Prior rights and obligations**(a) Authorization of appropriations****(1) Pre-1987 parts C and D of subchapter VII**

There are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and for each succeeding fiscal year to pay obligations incurred prior to 1987 under parts C and D of subchapter VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992.

(2) Post-1992 and pre-1998 part C of subchapter VII

There are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and for each succeeding fiscal year to pay obligations incurred prior to October 7, 1998, under part C of subchapter VII, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to October 7, 1998.

(b) Legal responsibilities

(1) Pre-1987 subchapter VII

All entities with continuing obligations incurred under parts A, B, C, and D of subchapter VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Amendments of 1992.

(2) Post-1992 and pre-1998 part C of subchapter VII

All entities with continuing obligations incurred under part C of subchapter VII, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to October 7, 1998,

shall be subject to the requirements of such part as such part was in effect during such period.

(Pub. L. 89-329, title I, §121, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1601; amended Pub. L. 110-315, title I, §108, Aug. 14, 2008, 122 Stat. 3094.)

REFERENCES IN TEXT

Parts A, B, C, and D of subchapter VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, referred to in subsecs. (a)(1) and (b)(1), means parts A (§1132b et seq.), B (§1132c et seq.), C (§1132d et seq.), and D (§1132e et seq.) of subchapter VII of this chapter, as in effect before the effective date of Pub. L. 102-325. For effective date of Pub. L. 102-325, see section 2 of Pub. L. 102-325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title. Pub. L. 102-325, title VII, §§703-707(a), July 23, 1992, 106 Stat. 738-753, amended subchapter VII of this chapter effective Oct. 1, 1992, by amending parts A to C generally, repealing part D, and redesignating former part E as D.

Part C of subchapter VII, as such part was in effect during the period after the effective date of the Higher Education Amendments of 1992 and prior to October 7, 1998, referred to in subsecs. (a)(2) and (b)(2), probably means part C (§1132d et seq.) of subchapter VII of this chapter, as in effect during the period after the effective date of Pub. L. 102-325 and before it was amended by Pub. L. 105-244. For effective date of Pub. L. 102-325, see section 2 of Pub. L. 102-325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title. Pub. L. 105-244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, amended subchapter VII of this chapter generally, effective Oct. 1, 1998, omitting part C which related to loans for construction, reconstruction, and renovation of academic housing, and other educational facilities and adding a new part C (§1139 et seq.) relating to urban community service.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1132a-1 of this title prior to the general amendment of subchapter VII of this chapter by Pub. L. 105-244.

A prior section 121 of Pub. L. 89-329, title I, as added Pub. L. 99-498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to adult learning research and was classified to section 1016 of this title, prior to the general amendment of this subchapter by Pub. L. 102-325.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-315 substituted “2009 and for each succeeding fiscal year” for “1999 and for

each of the 4 succeeding fiscal years” in pars. (1) and (2).

§ 1011k. Recovery of payments

(a) Public benefit

Congress declares that, if a facility constructed with the aid of a grant under part A of subchapter VII as such part A was in effect prior to October 7, 1998, or part B of such subchapter as part B was in effect prior to July 23, 1992, is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of such subchapter as so in effect.

(b) Recovery upon cessation of public benefit

If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of subchapter VII as such part A was in effect prior to October 7, 1998, or part B of subchapter VII as such part B was in effect prior to July 23, 1992—

(1) the applicant under such parts as so in effect (or the applicant's successor in title or possession) ceases or fails to be a public or nonprofit institution; or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term “academic facility” (as such term was defined under subchapter VII, as so in effect), unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Prohibition on use for religion

Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under subchapter VII (as in effect prior to October 7, 1998) shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(Pub. L. 89-329, title I, §122, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1601.)

REFERENCES IN TEXT

Subchapter VII, referred to in text, was amended, effective Oct. 1, 1992, by Pub. L. 102-325, title VII, §§703-707(a), July 23, 1992, 106 Stat. 738-753, by amending parts A to C generally, repealing part D, and redesignating former part E as D, and was further amended generally, effective Oct. 1, 1998, by Pub. L. 105-244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, by substituting provisions relating to graduate and post-secondary improvement programs for former provisions relating to construction, reconstruction, and renovation of academic facilities.