

REFERENCES TO PART C OF TITLE I OF THE ECONOMIC OPPORTUNITY ACT OF 1964

Section 131(c) of Pub. L. 90-575 provided that: "Any reference to any provision of part C of title I of the Economic Opportunity Act of 1964 in any law of the United States shall be deemed to be a reference to the corresponding provision of part C of title IV of the Higher Education Act of 1965 as amended by this section [this part]."

§ 2752. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 2751(b) of this title for each fiscal year, the Secretary shall first allocate to each eligible institution for each succeeding fiscal year, an amount equal to 100 percent of the amount such institution received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) \$5,000; or

(ii) 90 percent of the amount received and used under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) \$5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allo-

cated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds \$700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate or transfer to a 4-year institution of higher education.

(b) Allocation of excess based on share of excess eligible amounts

(1) From the remainder of the amount appropriated pursuant to section 2751(b) of this title after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (c) of this section), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 2751(b) of this title for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section.

(c) Determination of institution's need

(1) The amount of an institution's need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title [20 U.S.C. 1087kk et

seq.] of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students; and

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary shall—

(A) establish various income categories of graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title [20 U.S.C. 1087kk et seq.] of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category; and

(F) add the amounts determined under subparagraph (E) of this paragraph for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term "average cost of attendance" means

the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to \$600.

(d) Reallocation of excess allocations

(1) If institutions return to the Secretary any portion of the sums allocated to such institutions under this section for any fiscal year, the Secretary shall reallocate such excess to eligible institutions which used at least 5 percent of the total amount of funds granted to such institution under this section to compensate students employed in tutoring in reading and family literacy activities in the preceding fiscal year. Such excess funds shall be reallocated to institutions which qualify under this subsection on the same basis as excess eligible amounts are allocated to institutions pursuant to subsection (b) of this section. Funds received by institutions pursuant to this subsection shall be used to compensate students employed in community service.

(2) If, under paragraph (1) of this subsection, an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(e) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(Pub. L. 89-329, title IV, §442, formerly title I, §142, as added, renumbered, and amended Pub. L. 90-575, title I, §§131(a), (b)(1), (3), 133(a), 135, Oct. 16, 1968, 82 Stat. 1028, 1029; Pub. L. 92-318, title I, §135B, June 23, 1972, 86 Stat. 270; Pub. L. 96-374, title IV, §§432, 433, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1433, 1503; Pub. L. 99-498, title IV, §403(a), Oct. 17, 1986, 100 Stat. 1429; Pub. L. 100-50, §11(a), June 3, 1987, 101 Stat. 348; Pub. L. 102-325, title IV, §442, July 23, 1992, 106 Stat. 564; Pub. L. 103-208, §2(d)(1), (2), Dec. 20, 1993, 107

Stat. 2470; Pub. L. 105-244, title IV, § 442(a), (b), Oct. 7, 1998, 112 Stat. 1712; Pub. L. 110-315, title IV, § 442, Aug. 14, 2008, 122 Stat. 3258.)

REFERENCES IN TEXT

Part F of this title, referred to in subsec. (c)(2)(B), (3)(B), means part F of title IV of Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended, known as the Higher Education Act of 1965. Part F of title IV of such Act is classified generally to part E (§1087kk et seq.) of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

CODIFICATION

Section was originally enacted as section 122 of the Economic Opportunity Act of 1964, Pub. L. 88-452, title I, Aug. 20, 1964, 78 Stat. 514. As such, it had been amended by Pub. L. 89-329, title IV, § 441(1), Nov. 8, 1965, 79 Stat. 1249, and renumbered section 142 by Pub. L. 90-222, title I, § 111(a), Dec. 23, 1967, 81 Stat. 726.

Under Pub. L. 90-575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88-452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89-329. Former Part C of title IV of Pub. L. 89-329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferal but the amendment of this section by section 441(1) of Pub. L. 89-329 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

AMENDMENTS

2008—Subsec. (c)(4)(D). Pub. L. 110-315 substituted “\$600” for “\$450”.

1998—Subsec. (a)(1). Pub. L. 105-244, § 442(a)(1), substituted “received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)” for “received and used under this part for fiscal year 1985”.

Subsec. (a)(2)(A), (B). Pub. L. 105-244, § 442(a)(2)(A), substituted “1999” for “1985” in introductory provisions.

Subsec. (a)(2)(C)(i). Pub. L. 105-244, § 442(a)(2)(B), substituted “2000” for “1986”.

Subsec. (b). Pub. L. 105-244, § 442(b)(1), (2), redesignated subsec. (c) as (b), and struck out heading and text of former subsec. (b). Text read as follows: “From one-quarter of the remainder of the amount appropriated pursuant to section 2751(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) of this section bears to the amount all such institutions receive under such subsection (a) of this section.”

Subsec. (b)(1). Pub. L. 105-244, § 442(b)(3), struck out “three-quarters of” after “From”.

Subsec. (b)(2)(A)(i). Pub. L. 105-244, § 442(b)(4), substituted “subsection (c)” for “subsection (d)”.

Subsec. (c). Pub. L. 105-244, § 442(b)(2), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(3). Pub. L. 105-244, § 442(b)(5), struck out “the Secretary, for academic year 1988-1989 shall use the procedures employed for academic year 1986-1987, and, for any subsequent academic years,” after “professional students,” in introductory provisions.

Subsec. (d). Pub. L. 105-244, § 442(b)(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(1). Pub. L. 105-244, § 442(b)(6), substituted “5 percent” for “10 percent”, “in tutoring in reading and family literacy activities in” for “in community service in”, and “subsection (b)” for “subsection (c)”.

Subsecs. (e), (f). Pub. L. 105-244, § 442(b)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

1993—Subsec. (d)(4)(C). Pub. L. 103-208, § 2(d)(1), substituted “150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college” for “three-fourths in the Pell Grant family size offset”.

Subsec. (e). Pub. L. 103-208, § 2(d)(2), designated existing provisions as par. (1) and added par. (2).

1992—Subsec. (a)(4). Pub. L. 102-325, § 442(a), added par. (4).

Subsec. (e). Pub. L. 102-325, § 442(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

“(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall reallocate such excess in accordance with paragraph (2). Any sums reallocated under this subsection may be used in accordance with section 2755(a)(2) of this title.

“(2) The Secretary shall reallocate not to exceed 25 percent of the amount available pursuant to paragraph (1) to eligible institutions for use in initiating, improving, and expanding programs of community service-learning conducted in accordance with section 2756a of this title. The Secretary shall allocate the remainder of the amounts available pursuant to paragraph (1) to eligible institutions based upon the criteria described in section 2756a(c) of this title.”

1987—Subsec. (e)(2). Pub. L. 100-50, substituted “not to exceed 25 percent” for “25 percent” and “section 2756a(c) of this title” for “subsection (c) of this section”, and made technical amendment to reference to section 2756a of this title to correct numerical designation of corresponding section of original act.

1986—Pub. L. 99-498 amended section generally, substituting provisions relating to allocation of funds for provisions relating to allotments to States.

1980—Subsec. (a). Pub. L. 96-374, §§ 432(1)-(3), 1391(a)(1), substituted “Secretary” for “Commissioner” in provisions preceding cl. (1), substituted “1 per centum” for “2 per centum” and struck out reference to Puerto Rico in cl. (1), and substituted “subsection (f) of this section” for “subsection (e) of this section” in cl. (2).

Subsecs. (b)(1), (2), (c). Pub. L. 96-374, § 1391(a)(1), substituted “Secretary” for “Commissioner”.

Subsec. (d). Pub. L. 96-374, §§ 432(4), 433, designated existing provisions as par. (1), inserted “except that the Secretary shall give preference for the first 50 per centum of such reallocations to eligible institutions for use for initiating, improving, and expanding programs of cooperative education in accordance with title VIII of this Act” after “this Act” and “second” after “until the close of the” and substituted “Secretary” for “Commissioner”, and added par. (2).

Subsec. (e). Pub. L. 96-374, § 432(5), struck out reference to Puerto Rico.

Subsec. (f). Pub. L. 96-374, § 1391(a)(1), substituted “Secretary” for “Commissioner”.

1972—Subsec. (a). Pub. L. 92-318, § 135B(a)(2), substituted “Ninety per centum of the remainder” for “The remainder”.

Subsecs. (c) to (f). Pub. L. 92-318, § 135B(a)(2), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

1968—Subsec. (a). Pub. L. 90-575, §§ 131(b)(3), 135(a), struck out reference to reservation of an amount needed for making grants under section 2753 of this title and inserted reference to reservation of amount provided by subsec. (e).

Subsec. (c). Pub. L. 90-575, § 133(a), substituted “eligible institution” for “institution of higher education”.

Subsec. (e). Pub. L. 90-575, § 135(b), added subsec. (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-244, title IV, § 442(c), Oct. 7, 1998, 112 Stat. 1712, provided that: “The amendments made by this section [amending this section] shall apply with re-

spect to allocations of amounts appropriated pursuant to section 441(b) for fiscal year 2000 or any succeeding fiscal year.”

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 1051 of Title 20, Education.

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 Title 20, Education.

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 Title 20, Education.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 403(b)(1) of Pub. L. 99-498, as enacted by Pub. L. 100-50, §22(c), June 3, 1987, 101 Stat. 361, provided that: “Section 442 of the Act [this section] shall apply with respect to the allocation of funds for academic year 1988-1989 and succeeding academic years.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96-374, set out as a note under section 1001 of Title 20, Education.

COLLEGE WORK-STUDY ALLOTMENT FOR SPECIFIC FISCAL YEARS

Pub. L. 98-8, title I, §100, Mar. 24, 1983, 97 Stat. 27, provided that notwithstanding subsecs. (a), (b), (c), and (e) of this section and section 11 of Public Law 97-301, set out as a note below, the Secretary should allot the sums appropriated pursuant to section 2751(b) of this title for fiscal year 1983 among the States so that each State's allotment bore the same ratio to the total amount appropriated as that State's allotment in fiscal year 1981 bore to the total amount appropriated pursuant to that section for fiscal year 1981.

Pub. L. 97-301, §11, Oct. 13, 1982, 96 Stat. 1403, which provided that notwithstanding subsecs. (a), (b), (c), and (e) of this section, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 2751(b) of this title were less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary should allot the sums appropriated pursuant to that section for such fiscal year among the States so that each State's allotment bore the same ratio to the total amount appropriated as that State's allotment in fiscal year 1981 bore to the total amount appropriated pursuant to that section for fiscal year 1981 was repealed by Pub. L. 99-498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

§ 2753. Grants for Federal work-study programs

(a) Agreements required

The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

(b) Contents of agreements

An agreement entered into pursuant to this section shall—

(1) provide for the operation by the institution of a program for the part-time employ-

ment, including internships, practica, or research assistantships as determined by the Secretary, of its students in work for the institution itself, work in community service or work in the public interest for a Federal, State, or local public agency or private non-profit organization under an arrangement between the institution and such agency or organization, and such work—

(A) will not result in the displacement of employed workers or impair existing contracts for services;

(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

(D) will not pay any wage to students employed under this subpart¹ that is less than the current Federal minimum wage as mandated by section 206 of title 29;

(2) provide that funds granted an institution of higher education, pursuant to this section, may be used only to make payments to students participating in work-study programs, except that—

(A) for fiscal year 2000 and succeeding fiscal years, an institution shall use at least 7 percent of the total amount of funds granted to such institution under this section for such fiscal year to compensate students employed in community service, and shall ensure that not less than 1 tutoring or family literacy project (as described in subsection (d) of this section) is included in meeting the requirement of this subparagraph, except that the Secretary may waive this subparagraph if the Secretary determines that enforcing this subparagraph would cause hardship for students at the institution; and

(B) an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 1096 of title 20, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 2756 of this title, and may transfer funds in accordance with the provisions of section 1095 of title 20;

(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with part F [20 U.S.C. 1087kk et seq.] and meet the requirements of section 1091 of title 20 will be assisted, except that if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution on less than a full-time basis, or (B) independent students, a reasonable portion of the grant shall be made available to such students;

(4) provide that for a student employed in a work-study program under this part, at the

¹ So in original. Probably should be “part”.