

TITLE 20 - EDUCATION**CHAPTER 28 - HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE****SUBCHAPTER IV - STUDENT ASSISTANCE****Part F-1 - Higher Education Relief Opportunities for Students****§ 1098bb. Waiver authority for response to military contingencies and national emergencies****(a) Waivers and modifications****(1) In general**

Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education (referred to in this part as the “Secretary”) may waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the Act [20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.] as the Secretary deems necessary in connection with a war or other military operation or national emergency to provide the waivers or modifications authorized by paragraph (2).

(2) Actions authorized

The Secretary is authorized to waive or modify any provision described in paragraph (1) as may be necessary to ensure that—

(A) recipients of student financial assistance under title IV of the Act who are affected individuals are not placed in a worse position financially in relation to that financial assistance because of their status as affected individuals;

(B) administrative requirements placed on affected individuals who are recipients of student financial assistance are minimized, to the extent possible without impairing the integrity of the student financial assistance programs, to ease the burden on such students and avoid inadvertent, technical violations or defaults;

(C) the calculation of “annual adjusted family income” and “available income”, as used in the determination of need for student financial assistance under title IV of the Act for any such affected individual (and the determination of such need for his or her spouse and dependents, if applicable), may be modified to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such affected individual and his or her family;

(D) the calculation under section 484B(b)(2) of the Act (20 U.S.C. 1091b (b)(2)) of the amount a student is required to return in the case of an affected individual may be modified so that no overpayment will be required to be returned or repaid if the institution has documented

(i) the student’s status as an affected individual in the student’s file, and

(ii) the amount of any overpayment discharged; and

(E) institutions of higher education, eligible lenders, guaranty agencies, and other entities participating in the student assistance programs under title IV of the Act that are located in areas that are declared disaster areas by any Federal, State or local official in connection with a national emergency, or whose operations are significantly affected by such a disaster, may be granted temporary relief from requirements that are rendered infeasible or unreasonable by a national emergency, including due diligence requirements and reporting deadlines.

(b) Notice of waivers or modifications**(1) In general**

Notwithstanding section 1232 of this title and section 553 of title 5, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section.

(2) Terms and conditions

NB: This unofficial compilation of the U.S. Code is current as of Jan. 8, 2008 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

The notice under paragraph (1) shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions.

(3) Case-by-case basis

The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

(c) Impact report

The Secretary shall, not later than 15 months after first exercising any authority to issue a waiver or modification under subsection (a), report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate on the impact of any waivers or modifications issued pursuant to subsection (a) on affected individuals and the programs under title IV of the Act [20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.], and the basis for such determination, and include in such report the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of such waiver or modification.

(d) No delay in waivers and modifications

Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089 (c), 1098a) shall not apply to the waivers and modifications authorized or required by this part.

(Pub. L. 108–76, § 2, Aug. 18, 2003, 117 Stat. 904.)

References in Text

The Higher Education Act of 1965, referred to in subsecs. (a) and (c), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 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 1001 of this title and Tables.

Codification

Section was formerly set out in a note under section 1070 of this title.

Section was enacted as part of the Higher Education Relief Opportunities for Students Act of 2003, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

Change of Name

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.