

comments. In establishing such regions, the Secretary may designate a State or a portion of a State as a region.

(Pub. L. 89-329, title XII, §1212, formerly §1211, as added Pub. L. 100-418, title VI, §6231, Aug. 23, 1988, 102 Stat. 1518; renumbered §1212 and amended Pub. L. 103-208, §2(j)(55), (56), Dec. 20, 1993, 107 Stat. 2485.)

REFERENCES IN TEXT

The Training Technology Transfer Act of 1988, referred to in subsec. (a)(1)(B), is chapter 1 of subtitle B of title VI of Pub. L. 100-418, Aug. 23, 1988, 102 Stat. 1500, which was classified generally to part A (§5091 et seq.) of subchapter II of chapter 62 of this title, prior to repeal by Pub. L. 103-382, title III, §391(i), Oct. 20, 1994, 108 Stat. 4023. For complete classification of this Act to the Code, see Tables. For provisions relating to technology for education, see section 6801 et seq. of this title.

AMENDMENTS

1993—Subsec. (e)(2). Pub. L. 103-208, §2(j)(56), inserted closing quotation marks after first reference to “facilities”.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1003 of this title.

§ 1145g. Drug and alcohol abuse prevention

(a) Certification requirements

Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

(1) the annual distribution to each student and employee of—

(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(C) a description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and

(2) a biennial review by the institution of its program to—

(A) determine its effectiveness and implement changes to the program if they are needed; and

(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

(b) Availability to Secretary and public of annual distributions and biennial reviews

Each institution of higher education that provides the certification required by subsection (a) of this section shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) of this section as well as the results of the biennial review required by subsection (a)(2) of this section.

(c) Regulations; sanctions

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

(d) Procedures applicable upon termination of financial assistance

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.

(Pub. L. 89-329, title XII, §1213, as added Pub. L. 101-226, §22(a)(1), Dec. 12, 1989, 103 Stat. 1938.)

EFFECTIVE DATE

Section 22(a)(2) of Pub. L. 101-226 provided that:

“(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) [enacting this section] shall take effect on October 1, 1990.

“(B) The Secretary of Education may allow any institution of higher education until not later than April 1, 1991, to comply with section 1213 of the Higher Education Act of 1965 [this section] (as added by paragraph (1)) if such institution demonstrates—

“(i) that it is in the process of developing and implementing its plan under such section; and

“(ii) it has a legitimate need for more time to develop and implement such plan.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1092 of this title.

§ 1145h. Grants for campus sexual offenses education

(a) Grants authorized

(1) In general

The Secretary of Education (hereafter in this section referred to as the “Secretary”) is authorized to make grants to or enter into contracts with institutions of higher education or consortia of such institutions to enable such institution to carry out sexual offenses education and prevention programs under this section.

(2) Award basis

The Secretary shall award grants and contracts under this section on a competitive basis.

(3) Equitable participation

The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions in the activities assisted under this section.

(4) Priority

In the award of grants and contracts under this section, the Secretary shall give priority to institutions of higher education or consortia of such institutions that show the greatest need for the sums requested.

(b) General sexual offenses prevention and education grants

Funds provided under this section may be used for the following purposes:

(1) To provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of sexual offenses.

(2) To develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline sexual offense crimes.

(3) To develop, enlarge, or strengthen support services programs including medical or psychological counseling to assist victims’ recovery from sexual offense crimes.

(4) To create, disseminate, or otherwise provide assistance and information about victims’ options on and off campus to bring disciplinary or other legal action.

(5) To implement, operate, or improve sexual offense education and prevention programs, including programs making use of peer-to-peer education.

(c) Model grants

Not less than 25 percent of the funds appropriated for this section in any fiscal year shall be available for grants or contracts for model demonstration programs which will be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student sexual offense victims.

(d) Eligibility

No institution of higher education or consortium of such institutions shall be eligible to be

awarded a grant or contract under this section unless—

(1) its student code of conduct, or other written policy governing student behavior explicitly prohibits all forms of sexual offenses;

(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual offense of the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim’s complaint against the alleged perpetrator of the sexual offense, except that nothing in this section shall be interpreted to authorize disclosure to any person other than the victim; and

(3) the Secretary shall give priority to those applicants who do not have an established campus education program regarding sexual offenses.

(e) Applications

(1) In general

In order to be eligible to be awarded a grant or contract under this section for any fiscal year, an institution of higher education or consortium of such institutions shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

(2) Contents

Each application submitted under paragraph (1) shall—

(A) set forth the activities and programs to be carried out with funds granted under this section;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) explain how the program intends to address the issue of sexual offenses;

(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this section, and in no case to supplant such funds; and

(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

(f) Grantee reporting

Upon completion of the grant or contract period under this section, the grantee institution or consortium of such institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

(g) “Sexual offenses education and prevention” defined

For purposes of this section, the term “sexual offenses education and prevention” includes programs that provide education seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational