

Subsec. (b)(1)(D) to (F). Pub. L. 110-315, §102(c), struck out “and” after semicolon in subpar. (D), substituted “; and” for period in subpar. (E), and struck out subpar. (F) which read as follows: “has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV, as determined in accordance with regulations prescribed by the Secretary.”

Subsec. (b)(2). Pub. L. 110-315, §102(d)(1)(A)(ii), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The term ‘proprietary institution of higher education’ also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.”

Subsec. (c)(2). Pub. L. 110-315, §102(d)(1)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The term ‘postsecondary vocational institution’ also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.”

2006—Subsec. (a)(3)(A). Pub. L. 109-270 substituted “2302(3)(C) of this title” for “2471(4)(C) of this title”.

Pub. L. 109-171, §8002(1), inserted “(excluding courses offered by telecommunications as defined in section 1091(l)(4) of this title)” after “courses by correspondence”.

Subsec. (a)(3)(B). Pub. L. 109-171, §8002(2), inserted “(excluding courses offered by telecommunications as defined in section 1091(l)(4) of this title)” after “correspondence courses”.

2003—Subsec. (a)(2)(A). Pub. L. 108-98 amended subpar. (A) generally. Prior to amendment, subpar. (A) required the Secretary to establish criteria for approval of institutions outside the United States for purposes of par. (1)(C), including certain requirements for graduate medical or veterinary schools.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-152, title II, §2209(b)(2), Mar. 30, 2010, 124 Stat. 1078, provided that: “The amendments made by subparagraph (C) of paragraph (1) [amending this section] shall be effective on July 1, 2010, as if enacted as part of section 102(a)(1) of the Higher Education Opportunity Act (Public Law 110-315) and subject to section 102(e) of such Act as amended by section 101(a)(2) of Public Law 111-39 (20 U.S.C. 1002 note).”

##### 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 OF 2008 AMENDMENT

Pub. L. 110-315, title I, §102(e), Aug. 14, 2008, 122 Stat. 3086, as amended by Pub. L. 111-39, title I, §101(a)(2), July 1, 2009, 123 Stat. 1935, provided that: “The amendments made by subsections (a)(1), (b), and (d) [amending this section] shall take effect on July 1, 2010, except that, with respect to foreign nursing schools that were eligible to participate in part B of title IV [20 U.S.C. 1071 et seq.] as of the day before the date of enactment of this Act [Aug. 14, 2008], the amendments made by subsection (a)(1)(D) [amending this section] shall take effect on July 1, 2012.”

##### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title VIII, §8001(c), Feb. 8, 2006, 120 Stat. 155, provided that: “Except as otherwise provided in this subtitle [subtitle A (§§8001-8024) of title VIII of Pub. L. 109-171, see Short Title of 2006 Amendment note

set out under section 1001 of this title] or the amendments made by this subtitle, the amendments made by this subtitle shall be effective July 1, 2006.”

##### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-98, §1(b), Oct. 10, 2003, 117 Stat. 1175, provided that: “This Act [amending this section] and the amendments made by this Act shall be effective as if enacted on October 1, 1998.”

##### CONSTRUCTION

Pub. L. 110-315, title I, §102(d)(2), Aug. 14, 2008, 122 Stat. 3086, provided that: “Nothing in the amendment made by paragraph (1)(A)(i) to section 102(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1)(A)) shall be construed to negate or supercede any State laws governing proprietary institutions of higher education.”

#### § 1003. Additional definitions

In this chapter:

##### (1) Authorizing committees

The term “authorizing committees” means the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives.

##### (2) Combination of institutions of higher education

The term “combination of institutions of higher education” means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on the group’s behalf.

##### (3) Critical foreign language

Except as otherwise provided, the term “critical foreign language” means each of the languages contained in the list of critical languages designated by the Secretary in the Federal Register on August 2, 1985 (50 Fed. Reg. 31412; promulgated under the authority of section 212(d) of the Education for Economic Security Act (repealed by section 2303 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988)), as updated by the Secretary from time to time and published in the Federal Register, except that in the implementation of this definition with respect to a specific title, the Secretary may set priorities according to the purposes of such title and the national security, economic competitiveness, and educational needs of the United States.

##### (4) Department

The term “Department” means the Department of Education.

##### (5) Diploma mill

The term “diploma mill” means an entity that—

(A)(i) offers, for a fee, degrees, diplomas, or certificates, that may be used to represent to the general public that the individual possessing such a degree, diploma, or certificate has completed a program of postsecondary education or training; and

(ii) requires such individual to complete little or no education or coursework to obtain such degree, diploma, or certificate; and  
 (B) lacks accreditation by an accrediting agency or association that is recognized as an accrediting agency or association of institutions of higher education (as such term is defined in section 1002 of this title) by—

(i) the Secretary pursuant to subpart 2 of part H of subchapter IV; or

(ii) a Federal agency, State government, or other organization or association that recognizes accrediting agencies or associations.

**(6) Disability**

The term “disability” has the same meaning given that term under section 12102(2) of title 42.

**(7) Distance education**

**(A) In general**

Except as otherwise provided, the term “distance education” means education that uses one or more of the technologies described in subparagraph (B)—

(i) to deliver instruction to students who are separated from the instructor; and

(ii) to support regular and substantive interaction between the students and the instructor, synchronously or asynchronously.

**(B) Inclusions**

For the purposes of subparagraph (A), the technologies used may include—

(i) the Internet;

(ii) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

(iii) audio conferencing; or

(iv) video cassettes, DVDs, and CD-ROMs, if the cassettes, DVDs, or CD-ROMs are used in a course in conjunction with any of the technologies listed in clauses (i) through (iii).

**(8) Early childhood education program**

The term “early childhood education program” means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives State funding;

(B) a State licensed or regulated child care program; or

(C) a program that—

(i) serves children from birth through age six that addresses the children’s cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and

(ii) is—

(I) a State prekindergarten program;

(II) a program authorized under section 619 [20 U.S.C. 1419] or part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.]; or

(III) a program operated by a local educational agency.

**(9) Elementary school**

The term “elementary school” has the same meaning given that term under section 7801 of this title.

**(10) Gifted and talented**

The term “gifted and talented” has the same meaning given that term under section 7801 of this title.

**(11) Local educational agency**

The term “local educational agency” has the same meaning given that term under section 7801 of this title.

**(12) New borrower**

The term “new borrower” when used with respect to any date means an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under subchapter IV.

**(13) Nonprofit**

The term “nonprofit” as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

**(14) Poverty line**

The term “poverty line” means the poverty line (as defined in section 9902(2) of title 42) applicable to a family of the size involved.

**(15) School or department of divinity**

The term “school or department of divinity” means an institution, or a department or a branch of an institution, the program of instruction of which is designed for the education of students—

(A) to prepare the students to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation); or

(B) to prepare the students to teach theological subjects.

**(16) Secondary school**

The term “secondary school” has the same meaning given that term under section 7801 of this title.

**(17) Secretary**

The term “Secretary” means the Secretary of Education.

**(18) Service-learning**

The term “service-learning” has the same meaning given that term under section 12511(23)<sup>1</sup> of title 42.

**(19) Special education teacher**

The term “special education teacher” means teachers who teach children with disabilities as defined in section 602 of the Individuals with Disabilities Education Act.

<sup>1</sup> See References in Text note below.

**(20) State educational agency**

The term “State educational agency” has the same meaning given that term under section 7801 of this title.

**(21) State; Freely Associated States****(A) State**

The term “State” includes, in addition to the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

**(B) Freely Associated States**

The term “Freely Associated States” means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

**(22) State higher education agency**

The term “State higher education agency” means the officer or agency primarily responsible for the State supervision of higher education.

**(23) Universal design**

The term “universal design” has the meaning given the term in section 3002 of title 29.

**(24) Universal design for learning**

The term “universal design for learning” means a scientifically valid framework for guiding educational practice that—

(A) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and

(B) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.

(Pub. L. 89-329, title I, §103, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1589; amended Pub. L. 107-110, title X, §1076(g), Jan. 8, 2002, 115 Stat. 2091; Pub. L. 110-315, title I, §103(a), Aug. 14, 2008, 122 Stat. 3086; Pub. L. 114-95, title IX, §9215(o)(1), Dec. 10, 2015, 129 Stat. 2177.)

**Editorial Notes****REFERENCES IN TEXT**

Section 212(d) of the Education for Economic Security Act, referred to in par. (3), is section 212(d) of title II of Pub. L. 98-377, Aug. 11, 1984, 98 Stat. 1282, which was classified to section 3972(d) of this title, prior to repeal by Pub. L. 100-297, title II, §2303, Apr. 28, 1988, 102 Stat. 324.

The Head Start Act, referred to in par. (8)(A), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in par. (8)(C)(ii)(II), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is

classified generally to subchapter III (§1431 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Section 12511(23) of title 42, referred to in par. (18), was redesignated section 12511(40) by Pub. L. 111-13, title I, §1102(b)(1), Apr. 21, 2009, 123 Stat. 1467.

**PRIOR PROVISIONS**

Provisions similar to this section were contained in section 1141(b) of this title prior to repeal by Pub. L. 105-244.

A prior section 1003, Pub. L. 89-329, title I, §103, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 459; amended Pub. L. 103-208, §2(a)(1), Dec. 20, 1993, 107 Stat. 2457, related to authority to make grants under the school, college, and university partnership grant program, prior to the general amendment of this subchapter by Pub. L. 105-244.

Another prior section 1003, Pub. L. 89-329, title I, §103, as added Pub. L. 99-498, title I, §101, Oct. 17, 1986, 100 Stat. 1279, related to limitation on contract authority, prior to the general amendment of this subchapter by Pub. L. 102-325.

Another prior section 1003, Pub. L. 89-329, title I, §103, as added Pub. L. 96-374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1375, related to duties of the Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99-498.

Another prior section 1003, Pub. L. 89-329, title I, §103, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 92-318, title I, §102(a)(2), June 23, 1972, 86 Stat. 237; Pub. L. 94-482, title I, §101(b)(2), (g)(2), Oct. 12, 1976, 90 Stat. 2084, 2086; Pub. L. 95-43, §1(a)(1), June 15, 1977, 91 Stat. 213; Pub. L. 96-96, §1, Oct. 31, 1979, 93 Stat. 729, provided for the allotment of funds to States, prior to the general amendment of this subchapter by Pub. L. 96-374.

A prior section 1004, Pub. L. 89-329, title I, §104, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 460; amended Pub. L. 103-208, §2(a)(2), Dec. 20, 1993, 107 Stat. 2457, related to grant applications, prior to the general amendment of this subchapter by Pub. L. 105-244.

Another prior section 1004, Pub. L. 89-329, title I, §104, as added Pub. L. 96-374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1376, related to administrative provisions and powers of Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99-498.

Another prior section 1004, Pub. L. 89-329, title I, §104, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 94-482, title I, §101(b)(3), Oct. 12, 1976, 90 Stat. 2084; Pub. L. 95-43, §1(a)(2), June 15, 1977, 91 Stat. 213, described the allowable uses of States' allotments of funds, prior to the general amendment of this subchapter by Pub. L. 96-374.

A prior section 1005, Pub. L. 89-329, title I, §105, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 461, related to peer review of applications, prior to the general amendment of this subchapter by Pub. L. 105-244.

Another prior section 1005, Pub. L. 89-329, title I, §105, as added Pub. L. 96-374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 99-498.

Another prior section 1005, Pub. L. 89-329, title I, §105, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 90-575, title II, §202, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 94-482, title I, §101(b)(4)-(10), (g)(2), Oct. 12, 1976, 90 Stat. 2084-2086; Pub. L. 95-43, §1(a)(3), (b)(1), (2), June 15, 1977, 91 Stat. 213, 218, set out the requisite features of State plans, prior to the general amendment of this subchapter by Pub. L. 96-374.

A prior section 1005a, Pub. L. 89-329, title I, §106, as added Pub. L. 92-318, title I, §102(a)(1), June 23, 1972, 86 Stat. 237; amended Pub. L. 94-482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for special programs and projects relating to national and regional problems, prior to the general amendment of this subchapter by Pub. L. 96-374.

A prior section 1006, Pub. L. 89-329, title I, §106, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 461, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105-244.

Another prior section 1006, Pub. L. 89-329, title I, §107, formerly §106, Nov. 8, 1965, 79 Stat. 1221; Pub. L. 90-575, title II, §203(a), Oct. 16, 1968, 82 Stat. 1036, renumbered Pub. L. 92-318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94-482, title I, §101(c), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, related to payment and method of payment of funds, prior to the general amendment of this subchapter by Pub. L. 96-374.

Prior sections 1007 to 1010 were omitted in the general amendment of this subchapter by Pub. L. 96-374.

Section 1007, Pub. L. 89-329, title I, §108, formerly §107, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92-318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94-482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, related to disapproval of State plans, notice and hearing, findings of Commissioner of Education, and notification to State of noneligibility.

Section 1008, Pub. L. 89-329, title I, §109, formerly §108, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92-318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94-482, title I, §101(d), Oct. 12, 1976, 90 Stat. 2085, provided for judicial review of actions of Commissioner of Education and scope of that review.

Section 1008a, Pub. L. 89-329, title I, §110, as added Pub. L. 93-29, title VIII, §803, May 3, 1973, 87 Stat. 59, and amended Pub. L. 94-135, title II, §201, Nov. 28, 1975, 89 Stat. 726; Pub. L. 94-482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for programs and projects relating to problems of the elderly.

Section 1008b, Pub. L. 89-329, title I, §111, as added Pub. L. 94-482, title I, §101(e), Oct. 12, 1976, 90 Stat. 2085, related to technical assistance and administration.

Section 1009, Pub. L. 89-329, title I, §112, formerly §109, Nov. 8, 1965, 79 Stat. 1223; Pub. L. 91-230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174, renumbered §110, Pub. L. 92-318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §111, Pub. L. 93-29, title VIII, §803, May 3, 1973, 87 Stat. 59; Pub. L. 93-380, title VIII, §831, Aug. 21, 1974, 88 Stat. 603; Pub. L. 93-644, §9(a), Jan. 4, 1975, 88 Stat. 2310, renumbered §112 and amended Pub. L. 94-482, title I, §101(e), (f)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086; 1977 Reorg. Plan No. 2, §7(a)(13), 42 F.R. 62461, 91 Stat. 1637, provided for creation of a National Advisory Council on Extension and Continuing Education.

Section 1010, Pub. L. 89-329, title I, §113, formerly §110, Nov. 8, 1965, 79 Stat. 1224, renumbered §111, Pub. L. 92-318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §112, Pub. L. 93-29, title VIII, §803, May 3, 1973, 87 Stat. 59, renumbered §113 and amended Pub. L. 94-482, title I, §101(e), (f)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, directed that nothing in the section be held to modify any authority under the Smith-Lever Act, section 341 et seq. of Title 7, Agriculture.

#### AMENDMENTS

2015—Pars. (9) to (11), (16). Pub. L. 114-95, §9215(o)(1)(A)–(D), made technical amendments to references in original act which appear in text as references to section 7801 of this title.

Par. (20). Pub. L. 114-95, §9215(o)(1)(E), which directed technical amendment in par. (21) to reference in original act which appears in text as reference to section 7801 of this title, was executed by making the amendment in par. (20), to reflect the probable intent of Congress. The reference did not appear in par. (21).

2008—Pub. L. 110-315, §103(a)(2), reordered pars. in alphabetical order based on headings of pars. and renumbered pars. as so reordered, resulting in pars. (1) to (22) being redesignated as (2), (4), (6), (9) to (13), (15) to (20), (22), (21), (1), (3), (7), (5), (8), and (14), respectively.

Pars. (17) to (24). Pub. L. 110-315, §103(a)(1), added pars. (17) to (24).

2002—Pars. (4) to (6), (10), (14). Pub. L. 107-110 substituted “7801” for “8801”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

##### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

#### PART B—ADDITIONAL GENERAL PROVISIONS

### § 1011. Antidiscrimination

#### (a) In general

Institutions of higher education receiving Federal financial assistance may not use such financial assistance, directly or indirectly, to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except that nothing in this subsection shall be construed to prohibit an institution from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or to have the institution's curriculum restricted on the subject of discrimination.

#### (b) Limitations on statutory construction

Nothing in this chapter shall be construed to limit the rights or responsibilities of any individual under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], or any other law.

(Pub. L. 89-329, title I, §111, as added Pub. L. 105-244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1590; amended Pub. L. 111-39, title I, §101(b)(2), July 1, 2009, 123 Stat. 1935.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

##### PRIOR PROVISIONS

Provisions similar to this section were contained in section 1142 of this title prior to repeal by Pub. L. 105-244.

A prior section 1011, Pub. L. 89-329, title I, §121, as added Pub. L. 102-325, title I, §101, July 23, 1992, 106 Stat. 461, stated congressional findings and purposes of articulation agreements grant program, prior to the general amendment of this subchapter by Pub. L. 105-244.