

(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 and part C of subchapter I of chapter 34 of title 42 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.)

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145d-1 of this title prior to repeal by Pub. L. 105-244.

A prior section 1011g, Pub. L. 89-329, title I, §128, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 464, related to reports and evaluation of programs, prior to the general amendment of this subchapter by Pub. L. 105-244.

#### § 1011h. Binge drinking on college campuses

##### (a) Short title

This section may be cited as the “Collegiate Initiative To Reduce Binge Drinking and Illegal Alcohol Consumption”.

##### (b) Sense of Congress

It is the sense of Congress that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education should carry out the following:

(1) The president of the institution should appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force should make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution should provide resources to assist the task force in promoting the campus

policies and proposed environmental changes that have been identified.

(2) The institution should provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

(3) The institution should enforce a “zero tolerance” policy on the illegal consumption of alcohol by students at the institution.

(4) The institution should vigorously enforce the institution’s code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems should be referred for assistance, including on-campus counseling programs if appropriate.

(5) The institution should adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It should adopt policies limiting the advertisement and promotion of alcoholic beverages on campus.

(6) The institution should work with the local community, including local businesses, in a “Town/Gown” alliance to encourage responsible policies toward alcohol consumption and to address illegal alcohol use by students.

(Pub. L. 89-329, title I, §119, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1596.)

#### PRIOR PROVISIONS

A prior section 1011h, Pub. L. 89-329, title I, §129, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 465, authorized appropriations to carry out the articulation agreements grant program, prior to the general amendment of this subchapter by Pub. L. 105-244.

#### § 1011i. Drug and alcohol abuse prevention

##### (a) Restriction on eligibility

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 the institution certifies to the Secretary that the institution 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 the institution’s property or as part of any of the institution’s 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 subparagraph (A); and

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

(A) determine the program's effectiveness and implement changes to the program if the changes are needed;

(B) determine the number of drug and alcohol-related violations and fatalities that—

(i) occur on the institution's campus (as defined in section 1092(f)(6) of this title), or as part of any of the institution's activities; and

(ii) are reported to campus officials;

(C) determine the number and type of sanctions described in paragraph (1)(E) that are imposed by the institution as a result of drug and alcohol-related violations and fatalities on the institution's campus or as part of any of the institution's activities; and

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

**(b) Information availability**

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**

**(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) 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) Rehabilitation program**

The sanctions required by subsection (a)(1)(E) of this section 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 of this chapter, 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 of this chapter, 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 of this chapter, 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 of this chapter, 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 of this chapter, 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 of this chapter, 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 of this chapter 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 of this chapter as such part A was in effect prior to October 7, 1998, or part B of subchapter VII of this chapter 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