§ 1101a. Definitions; eligibility

(a) Definitions

For the purpose of this subchapter:

(1) Educational and general expenditures

The term “educational and general expenditures” means the total amount expended by an institution for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers that the institution is required to pay by law.

(2) Eligible institution

The term “eligible institution” means—

(A) an institution of higher education—

(i) that has an enrollment of needy students as required by subsection (b) of this section;

(ii) except as provided in section 1103a (b) of this title, the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(iii) that is—

(I) legally authorized to provide, and provides within the State, an educational program for which the institution awards a bachelor’s degree; or

(II) a junior or community college;

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

(v) that meets such other requirements as the Secretary may prescribe; and

(vi) that is located in a State; and

(B) any branch of any institution of higher education described under subparagraph (A) that by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

(3) Endowment fund

The term “endowment fund” means a fund that—

(A) is established by State law, by a Hispanic-serving institution, or by a foundation that is exempt from Federal income taxation;

(B) is maintained for the purpose of generating income for the support of the institution; and

(C) does not include real estate.

(4) Full-time equivalent students

The term “full-time equivalent students” means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time.
(determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(5) **Hispanic-serving institution**

The term “Hispanic-serving institution” means an institution of higher education that—

(A) is an eligible institution; and

(B) has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students at the end of the award year immediately preceding the date of application.

(6) **Junior or community college**

The term “junior or community college” means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which the institution awards a bachelor’s degree (or an equivalent degree); and

(C) that—

(i) provides an educational program of not less than 2 years in duration that is acceptable for full credit toward such a degree; or

(ii) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(b) **Enrollment of needy students**

For the purpose of this subchapter, the term “enrollment of needy students” means an enrollment at an institution with respect to which—

(1) at least 50 percent of the degree students so enrolled are receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the second fiscal year preceding the fiscal year for which the determination is made (other than loans for which an interest subsidy is paid pursuant to section 1078 of this title); or

(2) a substantial percentage of the students so enrolled are receiving Federal Pell Grants in the second fiscal year preceding the fiscal year for which the determination is made, compared to the percentage of students receiving Federal Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this paragraph is waived under section 1103a (a) of this title.


**Prior Provisions**


A prior section 502 of Pub. L. 89–329 was classified to section 1102a of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 502 of Pub. L. 89–329 was classified to section 1091a of this title, prior to repeal by Pub. L. 94–482.
Amendments

2009—Subsec. (b)(2). Pub. L. 111–39 substituted “for which the determination is made, compared to” for “for which determination is made, compared to”.


2006—Subsec. (a)(5). Pub. L. 109–292, § 4(a)(1), inserted “and” at end of subpar. (A), in subpar. (B), struck out “at the time of application,” before “has an enrollment”, substituted “at the end of the award year immediately preceding the date of application.” for “”, and”, and struck out subpar. (C) which read as follows: “provides assurances that not less than 50 percent of the institution’s Hispanic students are low-income individuals, which assurances—

“(i) may employ statistical extrapolation using appropriate data from the Bureau of the Census or other appropriate Federal or State sources; and

“(ii) the Secretary shall consider as meeting the requirements of this subparagraph, unless the Secretary determines, based on a preponderance of the evidence, that the assurances do not meet the requirements.”


2004—Subsec. (a)(5)(C). Pub. L. 108–375 inserted “, which assurances—” and cls. (i) and (ii) before period at end.

Effective Date of 2009 Amendment