

110-315, title III, §320(3), Aug. 14, 2008, 122 Stat. 3187.)

CODIFICATION

Section was formerly classified to section 1135d-5 of this title prior to renumbering by Pub. L. 105-244.

AMENDMENTS

2008—Par. (9)(A). Pub. L. 110-315 substituted “supports” for “support” in introductory provisions.

1998—Par. (4). Pub. L. 105-244, §307(c), inserted “behavioral,” after “physical.”

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.

§ 10671. Repealed. Pub. L. 105-244, title III, § 301(a)(8), Oct. 7, 1998, 112 Stat. 1636

Section, Pub. L. 89-329, title III, §366, formerly title X, §1047, as added Pub. L. 99-498, title X, §1002, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 100-418, title VI, §6221, Aug. 23, 1988, 102 Stat. 1518; Pub. L. 102-325, title X, §1002(f), July 23, 1992, 106 Stat. 780; renumbered title III, §366, Pub. L. 105-244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, authorized appropriations to carry out Fund for Improvement of Postsecondary Education program.

CODIFICATION

Section was formerly classified to section 1135d-6 of this title prior to renumbering by Pub. L. 105-244.

EFFECTIVE DATE OF REPEAL

Repeal 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.

PART F—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS

CODIFICATION

Part F of title III of Pub. L. 89-329, comprising this part, was originally added as part J of title IV of Pub. L. 89-329 by Pub. L. 110-84, title VIII, §802, Sept. 27, 2007, 121 Stat. 817, and was classified to part I (§1099e) of subchapter IV of this chapter. Part J of title IV of Pub. L. 89-329 was subsequently redesignated part F of title III of Pub. L. 89-329 by Pub. L. 110-315, title III, §316(a)(2), Aug. 14, 2008, 122 Stat. 3185, and transferred to this part.

PRIOR PROVISIONS

A prior part F [§1068 et seq.] of this subchapter was redesignated part G by Pub. L. 110-315, title III, §316(a)(1), Aug. 14, 2008, 122 Stat. 3185.

§ 1067q. Investment in historically Black colleges and universities and other minority-serving institutions

(a) Eligible institution

An institution of higher education is eligible to receive funds from the amounts made available under this section if such institution is—

- (1) a part B institution (as defined in section 1061 of this title);
- (2) a Hispanic-serving institution (as defined in section 1101a of this title);
- (3) a Tribal College or University (as defined in section 1059c of this title);
- (4) an Alaska Native-serving institution or a Native Hawaiian-serving institution (as defined in section 1059d(b) of this title);

(5) a Predominantly Black Institution (as defined in subsection (c));

(6) an Asian American and Native American Pacific Islander-serving institution (as defined in subsection (c)); or

(7) a Native American-serving nontribal institution (as defined in subsection (c)).

(b) New investment of funds

(1) In general

(A) Provision of funds

There shall be available to the Secretary to carry out this section, from funds in the Treasury not otherwise appropriated, \$255,000,000 for each of the fiscal years 2008 and 2009. The authority to award grants under this section shall expire at the end of fiscal year 2009.

(B) Availability

Funds made available under subparagraph (A) for a fiscal year shall remain available for the next succeeding fiscal year.

(2) Allocation and allotment

(A) In general

Of the amounts made available under paragraph (1) for each fiscal year—

- (i) \$100,000,000 shall be available for allocation under subparagraph (B);
- (ii) \$100,000,000 shall be available for allocation under subparagraph (C); and
- (iii) \$55,000,000 shall be available for allocation under subparagraph (D).

(B) HSI STEM and articulation programs

The amount made available for allocation under this subparagraph by subparagraph (A)(i) for any fiscal year shall be available for Hispanic-serving Institutions¹ for activities described in section 1101b of this title, with a priority given to applications that propose—

- (i) to increase the number of Hispanic and other low income students attaining degrees in the fields of science, technology, engineering, or mathematics; and
- (ii) to develop model transfer and articulation agreements between 2-year Hispanic-serving institutions and 4-year institutions in such fields.

(C) Allocation and allotment HBCUS and PBIS

From the amount made available for allocation under this subparagraph by subparagraph (A)(ii) for any fiscal year—

- (i) 85 percent shall be available to eligible institutions described in subsection (a)(1) and shall be made available as grants under section 1062 of this title and allotted among such institutions under section 1063 of this title, treating such amount, plus the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out part B of this subchapter, as the amount appropriated to carry out part B of this subchapter for purposes of allotments under section 1063 of this title, for use by such institutions with a priority for—

¹ So in original. Probably should not be capitalized.

(I) activities described in paragraphs (1), (2), (4), (5), and (10) of section 1062(a) of this title; and

(II) other activities, consistent with the institution's comprehensive plan and designed to increase the institution's capacity to prepare students for careers in the physical or natural sciences, mathematics, computer science or information technology or sciences, engineering, language instruction in the less-commonly taught languages or international affairs, or nursing or allied health professions; and

(ii) 15 percent shall be available to eligible institutions described in subsection (a)(5) and shall be available for a competitive grant program to award 25 grants of \$600,000 annually for programs in any of the following areas:

(I) science, technology, engineering, or mathematics (STEM);

(II) health education;

(III) internationalization or globalization;

(IV) teacher preparation; or

(V) improving educational outcomes of African American males.

(D) Allocation and allotment to other minority-serving institutions

From the amount made available for allocation under this subparagraph by subparagraph (A)(iii) for any fiscal year—

(i) \$30,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(3) and shall be made available as grants under section 1059c of this title, treating such \$30,000,000 as part of the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out such section, and using such \$30,000,000 for purposes described in subsection (c) of such section;

(ii) \$15,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(4) and shall be made available as grants under section 1059d of this title, treating such \$15,000,000 as part of the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out such section and using such \$15,000,000 for purposes described in subsection (c) of such section;

(iii) \$5,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(6) for activities described in section 1057(c) of this title; and

(iv) \$5,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(7)—

(I) to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Native Americans, which may include—

(aa) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(bb) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(cc) support of faculty exchanges, faculty development, and faculty fellowships to assist faculty in attaining advanced degrees in the faculty's field of instruction;

(dd) curriculum development and academic instruction;

(ee) the purchase of library books, periodicals, microfilm, and other educational materials;

(ff) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(gg) the joint use of facilities such as laboratories and libraries; and

(hh) academic tutoring and counseling programs and student support services; and

(II) to which the Secretary, to the extent possible and consistent with a competitive process under which such grants are awarded, allocates funds under this clause to ensure maximum and equitable distribution among all such eligible institutions.

(c) Definitions

(1) Asian American

The term "Asian American" has the meaning given the term "Asian" in the Office of Management and Budget's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published on October 30, 1997 (62 Fed. Reg. 58789).

(2) Asian American and Native American Pacific Islander-serving institution

The term "Asian American and Native American Pacific Islander-serving institution" means an institution of higher education that—

(A) is an eligible institution under section 1058(b) of this title; and

(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Asian American and Native American Pacific Islander students.

(3) Enrollment of needy students

The term "enrollment of needy students" means the enrollment at an institution of higher education with respect to which not less than 50 percent of the undergraduate students enrolled in an academic program leading to a degree—

(A) in the second fiscal year preceding the fiscal year for which the determination is made, were Federal Pell Grant recipients for such year;

(B) come from families that receive benefits under a means-tested Federal benefit program (as defined in paragraph (5));

(C) attended a public or nonprofit private secondary school—

(i) that is in the school district of a local educational agency that was eligible for assistance under part A of title I of the

Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.] for any year during which the student attended such secondary school; and

(ii) which for the purpose of this paragraph and for that year was determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under a measure of poverty described in section 1113(a)(5) of such Act [20 U.S.C. 6313(a)(5)] exceeds 30 percent of the total enrollment of such school; or

(D) are first-generation college students (as that term is defined in section 1070a-11(g) of this title), and a majority of such first-generation college students are low-income individuals.

(4) Low-income individual

The term “low-income individual” has the meaning given such term in section 1070a-11(g) of this title.

(5) Means-tested Federal benefit program

The term “means-tested Federal benefit program” means a program of the Federal Government, other than a program under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, in which eligibility for the programs’ benefits or the amount of such benefits are determined on the basis of income or resources of the individual or family seeking the benefit.

(6) Native American

The term “Native American” means an individual who is of a tribe, people, or culture that is indigenous to the United States.

(7) Native American Pacific Islander

The term “Native American Pacific Islander” means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(8) Native American-serving nontribal institution

The term “Native American-serving nontribal institution” means an institution of higher education that—

(A) at the time of application—

(i) has an enrollment of undergraduate students that is not less than 10 percent Native American students; and

(ii) is not a Tribal College or University (as defined in section 1059c of this title); and

(B) submits to the Secretary such enrollment data as may be necessary to demonstrate that the institution is described in subparagraph (A), along with such other information and data as the Secretary may by regulation require.

(9) Predominantly Black institution

The term “Predominantly Black institution” means an institution of higher education that—

(A) has an enrollment of needy students as defined by paragraph (3);

(B) has an average educational and general expenditure which is low, per full-time equivalent undergraduate student in comparison with the average educational and general expenditure per full-time equivalent undergraduate student of institutions of higher education that offer similar instruction, except that the Secretary may apply the waiver requirements described in section 1068a(b) of this title to this subparagraph in the same manner as the Secretary applies the waiver requirements to section 1058(b)(1)(B) of this title;

(C) has an enrollment of undergraduate students—

(i) that is at least 40 percent Black American students;

(ii) that is at least 1,000 undergraduate students;

(iii) of which not less than 50 percent of the undergraduate students enrolled at the institution are low-income individuals or first-generation college students (as that term is defined in section 1070a-11(g) of this title); and

(iv) of which not less than 50 percent of the undergraduate students are enrolled in an educational program leading to a bachelor’s or associate’s degree that the institution is licensed to award by the State in which the institution is located;

(D) is legally authorized to provide, and provides within the State, an educational program for which the institution of higher education awards a bachelor’s degree, or in the case of a junior or community college, an associate’s degree;

(E) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered, or is, according to such an agency or association, making reasonable progress toward accreditation; and

(F) is not receiving assistance under part B of this subchapter.

(Pub. L. 89-329, title III, §371, formerly title IV, §499A, as added Pub. L. 110-84, title VIII, §802, Sept. 27, 2007, 121 Stat. 817; renumbered title III, §371, and amended Pub. L. 110-315, title III, §316(a)(3), (b), (c), Aug. 14, 2008, 122 Stat. 3185.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(3)(C)(i), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1099e of this title prior to renumbering by Pub. L. 110-315.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110-315, §316(c), amended par. (1) generally. Prior to amendment, text read as follows: “There shall be available to the Secretary to

carry out this section, from funds not otherwise appropriated, \$255,000,000 for each of the fiscal years 2008 and 2009. The authority to award grants under this section shall expire at the end of fiscal year 2009.”

Subsec. (b)(2)(C)(i). Pub. L. 110-315, §316(b)(1), substituted “this subchapter” for “subchapter III” in two places.

Subsec. (c)(9)(F). Pub. L. 110-315, §316(b)(2), substituted “this subchapter” for “subchapter III”.

EFFECTIVE DATE

Section effective Oct. 1, 2007, see section 1(c) of Pub. L. 110-84, set out as an Effective Date of 2007 Amendment note under section 1070a of this title.

PART G—GENERAL PROVISIONS

CODIFICATION

Pub. L. 110-315, title III, §316(a)(1), Aug. 14, 2008, 122 Stat. 3185, redesignated part F (§1068 et seq.) of this subchapter as part G of this subchapter.

§ 1068. Applications for assistance

(a) Applications

(1) Applications required

Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for the assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for assistance under this subchapter only if the Secretary determines that—

(A) the application meets the requirements of subsection (b) of this section;

(B) the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought; and

(C) the applicant's performance goals are sufficiently rigorous as to meet the purposes of this subchapter and the performance objectives and indicators for this subchapter established by the Secretary pursuant to the Government Performance and Results Act of 1993 and the amendments made by such Act.

(2) Preliminary applications

In carrying out paragraph (1), the Secretary may develop a preliminary application for use by eligible institutions applying under part A of this subchapter prior to the submission of the principal application.

(b) Contents

An institution, in its application for a grant, shall—

(1) set forth, or describe how the institution (other than an institution applying under part C, D or E of this subchapter) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this subchapter);

(2) set forth policies and procedures to ensure that Federal funds made available under

this subchapter for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 1057(b) or 1062 of this title, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this subchapter;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this subchapter;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this subchapter, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 1068e of this title, except that for purposes of section 1059c of this title, paragraphs (2) and (3) of section 1068e of this title shall not apply;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this subchapter in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this subchapter, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

(E) a detailed description of any activity which involves the expenditure of more than \$25,000, as identified in the budget referred to in subparagraph (D); and

(8) include such other information as the Secretary may prescribe.

(c) Priority criteria publication required

The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, all