

## 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.

## EFFECTIVE DATE

Section effective Oct. 1, 2007, see section 1(c) of Pub. L. 110-84, set out as an Effective Date of 2007 Amendment note under section 1070a of this title.

## PART G—GENERAL PROVISIONS

## CODIFICATION

Pub. L. 110-315, title III, §316(a)(1), Aug. 14, 2008, 122 Stat. 3185, redesignated part F (§1068 et seq.) of this subchapter as part G of this subchapter.

**§ 1068. Applications for assistance****(a) Applications****(1) Applications required**

Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for the assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for assistance under this subchapter only if the Secretary determines that—

(A) the application meets the requirements of subsection (b);

(B) the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought; and

(C) the applicant's performance goals are sufficiently rigorous as to meet the purposes of this subchapter and the performance objectives and indicators for this subchapter established by the Secretary pursuant to the Government Performance and Results Act of 1993 and the amendments made by such Act.

**(2) Preliminary applications**

In carrying out paragraph (1), the Secretary may develop a preliminary application for use by eligible institutions applying under part A prior to the submission of the principal application.

**(b) Contents**

An institution, in its application for a grant, shall—

(1) set forth, or describe how the institution (other than an institution applying under part C, D or E) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this subchapter);

(2) set forth policies and procedures to ensure that Federal funds made available under this subchapter for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 1057(b) or

1062 of this title, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this subchapter;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this subchapter;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this subchapter, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 1068e of this title, except that for purposes of section 1059c of this title, paragraphs (2) and (3) of section 1068e of this title shall not apply;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this subchapter in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this subchapter, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

(E) a detailed description of any activity which involves the expenditure of more than \$25,000, as identified in the budget referred to in subparagraph (D); and

(8) include such other information as the Secretary may prescribe.

**(c) Priority criteria publication required**

The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, all policies and procedures required to exercise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

**(d) Eligibility data**

The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under subchapter IV of this chapter in making eligibility determinations under section 1058 of this title and shall advance the base-year forward following each annual grant cycle.

**(e) Technical assistance**

The Secretary, directly or by grant or contract, may provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a grant, under this subchapter.

(Pub. L. 89-329, title III, §391, formerly §351, as added Pub. L. 99-498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1302; amended Pub. L. 100-50, §2(a)(13), June 3, 1987, 101 Stat. 336; Pub. L. 102-325, title III, §305(a), July 23, 1992, 106 Stat. 478; renumbered §391 and amended Pub. L. 105-244, title III, §§301(a)(2), (c)(11), 308(a)-(c), Oct. 7, 1998, 112 Stat. 1636, 1637, 1648, 1649; Pub. L. 110-315, title III, §§317, 320(4), Aug. 14, 2008, 122 Stat. 3185, 3188.)

## REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (a)(1)(C), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

## CODIFICATION

Section was formerly classified to section 1066 of this title prior to renumbering by Pub. L. 105-244.

## PRIOR PROVISIONS

A prior section 1068, Pub. L. 89-329, title III, §353, as added Pub. L. 99-498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1305, which related to application review process, was renumbered section 393 of Pub. L. 89-329 by Pub. L. 105-244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068b of this title.

Another prior section 1068, Pub. L. 89-329, title III, §343, as added Pub. L. 96-374, title III, §301, Oct. 3, 1980, 94 Stat. 1398, related to application review process and provided for reader panels, recommendation of such panels, and notification to institutions, prior to the general amendment of this subchapter by Pub. L. 99-498.

Another prior section 1068, Pub. L. 89-329, title IV, §408, Nov. 8, 1965, 79 Stat. 1235; Pub. L. 90-575, title I, §105(a), Oct. 16, 1968, 82 Stat. 1018; Pub. L. 91-230, title VIII, §801, Apr. 13, 1970, 84 Stat. 190; Pub. L. 92-318, title I, §131(a)(1)(B), June 23, 1972, 86 Stat. 247, related to programs for identifying qualified low-income students and preparing them for post secondary education, grants or contracts for planning, developing or carrying out programs, "Talent Search" program, "Upward Bound" program, "Special Services for Disadvantaged Students" program, nature of programs, waiver of matching requirement in the "Upward Bound" program and authorization of appropriations, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92-318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

## AMENDMENTS

2008—Subsec. (b)(7)(E). Pub. L. 110-315, §320(4), substituted "subparagraph (D)" for "subparagraph (E)".

Subsec. (e). Pub. L. 110-315, §317, added subsec. (e).

1998—Subsec. (a). Pub. L. 105-244, §308(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for a grant under this subchapter if the application meets the requirements of subsection (b) of this section and shows that the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought."

Subsec. (b)(1). Pub. L. 105-244, §308(b), inserted ", D or E" after "part C".

Subsec. (b)(6). Pub. L. 105-244, §§301(c)(11), 308(c), substituted "section 1068e" for "section 1069c" and inserted ", except that for purposes of section 1059c of this title, paragraphs (2) and (3) of section 1068e of this title shall not apply" before semicolon.

1992—Subsec. (b)(7)(D) to (F). Pub. L. 102-325 redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: "information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, and other problems;"

1987—Subsec. (b)(6). Pub. L. 100-50 substituted "section 1069c of this title" for "section 1069b 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 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.

**§ 1068a. Waiver authority and reporting requirement****(a) Waiver requirements; need-based assistance students**

The Secretary may waive the requirements set forth in section 1058(b)(1)(A) of this title in the case of an institution—

(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

(2) which serves a substantial number of low-income students as a percentage of its total student population;

(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

(5) located on or near an Indian reservation or a substantial population of Indians, if the