AMENDMENTS

2008—Pub. L. 110–315, § 103(a)(2), reordered pars. in alphabetical order based on headings of pars. and renumbered pars. as so reordered, resulting in pars. (1) to (22) being redesignated as (2), (4), (6), (9) to (13), (15) to (20), (22), (21), (1), (3), (7), (5), (8), and (14), respectively.

Pars. (17) to (24). Pub. L. 110–315, § 103(a)(1), added pars. (17) to (24).

2002—Pars. (4) to (6), (10), (14). Pub. L. 107–110 substituted ''7801'' for ''8801''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

PART B—ADDITIONAL GENERAL PROVISIONS

§ 1011. Antidiscrimination

(a) In general

Institutions of higher education receiving Federal financial assistance may not use such financial assistance, directly or indirectly, to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except that nothing in this subsection shall be construed to prohibit an institution from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or to have the institution's curriculum restricted on the subject of discrimination.

(b) Limitations on statutory construction

Nothing in this chapter and part C of subchapter I of chapter 34 of title 42 shall be construed to limit the rights or responsibilities of any individual under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], or any other law.

(Pub. L. 89–329, title I, § 111, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1590; amended Pub. L. 111–39, title I, § 101(b)(2), July 1, 2009, 123 Stat. 1935.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1142 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011, Pub. L. 89–329, title I, § 121, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 461, stated congressional findings and purposes of articulation agreements grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1011, Pub. L. 89–329, title I, § 111, as added Pub. L. 99–498, title I, § 101, Oct. 17, 1986, 100 Stat. 1279, related to institutional development, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1011, Pub. L. 89–329, title I, § 111, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1377, stated Congressional findings with respect to education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1011, Pub. L. 89–329, title I, § 114, formerly § 111, Nov. 8, 1965, 79 Stat. 1224, renumbered § 112 and amended Pub. L. 92–318, title I, §§ 102(a)(1), 131(d)(2)(A), June 23, 1972, 86 Stat. 236, 260, renumbered § 113, Pub. L. 93–29, title VIII, § 803, May 3, 1973, 87 Stat. 59, renumbered § 114, Pub. L. 94–482, title I, § 101(e), Oct. 12, 1976, 90 Stat. 2085, prohibited the giving of grants for programs relating to sectarian instruction or worship, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–39 substituted ''with'' for ''With''.

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.

§ 1011a. Protection of student speech and association rights

(a) Protection of rights

(1) It is the sense of Congress that no student attending an institution of higher education on a full- or part-time basis should, on the basis of participation in protected speech or protected association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division of the institution directly or indirectly receiving financial assistance under this chapter and part C of subchapter I of chapter 34 of title 42, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(2) It is the sense of Congress that—

(A) the diversity of institutions and educational missions is one of the key strengths of American higher education;

(B) individual institutions of higher education have different missions and each institution should design its academic program in accordance with its educational goals;

(C) an institution of higher education should facilitate the free and open exchange of ideas;

(D) students should not be intimidated, harassed, discouraged from speaking out, or discriminated against;

(E) students should be treated equally and fairly; and

(F) nothing in this paragraph shall be construed to modify, change, or infringe upon any constitutionally protected religious liberty, freedom, expression, or association.

(b) Construction

Nothing in this section shall be construed—

(1) to discourage the imposition of an official sanction on a student that has willfully participated in the disruption or attempted dis-

ruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education, provided that the imposition of such sanction is done objectively and fairly; or

(2) to prevent an institution of higher education from taking appropriate and effective action to prevent violations of State liquor laws, to discourage binge drinking and other alcohol abuse, to protect students from sexual harassment including assault and date rape, to prevent hazing, or to regulate unsanitary or unsafe conditions in any student residence.

(c) Definitions

For the purposes of this section:

(1) Official sanction

The term ''official sanction''—

(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

(2) Protected association

The term ''protected association'' means the joining, assembling, and residing with others that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(3) Protected speech

The term ''protected speech'' means speech that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(Pub. L. 89–329, title I, § 112, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1591; amended Pub. L. 110–315, title I, § 104, Aug. 14, 2008, 122 Stat. 3090.)

PRIOR PROVISIONS

A prior section 1011a, Pub. L. 89–329, title I, § 122, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 462, authorized grants to States, prior to the general amendment of this subchapter by Pub. L. 105–244.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315, § 104(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 110–315, § 104(2), inserted '', provided that the imposition of such sanction is done objectively and fairly'' after ''higher education''.

§ 1011b. Territorial waiver authority

The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

(Pub. L. 89–329, title I, § 113, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1591; amended Pub. L. 110–315, title I, § 105, Aug. 14, 2008, 122 Stat. 3090.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1144a of this title prior to repeal by Pub. L. 105–244.

A prior section 1011b, Pub. L. 89–329, title I, § 123, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 462, related to State applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

AMENDMENTS

2008—Pub. L. 110–315 substituted ''Territorial waiver authority'' for ''Treatment of territories and territorial student assistance'' in section catchline and struck out subsec. (a) designation and heading and subsec. (b). Text of former subsec. (b) read as follows: ''Notwithstanding any other provision of law, an institution of higher education that is located in any of the Freely Associated States, rather than in another State, shall be eligible, if otherwise qualified, for assistance under division 1 of subpart 2 of part A of subchapter IV of this chapter. This subsection shall cease to be effective on September 30, 2004.''

§ 1011c. National Advisory Committee on Institutional Quality and Integrity

(a) Establishment

There is established in the Department a National Advisory Committee on Institutional Quality and Integrity (in this section referred to as the ''Committee'') to assess the process of accreditation and the institutional eligibility and certification of institutions of higher education (as defined in section 1002 of this title) under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Membership

(1) In general

The Committee shall have 18 members, of which—

(A) six members shall be appointed by the Secretary;

(B) six members shall be appointed by the Speaker of the House of Representatives, three of whom shall be appointed on the recommendation of the majority leader of the House of Representatives, and three of whom shall be appointed on the recommendation of the minority leader of the House of Representatives; and

(C) six members shall be appointed by the President pro tempore of the Senate, three of whom shall be appointed on the recommendation of the majority leader of the Senate, and three of whom shall be appointed on the recommendation of the minority leader of the Senate.

(2) Qualifications

Individuals shall be appointed as members of the Committee—

(A) on the basis of the individuals' experience, integrity, impartiality, and good judgment;

(B) from among individuals who are representatives of, or knowledgeable concerning, education and training beyond second-