

Editorial Notes**PRIOR PROVISIONS**

A prior section 1070d-33, Pub. L. 89-329, title IV, §419C, as added Pub. L. 98-558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99-145, title XVI, §1627(b), Nov. 8, 1985, 99 Stat. 779, authorized the award of scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-39 inserted “and” after semicolon at end.

1993—Subsec. (b). Pub. L. 103-208 substituted “for a period of not less than 1 or more than 4 years during the first 4 years of study” for “for a period of not more than 4 years for the first 4 years of study” and inserted at end “The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

“(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d-34(b) of this title that are attributable to such excess;

“(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.”

1992—Subsec. (b). Pub. L. 102-325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.”

Statutory Notes and Related Subsidiaries**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 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective on and after Dec. 20, 1993, see section 5(b)(2) of Pub. L. 103-208, set out as a note under section 1051 of this title.

§ 1070d-34. Allocation among States**(a) Allocation formula**

From the sums appropriated pursuant to the authority of section 1070d-41 of this title for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 1070d-35 of this title an amount equal to \$1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

(b) Number of scholarships available

The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) Use of census data

For the purpose of this section, the population ages 5 through 17 in a State and in all the States

shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(d) Consolidation by Insular Areas prohibited

Notwithstanding section 1469a of title 48, funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government.

(e) FAS eligibility**(1) Fiscal years 2000 through 2004**

Notwithstanding any other provision of this subpart, in the case of students from the Freely Associated States who may be selected to receive a scholarship under this subpart for the first time for any of the fiscal years 2000 through 2004—

(A) there shall be 10 scholarships in the aggregate awarded to such students for each of the fiscal years 2000 through 2004; and

(B) the Pacific Regional Educational Laboratory shall administer the program under this subpart in the case of scholarships for students in the Freely Associated States.

(2) Termination of eligibility

A student from the Freely Associated States shall not be eligible to receive a scholarship under this subpart after September 30, 2004.

(Pub. L. 89-329, title IV, §419D, as added Pub. L. 99-498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102-325, title IV, §406(c), July 23, 1992, 106 Stat. 509; Pub. L. 103-208, §2(b)(29), Dec. 20, 1993, 107 Stat. 2460; Pub. L. 105-244, title IV, §409(a), Oct. 7, 1998, 112 Stat. 1668; Pub. L. 111-39, title IV, §401(a)(8), July 1, 2009, 123 Stat. 1939.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 1070d-34, Pub. L. 89-329, title IV, §419D, as added Pub. L. 98-558, title VIII, §801(a), Oct. 30, 1984, 98 Stat. 2901, related to allocation among States of amounts for Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (d). Pub. L. 111-39 made technical amendment to reference in original act which appears in text as reference to section 1469a of title 48.

1998—Subsec. (e). Pub. L. 105-244 added subsec. (e).

1993—Subsec. (d). Pub. L. 103-208 added subsec. (d).

1992—Pub. L. 102-325 amended section generally. Prior to amendment, section read as follows: “From the sums appropriated pursuant to section 1070d-41 of this title for any fiscal year, the Secretary shall allocate to each State having an agreement under section 1070d-35 of this title—

“(1) \$1,500 multiplied by the number of individuals in the State eligible for scholarships pursuant to section 1070d-37(b) of this title, plus

“(2) \$10,000, plus 5 percent of the amount to which a State is eligible under paragraph (1) of this section.”

Statutory Notes and Related Subsidiaries**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 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 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective on and after Oct. 1, 1993, see section 5(b)(1) of Pub. L. 103-208, set out as a note under section 1051 of this title.

§ 1070d-35. Agreements

The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart \$1,500.

(Pub. L. 89-329, title IV, § 419E, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102-325, title IV, § 406(g)(2), (3), July 23, 1992, 106 Stat. 509.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1070d-35, Pub. L. 89-329, title IV, § 419E, as added Pub. L. 98-558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901; amended Pub. L. 99-145, title XVI, § 1627(c), Nov. 8, 1985, 99 Stat. 779, related to agreements with States for participation in the Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

1992—Par. (3). Pub. L. 102-325, § 406(g)(2)(A), inserted “and” after semicolon.

Par. (4). Pub. L. 102-325, § 406(g)(2)(B), substituted “\$1,500.” for “\$1,500 at an awards ceremony in accordance with section 1070d-39 of this title; and”.

Par. (5). Pub. L. 102-325, § 406(g)(3), which directed that par. (5) be struck out without specifying the section to which the amendment applied, was executed by striking out par. (5) of this section to reflect the probable intent of Congress. Prior to amendment, par. (5) read as follows: “the State educational agency will use the amount of the allocation described in paragraph (2) of section 1070d-34 of this title for administrative expenses, including the conduct of the awards ceremony required by section 1070d-39 of this title.”

§ 1070d-36. Eligibility of scholars

(a) High school graduation or equivalent and admission to institution required

Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school (or a home school, whether treated as a home school or a private school under State law) or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) Selection based on promise of academic achievement

Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(Pub. L. 89-329, title IV, § 419F, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 110-315, title IV, § 409(a), Aug. 14, 2008, 122 Stat. 3225.)

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PRIOR PROVISIONS

A prior section 1070d-36, Pub. L. 89-329, title IV, § 419F, as added Pub. L. 98-558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to eligibility of students for scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-315 inserted “(or a home school, whether treated as a home school or a private school under State law)” after “public or private secondary school”.

§ 1070d-37. Selection of scholars

(a) Establishment of criteria

The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) Adoption of procedures

The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the Federated States of Micronesia, the Republic of the Marshall Islands, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) Consultation requirement

In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) Timing of selection

The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

(Pub. L. 89-329, title IV, § 419G, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat.