

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

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.

Section applicable with respect to financial assistance provided for any academic year beginning after Oct. 17, 1986, see section 406(b)(4) of Pub. L. 99-498, as amended, set out as a note under section 1087kk of this title.

### § 1087uu-1. Native American students

#### (a) In general

In determining the student aid index for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of \$2,000 or less per individual payment received by the student (and spouse) and student's parents under Public Law 98-64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the "Per Capita Act") or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and

(2) any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) or the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721 et seq.).<sup>1</sup>

#### (b) Guidance

The Secretary shall develop guidance, in consultation with Tribal Colleges and Universities (as defined in section 1059c of this title) and the State higher education agency in Alaska and Maine, to implement the determination under subsection (a) without adding additional questions to the FAFSA, including through the use of the authority under section 1087tt of this title.

(Pub. L. 89-329, title IV, §479C, 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. 111-39, title IV, §406(a)(5), July 1, 2009, 123 Stat. 1949; Pub. L. 116-260, div. FF, title VII, §702(k), Dec. 27, 2020, 134 Stat. 3160.)

#### Editorial Notes

##### REFERENCES IN TEXT

Public Law 98-64, referred to in subsec. (a)(1), is Pub. L. 98-64, Aug. 2, 1983, 97 Stat. 365, commonly known as the Per Capita Act, which enacted sections 117a to 117c of Title 25, Indians, and repealed section 117 of Title 25. For complete classification of this Act to the Code, see Tables.

The Indian Tribal Judgment Funds Use or Distribution Act, referred to in subsec. (a)(1), is Pub. L. 93-134, Oct. 19, 1973, 87 Stat. 466, which is classified generally to chapter 16 (§1401 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see section 1401(c) of Title 25 and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (a)(2), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

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

The Maine Indian Claims Settlement Act of 1980, referred to in subsec. (a)(2), is Pub. L. 96-420, Oct. 10, 1980, 94 Stat. 1785, which was classified generally to subchapter II (§1721 et seq.) of chapter 19 of Title 25, Indians, and was omitted from the Code as being of special and not general application.

#### AMENDMENTS

2020—Pub. L. 116-260 amended section generally. Prior to amendment, text read as follows: "In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

"(1) any income and assets of \$2,000 or less per individual payment received by the student (and spouse) and student's parents under Public Law 98-64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the 'Per Capita Act') or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and

"(2) any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) or the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721 et seq.)."

2009—Par. (1). Pub. L. 111-39, §406(a)(5)(A), substituted "under Public Law 98-64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the 'Per Capita Act') or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and" for "under the Per Capita Act or the Distribution of Judgment Funds Act; and".

Par. (2). Pub. L. 111-39, §406(a)(5)(B), substituted "Alaska" for "Alaskan" and inserted "(43 U.S.C. 1601 et seq.)" after "Native Claims Settlement Act" and "of 1980 (25 U.S.C. 1721 et seq.)" after "Maine Indian Claims Settlement Act".

1992—Pub. L. 102-325 amended section generally, reenacting provisions without change.

#### 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 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 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

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-2. Special rules for independent students

#### (a) Determination process for unaccompanied homeless youth

In making a determination of independence under section 1087vv(d)(8) of this title, a financial aid administrator shall comply with the following:

(1) Consider documentation of the student's circumstance to be adequate in the absence of documented conflicting information, if such documentation is provided through a documented phone call, written statement, or verifiable electronic data match by—

(A) a local educational agency homeless liaison, designated pursuant to section 11432(g)(1)(J)(ii) of title 42 or a designee of the liaison;

(B) the director of an emergency or transitional shelter, street outreach program, homeless youth drop-in center, or other program serving individuals who are experiencing homelessness, or a designee of the director;

(C) the director of a project supported by a Federal TRIO program or a Gaining Early Awareness and Readiness for Undergraduate program grant under division 1 or 2 of subpart 2 of part A, or a designee of the director; or

(D) a financial aid administrator at another institution who documented the student's circumstance in the same or a prior award year.

(2) If a student is unable to provide documentation from any individual described in paragraph (1), make a case-by-case determination, which shall be—

(A) based on a written statement from, or a documented interview with, the student that confirms that the student is an unaccompanied homeless youth, or unaccompanied, at risk of homelessness, and self-supporting; and

(B) made without regard to the reasons that the student is an unaccompanied homeless youth, or unaccompanied, at risk of homelessness, and self-supporting.

(3) Consider a determination made under this subsection as distinct from a determination of independence under section 1087vv(d)(9) of this title.

**(b) Documentation process for foster care youth**

If an institution requires that a student provide documentation that the student was in foster care when the student was age 13 or older, a financial aid administrator shall consider any of the following as adequate documentation, in the absence of documented conflicting information:

(1) Submission of a court order or official State documentation that the student received Federal or State support in foster care.

(2) A documented phone call, written statement, or verifiable electronic data match, which confirms the student was in foster care at an applicable age, from—

(A) a State, county, or tribal agency administering a program under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.);

(B) a State Medicaid agency; or

(C) a public or private foster care placing agency or foster care facility or placement.

(3) A documented phone call or a written statement from an attorney, a guardian ad litem, or a Court Appointed Special Advocate that confirms that the student was in foster

care at an applicable age and documents the person's relationship to the student.

(4) Verification of the student's eligibility for an education and training voucher under the John H. Chafee Foster Care Program under section 477 of the Social Security Act (42 U.S.C. 677).

(5) A documented phone call or written statement from a financial aid administrator who documented the student's circumstance in the same or a prior award year.

**(c) Timing**

A determination of independence under paragraph (2), (8), or (9) of section 1087vv(d) of this title for a student—

(1) shall be made as quickly as practicable;

(2) may be made as early as the year before the award year for which the student initially submits an application; and

(3) shall be made not later than 60 days after the date of the student's enrollment during the award year for which the student initially submits an application.

**(d) Use of earlier determinations**

**(1) Earlier determination by the institution**

Any student who is determined to be independent under paragraph (2), (8), or (9) of section 1087vv(d) of this title for a preceding award year at an institution shall be presumed to be independent for each subsequent award year at the same institution unless—

(A) the student informs the institution that circumstances have changed; or

(B) the institution has specific conflicting information about the student's independence and has informed the student of this information.

**(2) Earlier determination by another institution**

A financial aid administrator may make a determination of independence pursuant to section 1087tt(c) of this title, this section, or paragraph (2), (8), or (9) of section 1087vv(d) of this title, based upon a documented determination of independence that was previously made by another financial aid administrator under such provisions in the same or a prior award year.

**(e) Retention of documents**

A financial aid administrator shall retain all documents related to any determination of independence, including documented interviews, for at least the duration of the student's enrollment and an additional period prescribed by the Secretary to enable a student to utilize the documents for the purposes of subsection (a)(1)(D), (b)(5), or (d) of this section.

(Pub. L. 89-329, title IV, § 479D, as added Pub. L. 116-260, div. FF, title VII, § 702(l)(1), Dec. 27, 2020, 134 Stat. 3161; amended Pub. L. 117-103, div. R, § 103(b), Mar. 15, 2022, 136 Stat. 820.)

**Editorial Notes**

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts B and E of title IV of the Act are classified generally

to parts B (§620 et seq.) and E (§670 et seq.), respectively, of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### AMENDMENTS

2022—Subsec. (a)(1)(D). Pub. L. 117-103, §103(b)(1), inserted “the same or” before “a prior award”.

Subsec. (b)(5). Pub. L. 117-103, §103(b)(2), inserted “the same or” before “a prior award”.

Subsec. (d)(2). Pub. L. 117-103, §103(b)(3), inserted “this section, or paragraph (2), (8), or (9) of section 1087vv(d) of this title,” after “pursuant to section 1087tt(c) of this title”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-103 effective as if included in title VII of div. FF of Pub. L. 116-260 and subject to the effective date of section 701(b) of title VII (July 1, 2024), see section 103(d) of div. R of Pub. L. 117-103, set out as a note under section 1070a of this title.

##### EFFECTIVE DATE

Section 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 an Effective Date of 2020 Amendment note under section 1001 of this title. Implementation of section allowed on or after July 1, 2023, see section 102(c)(1)(A)(iii) of Pub. L. 117-103, set out as an On-Time Effective Date Permitted note under section 1070a of this title.

#### § 1087vv. Definitions

In this part:

##### (a) Total income

The term “total income” means the amount equal to adjusted gross income for the second preceding tax year plus untaxed income and benefits for the second preceding tax year minus excludable income for the second preceding tax year. The factors used to determine total income shall be derived from the Federal income tax return, if available, except for the applicant’s ability to indicate a qualified rollover in the second preceding tax year as outlined in section 1090 of this title or foreign income described in subsection (b)(5).

##### (b) Untaxed income and benefits

The term “untaxed income and benefits” means—

- (1) deductions and payments to self-employed SEP, SIMPLE, Keogh, and other qualified individual retirement accounts excluded from income for Federal tax purposes, except such term shall not include payments made to tax-deferred pension and retirement plans, paid directly or withheld from earnings, that are not delineated on the Federal tax return;
- (2) tax-exempt interest income;
- (3) untaxed portion of individual retirement account distributions;
- (4) untaxed portion of pensions; and
- (5) foreign income of permanent residents of the United States or United States citizens exempt from Federal taxation, or the foreign income for which such a permanent resident or citizen receives a foreign tax credit.

##### (c) Veterans and veterans’ education benefits

(1) The term “veteran” has the meaning given the term in section 101(2) of title 38 and includes individuals who served in the United States Armed Forces as described in sections 101(21), 101(22), and 101(23) of title 38.

(2) The term “veterans’ education benefits” means veterans’ benefits under the following provisions of law:

(A) Chapter 103 of title 10 (Senior Reserve Officers’ Training Corps).

(B) Chapter 106A of title 10 (Educational Assistance for Persons Enlisting for Active Duty).

(C) Chapter 1606 of title 10 (Selected Reserve Educational Assistance Program).

(D) Chapter 1607 of title 10 (Educational Assistance Program for Reserve Component Members Supporting Contingency Operations and Certain Other Operations).

(E) Chapter 30 of title 38 (All-Volunteer Force Educational Assistance Program, also known as the “Montgomery GI Bill—active duty”).

(F) Chapter 31 of title 38 (Training and Rehabilitation for Veterans with Service-Connected Disabilities).

(G) Chapter 32 of title 38 (Post-Vietnam Era Veterans’ Educational Assistance Program).

(H) Chapter 33 of title 38 (Post-9/11 Educational Assistance).

(I) Chapter 35 of title 38 (Survivors’ and Dependents’ Educational Assistance Program).

(J) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note) (Educational Assistance Pilot Program).

(K) Section 156(b) of the “Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes” (42 U.S.C. 402 note) (Restored Entitlement Program for Survivors, also known as “Quayle benefits”).

(L) The provisions of chapter 3 of title 37, related to subsistence allowances for members of the Reserve Officers Training Corps.

##### (d) Independent students and determinations

The term “independent”, when used with respect to a student, means any individual who—

(1) is 24 years of age or older by December 31 of the award year;

(2) is, or was at any time when the individual was 13 years of age or older—

- (A) an orphan;
- (B) a ward of the court; or
- (C) in foster care;

(3) is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s State of legal residence;

(4) is a veteran of the Armed Forces of the United States (as defined in subsection (c)) or is currently serving on active duty in the Armed Forces for other than training purposes;

(5) is a graduate or professional student;

(6) is married and not separated;

(7) has legal dependents other than a spouse;

(8) is an unaccompanied homeless youth or is unaccompanied, at risk of homelessness,