

**§ 1093. Distance education demonstration programs**

**(a) Purpose**

It is the purpose of this section—

(1) to allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded distance education programs currently restricted under this chapter;

(2) to provide for increased student access to higher education through distance education programs; and

(3) to help determine—

(A) the most effective means of delivering quality education via distance education course offerings;

(B) the specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

(C) the appropriate level of Federal assistance for students enrolled in distance education programs.

**(b) Demonstration programs authorized**

**(1) In general**

In accordance with the provisions of subsection (d), the Secretary is authorized to select institutions of higher education, systems of such institutions, or consortia of such institutions for voluntary participation in a Distance Education Demonstration Program that provides participating institutions with the ability to offer distance education programs that do not meet all or a portion of the sections or regulations described in paragraph (2).

**(2) Waivers**

The Secretary is authorized to waive for any institution of higher education, system of institutions of higher education, or consortium participating in a Distance Education Demonstration Program, the requirements of section 1087ll(5)<sup>1</sup> of this title as the section relates to computer costs, sections 1088(a) and 1088(b) of this title as such sections relate to requirements for a minimum number of weeks of instruction, sections 1002(a)(3)(A), 1002(a)(3)(B), and 1091(l)(1) of this title, or one or more of the regulations prescribed under this part or part F which inhibit the operation of quality distance education programs.

**(3) Eligible applicants**

**(A) Eligible institutions**

Except as provided in subparagraphs (B), (C), and (D), only an institution of higher education that is eligible to participate in programs under this subchapter shall be eligible to participate in the demonstration program authorized under this section.

**(B) Prohibition**

An institution of higher education described in section 1002(a)(1)(C) of this title shall not be eligible to participate in the demonstration program authorized under this section.

**(C) Special rule**

Subject to subparagraph (B), an institution of higher education that meets the re-

quirements of subsection (a) of section 1002 of this title, other than the requirement of paragraph (3)(A) or (3)(B) of such subsection, and that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree, shall be eligible to participate in the demonstration program authorized under this section.

**(D) Requirement**

Notwithstanding any other provision of this paragraph, Western Governors University shall be considered eligible to participate in the demonstration program authorized under this section. In addition to the waivers described in paragraph (2), the Secretary may waive the provisions of subchapter I and this part and part H of this subchapter for such university that the Secretary determines to be appropriate because of the unique characteristics of such university. In carrying out the preceding sentence, the Secretary shall ensure that adequate program integrity and accountability measures apply to such university's participation in the demonstration program authorized under this section.

**(c) Application**

**(1) In general**

Each institution, system, or consortium of institutions desiring to participate in a demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

**(2) Contents**

Each application shall include—

(A) a description of the institution, system, or consortium's consultation with a recognized accrediting agency or association with respect to quality assurances for the distance education programs to be offered;

(B) a description of the statutory and regulatory requirements described in subsection (b)(2) or, if applicable, subsection (b)(3)(D) for which a waiver is sought and the reasons for which the waiver is sought;

(C) a description of the distance education programs to be offered;

(D) a description of the students to whom distance education programs will be offered;

(E) an assurance that the institution, system, or consortium will offer full cooperation with the ongoing evaluations of the demonstration program provided for in this section; and

(F) such other information as the Secretary may require.

**(d) Selection**

**(1) In general**

For the first year of the demonstration program authorized under this section, the Secretary is authorized to select for participation in the program not more than 15 institutions, systems of institutions, or consortia of institutions. For the third year of the demonstration program authorized under this section, the Secretary may select not more than 35 in-

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

stitutions, systems, or consortia, in addition to the institutions, systems, or consortia selected pursuant to the preceding sentence, to participate in the demonstration program if the Secretary determines that such expansion is warranted based on the evaluations conducted in accordance with subsections (f) and (g).

### (2) Considerations

In selecting institutions to participate in the demonstration program in the first or succeeding years of the program, the Secretary shall take into account—

- (A) the number and quality of applications received;
- (B) the Department's capacity to oversee and monitor each institution's participation;
- (C) an institution's—
  - (i) financial responsibility;
  - (ii) administrative capability; and
  - (iii) program or programs being offered via distance education; and
- (D) ensuring the participation of a diverse group of institutions with respect to size, mission, and geographic distribution.

### (e) Notification

The Secretary shall make available to the public and to the authorizing committees a list of institutions, systems or consortia selected to participate in the demonstration program authorized by this section. Such notice shall include a listing of the specific statutory and regulatory requirements being waived for each institution, system or consortium and a description of the distance education courses to be offered.

### (f) Evaluations and reports

#### (1) Evaluation

The Secretary shall evaluate the demonstration programs authorized under this section on an annual basis. Such evaluations specifically shall review—

- (A) the extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance;
- (B) the number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased;
- (C) issues related to student financial assistance for distance education;
- (D) effective technologies for delivering distance education course offerings; and
- (E) the extent to which statutory or regulatory requirements not waived under the demonstration program present difficulties for students or institutions.

#### (2) Policy analysis

The Secretary shall review current policies and identify those policies that present impediments to the development and use of distance education and other nontraditional methods of expanding access to education.

### (3) Annual reports

The Secretary shall provide reports to the authorizing committees on an annual basis regarding—

- (A) the demonstration programs authorized under this section; and
- (B) the number and types of students receiving assistance under this subchapter for instruction leading to a recognized certificate, as provided for in section 1091(l)(1) of this title, including the progress of such students toward recognized certificates and the degree to which participation in such programs leading to such certificates increased.

### (g) Oversight

In conducting the demonstration program authorized under this section, the Secretary shall, on a continuing basis—

- (1) assure compliance of institutions, systems or consortia with the requirements of this subchapter (other than the sections and regulations that are waived under subsections (b)(2) and (b)(3)(D));
- (2) provide technical assistance;
- (3) monitor fluctuations in the student population enrolled in the participating institutions, systems or consortia; and
- (4) consult with appropriate accrediting agencies or associations and appropriate State regulatory authorities.

### (h) "Distance education" defined

For the purpose of this section, the term "distance education" means an educational process that is characterized by the separation, in time or place, between instructor and student. Such term may include courses offered principally through the use of—

- (1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;
- (2) audio or computer conferencing;
- (3) video cassettes or discs; or
- (4) correspondence.

(Pub. L. 89-329, title IV, § 486, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1487; amended Pub. L. 102-325, title IV, § 489, July 23, 1992, 106 Stat. 624; Pub. L. 105-244, title IV, § 488, Oct. 7, 1998, 112 Stat. 1746; Pub. L. 110-315, title I, § 103(b)(12), title IV, § 491, Aug. 14, 2008, 122 Stat. 3090, 3307.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 1087*l* of this title, referred to in subsec. (b)(2), was generally amended by Pub. L. 116-260, div. FF, title VII, § 702(b), Dec. 27, 2020, 134 Stat. 3138. For a similar provision to former par. (5), see subsec. (a)(6) of section 1087*l* of this title.

#### PRIOR PROVISIONS

A prior section 1093, Pub. L. 89-329, title IV, § 486, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1450, related to training in financial aid and student support services, prior to the general revision of this part by Pub. L. 99-498.

#### AMENDMENTS

2008—Subsec. (e). Pub. L. 110-315, § 103(b)(12), substituted "authorizing committees" for "Committee on

Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives”.

Subsec. (f)(3). Pub. L. 110-315, § 491, substituted “Annual reports” for “Reports” in heading, in subpar. (B) redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and adjusted their margins, and substituted “The Secretary shall provide reports to the authorizing committees on an annual basis” for former subpar. (A) which required Secretary to report to congressional committees on evaluations of demonstration programs and for introductory provisions of former subpar. (B) which related to additional annual reports.

1998—Pub. L. 105-244 amended section catchline and text generally. Prior to amendment, section authorized Secretary to make grants to nonprofit private organizations to provide training for student financial aid administrators and TRIO personnel.

1992—Pub. L. 102-325 struck out “and student support” after “aid” in section catchline and amended text generally, substituting present provisions for former subsec. (a) relating to program authority, subsec. (b) relating to use of funds, and subsec. (c) relating to authorization of appropriations.

#### Statutory Notes and Related Subsidiaries

##### 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.

#### § 1093a. Articulation agreements

##### (a) Definition

In this section, the term “articulation agreement” means an agreement between or among institutions of higher education that specifies the acceptability of courses in transfer toward meeting specific degree or program requirements.

##### (b) Program to encourage articulation agreements

###### (1) Program established

The Secretary shall carry out a program for States, in cooperation with public institutions of higher education, to develop, enhance, and implement comprehensive articulation agreements between or among such institutions in a State, and (to the extent practicable) across State lines, by 2010. Such articulation agreements shall be made widely and publicly available on the websites of States and such institutions. In developing, enhancing, and implementing articulation agreements, States and public institutions of higher education may employ strategies, where applicable, including—

- (A) common course numbering;
- (B) a general education core curriculum;
- (C) management systems regarding course equivalency, transfer of credit, and articulation; and
- (D) other strategies identified by the Secretary.

###### (2) Technical assistance provided

The Secretary shall provide technical assistance to States and public institutions of higher education for the purposes of developing and implementing articulation agreements in accordance with this subsection.

###### (3) Rule of construction

Nothing in this subsection shall be construed to authorize the Secretary to require

particular policies, procedures, or practices by institutions of higher education with respect to articulation agreements.

(Pub. L. 89-329, title IV, § 486A, as added Pub. L. 110-315, title IV, § 492, Aug. 14, 2008, 122 Stat. 3307.)

#### § 1094. Program participation agreements

##### (a) Required for programs of assistance; contents

In order to be an eligible institution for the purposes of any program authorized under this subchapter, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this subchapter and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this subchapter or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this subchapter, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

- (A) the Secretary;
- (B) the appropriate guaranty agency; and
- (C) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (c) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this subchapter.

(6) The institution will not provide any student with any statement or certification to any lender under part B that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 1075(a), 1078(a)(2), and 1078(b)(1)(A) and (B) of this title.

(7) The institution will comply with the requirements of section 1092 of this title.

(8) In the case of an institution that advertises job placement rates as a means of at-