

of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1987—Subsec. (a). Pub. L. 100-50, §14(23), substituted "subsection (b) of this section" for "paragraph (2)", "families (1) who" for "families which", and "and (2) who file a form 1040A or 1040EZ pursuant to title 26, or are not required to file pursuant to such title" for "and which file a form 1040A pursuant to title 26".

Subsec. (b)(2). Pub. L. 100-50, §14(24)(A), struck out "and State" after "Federal".

Subsec. (b)(6). Pub. L. 100-50, §14(24)(B)–(D), added par. (6).

Subsec. (c). Pub. L. 100-50, §14(25), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116-260 effective July 1, 2024, except as otherwise expressly provided, and applicable with respect to award year 2024-2025 and each subsequent award year, as determined under this chapter, see section 701(b) of Pub. L. 116-260, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-74 effective July 1, 2012, see section 309(g) of Pub. L. 112-74, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted as part of amendments made by section 602(a) of Pub. L. 110-84 and effective July 1, 2009, see section 406(b)(2) of Pub. L. 111-39, set out as a note under section 1087mm of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(N) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-84, title VI, §602(b), Sept. 27, 2007, 121 Stat. 805, provided that: "The amendments made by this section [amending this section] shall be effective on July 1, 2009."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 7, 1998, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk of this title.

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 this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

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 this title.

EVALUATION OF SIMPLIFIED NEEDS TEST

Pub. L. 109-171, title VIII, §8018(b), Feb. 8, 2006, 120 Stat. 175, provided that:

"(1) **ELIGIBILITY GUIDELINES.**—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

"(2) **MEANS-TESTED FEDERAL BENEFIT PROGRAM.**—For each 3-year period, the Secretary of Education shall evaluate the impact of including the receipt of benefits by a student or parent under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d))) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c))."

§ 1087tt. Discretion of student financial aid administrators

(a) In general

(1) Authority of financial aid administrators

A financial aid administrator shall have the authority to, on the basis of adequate documentation, make adjustments to any or all of the following on a case-by-case basis:

(A) For an applicant with special circumstances under subsection (b) to—

(i) the cost of attendance;

(ii) the values of the data used to calculate the student aid index; or

(iii) the values of the data used to calculate the Federal Pell Grant award.

(B) For an applicant with unusual circumstances under subsection (c), to the dependency status of such applicant.

(2) Limitations on authority

(A) Use of authority

No institution of higher education or financial aid administrator shall maintain a policy of denying all requests for adjustments under this section.

(B) No additional fee

No student or parent shall be charged a fee for a documented interview of the student by the financial aid administrator or for the review of a student or parent's request for adjustments under this section including the review of any supplementary information or documentation of a student or parent's special circumstances or a student's unusual circumstances.

(C) Rule of construction

The authority to make adjustments under paragraph (1)(A) shall not be construed to permit financial aid administrators to devi-

ate from the cost of attendance, the values of data used to calculate the student aid index or the values of data used to calculate the Federal Pell Grant award (or both) for awarding aid under this subchapter in the absence of special circumstances.

(3) Adequate documentation

Adequate documentation for adjustments under this section must substantiate the special circumstances or unusual circumstances of an individual student, and may include, to the extent relevant and appropriate—

(A) a documented interview between the student and the financial aid administrator;

(B) for the purposes of determining that a student qualifies for an adjustment under paragraph (1)(B)—

(i) submission of a court order or official Federal or State documentation that the student or the student's parents or legal guardians are incarcerated in any Federal or State penal institution;

(ii) a documented phone call or a written statement, which confirms the specific unusual circumstances with—

(I) a child welfare agency authorized by a State or county;

(II) a Tribal welfare authority or agency;

(III) an independent living case worker, such as a case worker who supports current and former foster youth with the transition to adulthood; or

(IV) a public or private agency, facility, or program servicing the victims of abuse, neglect, assault, or violence, which may include domestic violence;

(iii) a documented phone call or a written statement from an attorney, a guardian ad litem, or a court-appointed special advocate, or a person serving in a similar capacity which confirms the specific unusual circumstances and documents the person's relationship to the student;

(iv) a documented phone call or written statement from a representative under division 1 or 2 of subpart 2 of part A, which confirms the specific unusual circumstances and documents the representative's relationship to the student;

(v) documents, such as utility bills or health insurance documentation, that demonstrate a separation from parents or legal guardians; and

(vi) in the absence of documentation described in this subparagraph, other documentation the financial aid administrator determines is adequate to confirm the unusual circumstances, pursuant to section 1087vv(d)(9) of this title; and

(C) supplementary information, as necessary, about the financial status or personal circumstances of eligible applicants as it relates to the special circumstances or unusual circumstances based on which the applicant is requesting an adjustment.

(4) Special rule

In making adjustments under paragraph (1), a financial aid administrator may offer a de-

pendent student financial assistance under a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to provide their parent information on the Free Application for Federal Student Aid if the student does not qualify for, or does not choose to use, the unusual circumstance option described in section 1087vv(d)(9) of this title, and the financial aid administrator determines that the parents of such student ended financial support of such student or refuse to file such form.

(5) Public disclosure

Each institution of higher education shall make publicly available information that students applying for aid under this subchapter have the opportunity to pursue adjustments under this section.

(b) Adjustments for students with special circumstances

(1) Special circumstances for adjustments related to Pell Grants

Special circumstances for adjustments to calculate a Federal Pell Grant award—

(A) shall be conditions that differentiate an individual student from a group of students rather than conditions that exist across a group of students; and

(B) may include—

(i) recent unemployment of a family member or student;

(ii) a student or family member who is a dislocated worker (as defined in section 3102 of title 29);

(iii) a change in housing status that results in an individual being a homeless youth;

(iv) an unusual amount of claimed losses against income on the Federal tax return that substantially lower adjusted gross income, such as business, investment, or real estate losses;

(v) receipt of foreign income of permanent residents or United States citizens exempt from Federal taxation, or the foreign income for which a permanent resident or citizen received a foreign tax credit;

(vi) in the case of an applicant who does not qualify for the exemption from asset reporting under section 1087ss of this title, assets as defined in section 1087vv(f) of this title; or

(vii) other changes or adjustments in the income, assets, or size of a family, or a student's dependency status.

(2) Special circumstances for adjustments related to cost of attendance and student aid index

Special circumstances for adjustments to the cost of attendance or the values of the data used to calculate the student aid index—

(A) shall be conditions that differentiate an individual student from a group of students rather than conditions that exist across a group of students, except as provided in sections 1087uu and 1087uu-1 of this title; and

(B) may include—

- (i) tuition expenses at an elementary school or secondary school;
- (ii) medical, dental, or nursing home expenses not covered by insurance;
- (iii) child care or dependent care costs not covered by the dependent care cost allowance calculated in accordance with section 1087ll of this title;
- (iv) recent unemployment of a family member or student;
- (v) a student or family member who is a dislocated worker (as defined in section 3102 of title 29);
- (vi) the existence of additional family members enrolled in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title;
- (vii) a change in housing status that results in an individual being a homeless youth;
- (viii) a condition of severe disability of the student, or in the case of a dependent student, the dependent student's parent or guardian, or in the case of an independent student, the independent student's dependent or spouse;
- (ix) unusual amount of claimed losses against income on the Federal tax return that substantially lower adjusted gross income, such as business, investment, or real estate losses; or
- (x) other changes or adjustments in the income, assets, or size of a family, or a student's dependency status.

(c) Unusual circumstances adjustments

(1) In general

Unusual circumstances for adjustments to the dependency status of an applicant shall be—

- (A) conditions that differentiate an individual student from a group of students; and
- (B) based on unusual circumstances, pursuant to section 1087vv(d)(9) of this title.

(2) Provisional independent students

(A) Requirements for the Secretary

The Secretary shall—

- (i) enable each student who, based on an unusual circumstance described in section 1087vv(d)(9) of this title, may qualify for an adjustment under subsection (a)(1)(B) that will result in a determination of independence under this section or section 1087uu-2 of this title to complete the Free Application for Federal Student Aid as an independent student for the purpose of a provisional determination of the student's Federal financial aid award, with the final determination of the award subject to the documentation requirements of subsection (a)(3);
- (ii) upon completion of the Free Application for Federal Student Aid provide an estimate of the student's Federal Pell Grant award, and other information as specified in section 1090(a)(3)(A) of this title, based on the assumption that the student is determined to be an independent student; and

- (iii) specify, on the Free Application for Federal Student Aid, the consequences under section 1097(a) of this title of knowingly and willfully completing the Free Application for Federal Student Aid as an independent student under clause (i) without meeting the unusual circumstances to qualify for such a determination.

(B) Requirements for financial aid administrators

With respect to a student accepted for admission who completes the Free Application for Federal Student Aid as an independent student under subparagraph (A), a financial aid administrator shall—

- (i) notify the student of the institutional process, requirements, and timeline for an adjustment under this section and section 1087vv(d)(9) of this title that will result in a review of the student's request for an adjustment and a determination of the student's dependency status under such sections within a reasonable time after the student completes the Free Application for Federal Student Aid;
- (ii) provide the student a final determination of the student's dependency status and Federal financial aid award as soon as practicable after all requested documentation is provided;
- (iii) retain all documents related to the adjustment under this section and section 1087vv(d)(9) of this title, including documented interviews, for at least the duration of the student's enrollment, and shall abide by all other record keeping requirements of this chapter; and
- (iv) presume that any student who has obtained an adjustment under this section and section 1087vv(d)(9) of this title and a final determination of independence for any preceding award year at an institution of higher education to be independent for each subsequent award year at the same institution unless—

- (I) the student informs the institution that circumstances have changed; or
- (II) the institution has specific conflicting information about the student's independence.

(C) Eligibility

If a student pursues provisional independent student status and is not determined to be an independent student by a financial aid administrator, such student shall only be eligible for a Federal Direct Unsubsidized Stafford Loan for that award year unless such student subsequently completes the Free Application for Federal Student Aid as a dependent student.

(d) Adjustments to assets or income taken into account

A financial aid administrator shall be considered to be making a necessary adjustment in accordance with this section if—

- (1) the administrator makes adjustments excluding from family income or assets any proceeds or losses from a sale of farm or business assets of a family if such sale results from a

voluntary or involuntary foreclosure, forfeiture, or bankruptcy or a voluntary or involuntary liquidation; or

(2) the administrator makes adjustments for a condition of disability of a student, or in the case of a dependent student, the dependent student's parent or guardian, or in the case of an independent student, the independent student's dependent or spouse, so as to take into consideration the additional costs incurred as a result of such disability.

(e) Refusal or adjustment of loan certifications

On a case-by-case basis, an eligible institution may refuse to use the authority provided under this section, certify a statement that permits a student to receive a loan under part D, certify a loan amount, or make a loan that is less than the student's determination of need (as determined under this part), if the reason for the action is documented and provided in writing to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, ethnicity, national origin, religion, sex, marital status, age, or disability status.

(f) Special rule regarding professional judgment during a disaster, emergency, or economic downturn

(1) In general

For the purposes of making a professional judgment under this section, financial aid administrators may, during a qualifying emergency—

(A) determine that the income earned from work for an applicant is zero, if the applicant can provide paper or electronic documentation of receipt of unemployment benefits or confirmation that an application for unemployment benefits was submitted; and

(B) make additional appropriate adjustments to the income earned from work for a student, parent, or spouse, as applicable, based on the totality of the family's situation, including consideration of unemployment benefits.

(2) Documentation

For the purposes of documenting unemployment under paragraph (1), documentation shall be accepted if such documentation is submitted not more than 90 days from the date on which such documentation was issued, except if a financial aid administrator knows that the student, parent, or spouse, as applicable, has already obtained other employment.

(3) Program reviews

The Secretary shall make adjustments to the model used to select institutions of higher education participating under this subchapter for program reviews in order to account for any rise in the use of professional judgment under this section during the award years applicable to the qualifying emergency, as determined by the Secretary.

(4) Qualifying emergency

In this subsection, the term “qualifying emergency” means—

(A) an event for which the President declared a major disaster or an emergency

under section 5170 or 5191, respectively, of title 42;

(B) a national emergency related to the coronavirus declared by the President under section 1621 of title 50; or

(C) a period of recession or economic downturn as determined by the Secretary, in consultation with the Secretary of Labor.

(Pub. L. 89-329, title IV, §479A, as added Pub. L. 100-50, §14(26), June 3, 1987, 101 Stat. 352; amended Pub. L. 101-239, title II, §2009, Dec. 19, 1989, 103 Stat. 2122; Pub. L. 102-325, title IV, §471(a), July 23, 1992, 106 Stat. 605; Pub. L. 103-208, §2(g)(16), Dec. 20, 1993, 107 Stat. 2473; Pub. L. 105-244, title IV, §478, Oct. 7, 1998, 112 Stat. 1731; Pub. L. 110-84, title VI, §603(a), Sept. 27, 2007, 121 Stat. 805; Pub. L. 110-315, title IV, §472(a), Aug. 14, 2008, 122 Stat. 3269; Pub. L. 113-128, title V, §512(n)(3), July 22, 2014, 128 Stat. 1710; Pub. L. 116-260, div. FF, title VII, §702(i), Dec. 27, 2020, 134 Stat. 3155.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1087tt, Pub. L. 89-329, title IV, §479A, as added Pub. L. 99-498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1472, related to discretion of student financial aid administrators under this part, prior to repeal by section 14(26) of Pub. L. 100-50.

AMENDMENTS

2020—Pub. L. 116-260 amended section generally. Prior to amendment, section related to discretion of student financial aid administrators to take special circumstances into account and to make adjustments to cost of attendance or values of data items required to calculate expected student and/or parent contribution.

2014—Subsec. (a). Pub. L. 113-128 substituted “a dislocated worker (as defined in section 3102 of title 29)” for “a dislocated worker (as defined in section 2801 of title 29)”.

2008—Subsec. (a). Pub. L. 110-315 substituted “medical, dental, or nursing home expenses” for “medical or dental expenses”, inserted “or dependent care” after “child care” and “student or” before “family member who is a dislocated worker”, and substituted “In addition, nothing in this subchapter shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter, or (2) to offer a dependent student financial assistance under section 1078-8 of this title or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under section 1090 of this title if the student financial aid administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form.” for “In addition, nothing in this subchapter shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter.”

2007—Subsec. (a). Pub. L. 110-84, in third sentence, substituted “family member or an independent student, a family member who is a dislocated worker (as defined in section 2801 of title 29), the number of parents” for “family member, the number of parents” and inserted “a change in housing status that results in an individual being homeless (as defined in section 11302 of title 42),” after “under section 1094 of this title,”.

1998—Subsec. (a). Pub. L. 105-244, §478(1), inserted after second sentence “Special circumstances may include tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance, unusually high child care costs, recent unemployment of a family member, the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, or other changes in a family’s income, a family’s assets, or a student’s status.”

Subsec. (c). Pub. L. 105-244, §478(2), amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) related to student financial aid administrators making adjustments for special circumstances.

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

1992—Pub. L. 102-325 amended section generally, revising and restating provisions of subssecs. (a) and (b) and striking out former subsec. (c) which related to asset adjustment as example.

1989—Subsec. (a). Pub. L. 101-239 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Nothing in this subchapter shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this subchapter shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this subchapter.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116-260 effective July 1, 2024, except as otherwise expressly provided, and applicable with respect to award year 2024-2025 and each subsequent award year, as determined under this chapter, see section 701(b) of Pub. L. 116-260, set out as a note under section 1001 of this title. Implementation of amendment by Pub. L. 116-260 allowed on or after July 1, 2023, see section 102(c)(1)(A)(ii) of Pub. L. 117-103, set out as an On-Time Effective Date Permitted note under section 1070a of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-84, title VI, §603(b), Sept. 27, 2007, 121 Stat. 806, as amended by Pub. L. 110-315, title IV, §472(b), Aug. 14, 2008, 122 Stat. 3270, provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of the Higher Education Opportunity Act [Aug. 14, 2008].”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 7, 1998, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk of this title.

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 this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(a) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section 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 an Effective Date of 1987 Amendment note under section 1001 of this title.

§ 1087uu. Disregard of student aid in other programs

Notwithstanding any other provision of law, student financial assistance received under this subchapter, Bureau of Indian Education student assistance programs, and employment and training programs under section 3174 of title 29 shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

(Pub. L. 89-329, title IV, §479B, as added Pub. L. 100-50, §14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102-325, title IV, §471(a), July 23, 1992, 106 Stat. 606; Pub. L. 116-260, div. FF, title VII, §702(j), Dec. 27, 2020, 134 Stat. 3160.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1087uu, Pub. L. 89-329, title IV, §479B, as added Pub. L. 99-498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1472, related to exclusion of student financial assistance for attendance costs in determining student eligibility for assistance under any other program funded in whole or part with Federal funds, prior to repeal by section 14(27) of Pub. L. 100-50.

AMENDMENTS

2020—Pub. L. 116-260 amended section generally. Prior to amendment, text read as follows: “Notwithstanding any other provision of law, student financial assistance received under this subchapter, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.”

1992—Pub. L. 102-325 amended section generally, revising and restating as a single paragraph provisions formerly contained in subsec. (a) which proscribed consideration of aid for attendance costs as income or resources, and in subsec. (b) which delineated elements of attendance costs.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116-260 effective July 1, 2024, except as otherwise expressly provided, and applicable with respect to award year 2024-2025 and each subsequent award year, as determined under this chapter, see section 701(b) of Pub. L. 116-260, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for