

1992—Subsec. (a). Pub. L. 102-325, §493(a)(3), substituted “subpart 3” for “subpart 2” in two places.

Pub. L. 102-325, §493(a)(1), (2), struck out “(other than section 1087-57 of this title)” after “or part C” in second sentence and struck out fourth sentence which read as follows: “The payment for a fiscal year for the purpose of subsection (b) with respect to section 1087-57 of this title shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 percent of the institution’s expenditures during such fiscal year under such section.”

Pub. L. 102-325, §446(c), which directed amendment identical to amendment by Pub. L. 102-325, §493(a)(1), (2), above, was repealed by Pub. L. 103-208, §2(k)(6).

Subsec. (b). Pub. L. 102-325, §493(b), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (a). Pub. L. 100-50 made technical amendment to reference to section 1087-57 of this title to correct reference to corresponding section of original Act, requiring no change in text.

1986—Subsec. (a). Pub. L. 99-603 inserted provision directing the Secretary to pay the costs incurred by institutions of higher education in implementing and operating the immigration status verification system under section 1091(c) of this title.

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 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 section 446(c) of Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

Amendment by section 493 of Pub. L. 102-325, relating to payments for administrative expenses, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498(7) of Pub. L. 102-325, set out as a note under section 1088 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.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-603 effective Oct. 1, 1987, see section 121(c)(2) of Pub. L. 99-603, set out as a note under section 502 of Title 42, The Public Health and Welfare.

§ 1096a. Repealed. Pub. L. 102-325, title IV, § 494, July 23, 1992, 106 Stat. 631

Section, Pub. L. 89-329, title IV, §489A, as added Pub. L. 102-164, title VI, §606, Nov. 15, 1991, 105 Stat. 1068, related to data matching.

§ 1097. Criminal penalties

(a) In general

Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or in-

sured under this subchapter or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than \$20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed \$200, then the fine shall not be more than \$5,000 and imprisonment shall not exceed one year, or both.

(b) Assignment of loans

Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this subchapter or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(c) Inducements to lend or assign

Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(d) Obstruction of justice

Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this subchapter or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than \$20,000 or imprisoned not more than 5 years, or both.

(e) Access to Department of Education information technology systems for fraud, commercial advantage, or private financial gain

Any person who knowingly uses an access device, as defined in section 1029(e)(1) of title 18, issued to another person or obtained by fraud or false statement to access Department information technology systems for purposes of obtaining commercial advantage or private financial gain, or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State, shall be fined not more than \$20,000, imprisoned for not more than 5 years, or both.

(Pub. L. 89-329, title IV, §490, as added Pub. L. 99-498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 102-325, title IV, §495, July 23, 1992, 106 Stat. 631; Pub. L. 116-251, §2(a), Dec. 22, 2020, 134 Stat. 1129.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1097, Pub. L. 89-329, title IV, §490, as added Pub. L. 96-374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1453, related to criminal penalties, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2020—Subsec. (e). Pub. L. 116-251 added subsec. (e).

1992—Pub. L. 102-325 amended section generally, inserting provisions relating to attempted offenses, wherever appearing, and in subsec. (a) inserting provisions relating to failure to refund and substituting provisions relating to \$20,000 and \$5,000 fines for provisions relating to \$10,000 and \$1,000 fines, respectively, in subsec. (b) substituting provisions relating to \$10,000 fines for provisions relating to \$1,000 fines, in subsec. (c) substituting provisions relating to \$10,000 fines for provisions relating to \$1,000 fines, and in subsec. (d) substituting provisions relating to \$20,000 fines for provisions relating to \$10,000 fines.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116-251 effective 180 days after Dec. 22, 2020, see section 6 of Pub. L. 116-251, set out as a note under section 1018 of this title.

GUIDANCE

Pub. L. 116-251, §2(b), Dec. 22, 2020, 134 Stat. 1129, provided that: “The Secretary shall issue guidance regarding the use of access devices in a manner that complies with this Act [see Short Title of 2020 Amendment note set out under section 1001 of this title], and the amendments made by this Act.”

EFFECTIVE DATE OF PENALTIES

Pub. L. 116-251, §2(c), Dec. 22, 2020, 134 Stat. 1129, provided that: “Notwithstanding section 6 [set out as an Effective Date of 2020 Amendment note under section 1018 of this title], the penalties described in section 490(e) of the Higher Education Act of 1965 (20 U.S.C. 1097[(e)]), as added by subsection (a), shall take effect the day after the date on which the Secretary issues guidance regarding the use of access devices, as described in subsection (b) [set out as a Guidance note above].”

§ 1097a. Administrative subpoenas

(a) Authority

To assist the Secretary in the conduct of investigations of possible violations of the provisions of this subchapter, the Secretary is authorized to require by subpoena the production of information, documents, reports, answers, records, accounts, papers, and other documentary evidence pertaining to participation in any program under this subchapter. The production of any such records may be required from any place in a State.

(b) Enforcement

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States where such person resides or transacts business for a court order for the enforcement of this section.

(Pub. L. 89-329, title IV, §490A, as added Pub. L. 105-244, title IV, §490B, Oct. 7, 1998, 112 Stat. 1754.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1098. Advisory Committee on Student Financial Assistance

(a) Establishment and purpose

(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the “Advisory Committee”) which shall provide advice and counsel to the authorizing committees and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms;

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students;

(D) to provide knowledge and understanding of early intervention programs, and to make recommendations that will result in early awareness by low- and moderate-income students and families—

(i) of their eligibility for assistance under this subchapter; and

(ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance;

(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of need-based student assistance available to low- and moderate-income students; and

(F) to collect information on Federal regulations, and on the impact of Federal regulations on student financial assistance and on the cost of receiving a postsecondary education, and to make recommendations to help streamline the regulations for institutions of higher education from all sectors.

(b) Independence of Advisory Committee

In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations, expenditures and staffing levels, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee’s administration and management shall be subject to the usual and customary Federal audit procedures. Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission