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Mr. Scott Harris
Clerk, Supreme Court of the United States
One First Street, NE
Washington, DC 20543

Re: *Kennedy v. Braidwood Management Inc.*, No. 24-316

Dear Mr. Harris:

The President and the Senate must appoint inferior officers unless Congress has "by Law" vested their appointment in the President alone, in the Courts of Law, or in the Heads of Departments. *See* U.S. Const. art. II, § 2, cl. 2. The Court's order of April 25, 2025, asks the parties to brief whether Congress has "by Law" vested the appointment of the U.S. Preventive Services Task Force in the Secretary of the Department of Health and Human Services. The answer to this question is no.

Congress has not "vested" the appointment of the Task Force in anyone. When the Task Force was first created in 1984, it was established as an advisory committee within the Public Health Service. And there was no congressional legislation (at that time) that purported to govern the composition or appointment of the Task Force. The executive branch had (as it does now) discretion to decide the number of Task Force members, the length of their terms, and their method of appointment.

The first Task Force published the Guide to Clinical Preventive Services in 1989 and disbanded shortly thereafter. *See* U.S. Preventive Services Task Force Procedure Manual, AHRQ Publication No. 08-05118-EF (July 2008), at 1–2, https://perma.cc/3G3C-MC4Y. The second Task Force was convened in 1990 and dissolved in 1995 after publishing the second edition of the Guide to Clinical Preventive Services. *Id.* at 2. In 1995, programmatic responsibility for the Task Force was transferred to the Agency for Healthcare Research and Quality (AHRQ). *Id.*

The third Task Force was convened in 1998, and its members were appointed to five-year terms. *Id.* The third Task Force began releasing recommendations incrementally rather than all at once. *Id.* In 2001, the Task Force became a standing body rather than an intermittent entity. *Id.* at 3. The present-day Task Force has 16 members appointed to staggered four-year terms, so approximately one-fourth of the Task Force changes each year. *Id.* at 2–3.

Congress did not enact any legislation governing the Task Force until 1999, when it enacted 42 U.S.C. § 299b-4(a). The 1999 version of section 299b-4(a)(1) stated, in relevant part:

> The Director [of AHRQ] may periodically convene a Preventive Services Task Force to be composed of individuals with appropriate expertise.

Healthcare Research and Quality Act of 1999, Pub. L. 106-129, sec. 2(a), § 915, 113 Stat. 1659 (App. 6). This statute authorized (but did not require) the AHRQ Director to "convene" a Task Force. But the statute was silent on the number of Task Force members, the length of their terms, and their method of appointment — all of which were left to the discretion of the executive branch, just as they were before the enactment of section 299b-4(a).

In 2010, Congress amended 42 U.S.C. § 299b-4(a)(1) as part of the Affordable Care Act. The statute now provides, in relevant part, that:

> The Director *shall* convene an *independent* Preventive Services Task Force . . . to be composed of individuals with appropriate expertise.

42 U.S.C. § 299b-4(a)(1) (changed language in italics) (App. 4).

The parties disagree over how the current version of 42 U.S.C. § 299b-4(a)(1) should be interpreted. In the respondents' view, section 299b-4(a)(1) requires the AHRQ Director only to "convene" the Task Force, while remaining silent on the issue of appointment. So the AHRQ Director may appoint the Task Force without violating section 299b-4(a)(1), but so can the Secretary, the president, or anyone else. *See* Tr. of Oral Arg. 62:16–19. On this interpretation of section 299b-4(a)(1), Congress has not "vested" the appointment of the Task Force in anyone, because Congress's enactments do not require or prohibit any particular method of appointment. *See* Resp. Br. 11 ("Congress has not 'vested' the Secretary (or anyone else) with appointment powers."); Tr. of Oral Arg. 58:24–60:3; *id.* at 60:1–60:3 ("No one is vested with the authority because the statute takes no position on who appoints.").

The government insists that the word "convene" in section 299b-4(a)(1) means "convene and appoint,"[1] and that the mandatory "shall" requires the AHRQ Director to appoint the Task Force to the exclusion of others. *See* Reply Br. 16–19; Tr. of Oral Arg. 6:8–15; *id.* at 7:25–8:6. The government acknowledges that section 299b-4(a)(1) will violate the Constitution if it vests the appointment of the Task Force solely in the AHRQ Director (who is not a Head of Department). *See* Reply Br. 18; Tr. of Oral Arg. 25:11–16. But the government tries to escape this problem by claiming that 42 U.S.C. § 299(a) and Reorganization Plan No. 3 of 1966 "vest" the HHS Secretary with the same appointment powers that section 299b-4(a)(1) "vests" in the AHRQ Director. *See* Reply Br. 16–19; Tr. of Oral Arg. 12:24–13:2; 33:14–17. On the government's view, the relevant congressional statutes require either the Director or the Secretary to appoint the Task Force, and they forbid anyone else to do so.

The government's construction of section 299b-4(a)(1) should be rejected because: (1) The word "convene" means "convene," not "convene and appoint"; and (2) The government's

1. Reply Br. 18–19; Tr. of Oral Arg. 6:13–15 ("'[C]onvene' is most naturally read to mean convene and select the people who will serve . . . on the board.").

interpretation of "convene" raises serious doubts about the constitutionality of section 299b-4(a)(1), which this Court is duty-bound to avoid under the canon of constitutional avoidance. *See United States ex rel. Attorney General v. Delaware & Hudson Co.*, 213 U.S. 366, 408 (1909) ("[W]here a statute is susceptible to two constructions, by one of which grave and doubtful constitutional questions arise and by the other of which such questions are avoided, our duty is to adopt the latter.").

And even if this Court were to adopt the government's interpretations of the relevant statutes, that *still* would not show that Congress has "vested" the appointment of the Task Force in a Head of Department. The government claims that the statutes allow *either* the AHRQ Director *or* the Secretary to appoint the Task Force. But that does not "vest" the appointments in a Head of Department under *United States v. Hartwell*, 73 U.S. 385 (1868), and *United States v. Smith*, 124 U.S. 525 (1888). Congress does not "vest" the Secretary with appointment powers when its statutes allow other individuals to appoint the Task Force without secretarial approval or involvement, and when there is no statute requiring the Secretary to formally approve the AHRQ Director's appointments to the Task Force.

I. Section 299b-4(a)(1) Does Not "Vest" The Appointment Of The Task Force In Anyone And Does Not Require Any Particular Method Of Appointment

The government's argument cannot get off the ground because section 299b-4(a)(1) merely requires the AHRQ Director to "convene" the Task Force. The statute does not purport to require any particular method of appointment. The statute also says nothing about the number of Task Force members or the length of their terms. Congress left all of these matters to the discretion of the executive branch, just as it did before 1999 when the Task Force was governed only by the provisions of the Federal Advisory Committee Act.

The government's insistence that the word "convene" means "convene and appoint"—and its claim that section 299b-4(a)(1) prohibits anyone other than the AHRQ Director or the HHS Secretary from appointing the Task Force—also presents serious constitutional questions that the Court should steer clear of by invoking the avoidance canon. If section 299b-4(a)(1) bans the president and the Senate from appointing the Task Force, then the statute is unconstitutional if Task Force members are principal officers. The government's interpretation of section 299b-4(a)(1) will also violate the Constitution if Congress's statutes fail to "vest" the Secretary with appointment powers under the holdings of *Hartwell* and *Smith*.

Yet there are serious reasons to doubt whether Task Force members qualify as "inferior officers." Resp. Br. 12–44. There are also serious reasons to doubt that the government's construction of section 299b-4(a)(1)—which would allow *either* the AHRQ Director *or* the HHS Secretary to appoint the Task Force—is sufficient to "vest" the appointment of the Task Force in a "Head of Department." *See* pp. 10–13, *infra*. The constitutional-avoidance canon requires the Court to adopt the respondents' interpretation of section 299b-4(a)(1), which imposes no requirements or restrictions on how the Task Force is appointed and eliminates any possibility of conflict between the statute and the Appointments Clause.

A. 42 U.S.C. § 299b-4(a)(1), By Instructing The Director Of AHRQ To "Convene" The Task Force, Does Not Alter The Presumptive Constitutional Appointment Process

A statute that instructs the AHRQ Director only to "convene" the Task Force does not require the Director to "appoint" its members. "Convene," when used as a transitive verb, means "[t]o call together, esp. for a formal meeting; to cause to assemble." *Black's Law Dictionary* (11th ed. 2019); *see also* Convene, Merriam-Webster, https://perma.cc/QDS6-899D (defining "convene" as "1. to summon before a tribunal" and "2. to cause to assemble"). It is always possible that the convening authority might also decide to appoint the individuals that he convenes, as the AHRQ Director did with the Task Force prior to June 28, 2023. But "convening" is not "appointing," and "appointing" is not "convening." The president and the Senate do not "convene" the Supreme Court when they appoint its members, and the president does not "appoint" his cabinet when he convenes it for meetings.

Statutes throughout the U.S. Code require officials to "convene" committees and councils while forbidding those officials to appoint the convened officials.[2] Other statutes require officials to "convene" entities while separately authorizing or instructing those officials to appoint the members of the convened body.[3] We have provided the text of these (and many other) statutes in Parts II and III of the appendix to this brief. All of this shows that the power to "convene" does not encompass the power to unilaterally appoint individuals who qualify as "officers of the United States," and it does not alter the constitutional default rule for appointing those officers. The president can "convene" his cabinet for weekly meetings, but that does not mean he can unilaterally appoint his cabinet without the Senate's advice and consent. Article II governs the appointment of the Task Force, just as it governs the appointment of the president's cabinet, and the Director's duty to "convene" the Task Force does not change the presumptive method of appointment in Article II.

The government argues that section 299b-4(a)(1) must be construed to require the AHRQ Director to "appoint" and not merely "convene" the Task Force.[4] The Court should reject this argument out of hand. The word "convene" does not encompass an appointment prerogative, and the government appeared to acknowledge as much at oral argument. *See* Tr. of Oral Arg. 6:8–10 ("So I agree, Your Honor, that 'convene' doesn't necessarily connote appointment"). Yet the government claims that the Court should adopt its strained interpreta-

2. *Compare* 22 U.S.C. § 4831(a)(1) ("[T]he Secretary of State shall convene a Security Review Committee" in response to a "serious security incident") (App. 72) *with* 22 U.S.C. § 4831(a)(2)(A)–(E) (App. 72–73) (designating certain individuals who must serve on the Security Review Committee regardless of the Secretary's wishes); *see also* 15 U.S.C. § 634c(b)(2)(A) (App. 23) (requiring the Small Business Administrator's Chief Counsel for Advocacy to "convene" an Interagency Working Group, for which she cannot appoint members); App. Part II.
3. *Compare* 10 U.S.C. § 611 ("[T]he Secretary of the military department concerned shall convene selection boards.") *with* 10 U.S.C. § 612 ("Members of selection boards shall be appointed by the Secretary of the military department concerned in accordance with this section."); App. 93–96.
4. *See* note 1, *supra*, and accompanying text.

tion of "convene" because (in the government's view) it would somehow be unthinkable for Congress to have failed to specify a method of appointment for the Task Force.[5]

But the premise of the government's argument is false. There is nothing anomalous or untoward about a statute that codifies the role of the Task Force while remaining agnostic on how it is to be appointed. Recall that Congress was content to remain silent on the appointment of the Task Force for the 15-year period that ran from 1984 (when the Task Force was first convened) through 1999 (when section 299b-4(a) was first enacted). And during that 15-year window, the only statute that governed the Task Force was the Federal Advisory Committee Act—a statute that regulates advisory committees and codifies their role while remaining silent on how those committees are appointed. *See The Federal Advisory Committee Act (FACA): Overview and Considerations for Congress* at 11 (March 26, 2024), https://perma.cc/VKV5-2EV4 ("FACA does not specify the manner in which committee members must be appointed."). Section 299b-4(a) serves a similar purpose: It defines the mission of the Task Force and shields it from political pressure, but it does not purport to tell the executive how to appoint its members. It is content to leave those decisions to the discretion of the executive branch, in the same way that the statute allows the executive to decide the number of Task Force members and the length of their terms.

None of this is unusual or surprising. Congress has not dictated methods of appointment for other advisory committees. And it had no reason to compel any particular method of appointment when enacting the original version of section 299b-4(a) in 1999—at a time when the Task Force was still serving purely advisory functions. There was also no need for Congress to weigh in on the appointment issue when the Affordable Care Act converted the Task Force members into "officers of the United States," as the Appointments Clause itself specifies the default method for appointing officers in the event of continued congressional silence.

Yet even if this Court were to think it odd or unwise for Congress to leave the method of appointment to the discretion of the executive branch, that is not a reason to adopt a textually dubious construction of the word "convene."[6] At oral argument, the government falsely claimed that the constitutional-avoidance canon requires this Court to reject our interpretation of "convene" because (according to the government) section 299b-4(a)(1) would violate the Constitution if it allowed the Senate to confirm Task Force nominees:

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5. *See* Tr. of Oral Arg. 6:10–15 ("[T]here's no other language in the statute that specifies who will appoint these members, and in that—in light of that, 'convene' is most naturally read to mean convene and select the people who will serve . . . on the board."); *see also* 60:22–62:15 (questions from Justice Kagan and Justice Kavanaugh expressing skepticism that Congress would fail to require a particular method of appointment for the Task Force).

   The government also expressed fear that the respondents' interpretation of section 299b-4(a)(1) would lead to chaos if different people simultaneously attempt to appoint the Task Force. *See* Tr. of Oral Arg. 110:4–12. But the executive branch is more than capable of settling these hypothetical disputes. The AHRQ Director or the HHS Secretary can resolve competing claims to the appointment prerogative, and the president can step in if individuals from different departments simultaneously assert an entitlement to appoint the Task Force.

6. The government is not claiming that the absence of a statutorily specified method of appointment justifies invocation of the absurdity canon. *See generally* John F. Manning, *The Absurdity Doctrine*, 116 Harv. L. Rev. 2387 (2003).

> [B]efore the ACA, these were not officers. And if they were not officers, it would be unconstitutional for the Senate to have any role in their confirmation. So you cannot read the statute to have presidential appointment and Senate confirmation before the ACA, and nothing in the text of the statute changed after the ACA about who does the appointing.

Tr. of Oral Arg. 26:5–13. This is wrong for many reasons. First, our interpretation of section 299b-4(a)(1) does not require the president to submit Task Force nominees for Senate confirmation; it does not require *any* particular method of appointing the Task Force. A statute that is silent on how the Task Force is to be appointed cannot conflict with the Constitution's rules for appointments. And if the executive chooses an unconstitutional means of appointing the Task Force in the absence of statutory constraints, then the *executive* is violating the Constitution—not section 299b-4(a)(1) or the respondents' proposed interpretation of it. *See* Nicholas Quinn Rosenkranz, *The Subjects of the Constitution*, 62 Stan. L. Rev. 1209 (2010).

Second, and more importantly, the Constitution does not prohibit the president from seeking the Senate's advice and consent when appointing members of an advisory committee. Article II requires Senate confirmation for "Officers of the United States," but it does not *prohibit* the president from seeking the Senate's advice and consent when appointing other individuals—even when Senate confirmation is not required as a constitutional matter. It is no different from a president choosing to seek Senate approval for a treaty that could have been adopted and implemented as a sole executive agreement. *Cf. Dames & Moore v. Regan*, 453 U.S. 654 (1981). So even if a president had decided to seek gratuitous and unnecessary Senate confirmation of Task Force members before the ACA's enactment, that would not have been an unconstitutional act. Members of advisory committees do not execute the laws; they merely provide advice. So no separation-of-powers issues arise if the Senate confirms an advisory-committee member who does not wield executive power (or any other type of power).

There are no constitutional issues that can arise with the respondents' interpretation of section 299b-4(a)(1), which imposes no requirements or prohibitions on the appointment of Task Force members. And without the constitutional-avoidance canon in play, there can be no justification for rejecting the normal understanding of "convene" in favor of a strained interpretation that equates "convene" with "convene and appoint."

B. Interpreting The Word "Convene" To Mean "Convene And Appoint" Creates Serious Doubts About Section 299b-4(a)(1)'s Constitutionality

There is a second reason why this Court must reject the government's construction of section 299b-4(a)(1). Even if the government were offering a plausible definition of "convene," its proposed interpretation of section 299b-4(a)(1) raises "serious doubt" about the statute's constitutionality. *See Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018) ("When 'a serious doubt' is raised about the constitutionality of an act of Congress, 'it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.'" (quoting *Crowell v. Benson,* 285 U.S. 22, 62 (1932)).

1. The Government's Interpretation Of "Convene" Will Render Section 299b-4(a)(1) Unconstitutional If Task Force Members Are Principal Officers

The government claims that section 299b-4(a)(1), when read in conjunction with other statutes such as 42 U.S.C. § 299(a), requires Task Force members to be appointed by either the AHRQ Director or the Secretary—and forbids their appointment by anyone else. But that means that section 299b-4(a)(1) will violate the Appointments Clause if Task Force members are principal officers. And there are (at the very least) serious reasons to doubt whether Task Force members qualify as "inferior officers," as every judge to have considered this case has concluded that Task Force members are principal officers who must be appointed by the president and the Senate. Pet. App. 12a–26a; *id.* at 114a–117a; *see also* Resp. Br. 12–44.

The Court should therefore construe section 299b-4(a)(1) to avoid this potential constitutional problem. *See Ohio v. Akron Ctr. for Reprod. Health*, 497 U.S. 502, 514 (1990) ("[W]here fairly possible, courts should construe a statute to avoid a danger of unconstitutionality."); *Edward J. DeBartolo Corp. v. Fla. Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568, 575 (1988) ("[W]here an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of Congress."). This will also obviate the need to resolve whether Task Force members should be characterized as principal or inferior officers—a difficult constitutional question that the parties have vigorously contested. *See Am. Foreign Serv. Ass'n v. Garfinkel*, 490 U.S. 153, 161 (1989) (per curiam) ("[C]ourts should be extremely careful not to issue unnecessary constitutional rulings"); *Parker v. Cnty. of Los Angeles*, 338 U.S. 327, 333 (1949) ("The best teaching of this Court's experience admonishes us not to entertain constitutional questions in advance of the strictest necessity."); *Ashwander v. TVA*, 297 U.S. 288, 345–46 (1936) (Brandeis, J., concurring).

2. The Government's Interpretation Of "Convene" Will Render Section 299b-4(a)(1) Unconstitutional If The Relevant Statutes "Vest" Appointment Powers Only In The AHRQ Director

The government's interpretation of section 299b-4(a)(1) presents serious constitutional questions even if Task Force members are "inferior" officers. Recall that section 299b-4(a)(1) requires the AHRQ Director (not the Secretary) to "convene" the Task Force. *See* 42 U.S.C. § 299b-4(a)(1) ("The [ARHQ] Director shall convene an independent Preventive Services Task Force"). If "convene" means "convene and appoint," then section 299b-4(a)(1) violates the Appointments Clause by requiring a non–Head of Department to appoint the Task Force.

The government tries to get around this problem by invoking 42 U.S.C. § 299(a) and Reorganization Plan No. 3 of 1966. It claims that Congress has "by law" vested the HHS Secretary with all of the appointment powers that section 299b-4(a)(1) purports to vest exclusively in the AHRQ Director, and it asserts that Congress vested those powers "by law" in the HHS Secretary through 42 U.S.C. § 299(a) and Reorganization Plan No. 3 of 1966. *See* Reply Br. 16–19; Tr. of Oral Arg. 12:3–13:2, 33:14–17.

But Reorganization Plan No. 3 of 1966 is no help to the government because it is not a "law" enacted by "Congress." The reorganization plan was submitted by the president to Congress, as authorized by the Reorganization Act of 1949. *See* Reorganization Plan No. 3 of 1966, 80 Stat. 1610 (1966) ("Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended.") (App. 12); Reorganization Act of 1949, 63 Stat. 203–207. And the reorganization plan took effect only because neither house exercised the legislative veto authorized by section 6 of the 1949 Reorganization Act:

> [T]he provisions of the reorganization plan shall take effect upon the expiration of the first period of sixty calendar days, of continuous session of the Congress, following the date on which the plan is transmitted to it; but only if, between the date of transmittal and the expiration of such sixty-day period there has not been passed by either of the two Houses, by the affirmative vote of a majority of the authorized membership of that House, a resolution stating in substance that that House does not favor the reorganization plan.

Reorganization Act of 1949, § 6(a), 63 Stat. 205 (1949) (App. 9). This method of lawmaking is unconstitutional under *INS v. Chadha*, 462 U.S. 919 (1983). But even putting aside that problem, Reorganization Plan No. 3 of 1966 cannot alter the constitutional default rule for appointing Task Force members because: (1) It not a "Law"; and (2) It was issued by the president rather than "Congress." *See* U.S. Const., art. II, § 2, cl. 2 ("[B]ut the *Congress* may *by Law* vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." (emphasis added)).

There is a more serious problem with the government's reliance on the reorganization plan. Section 5(a) of the 1949 Reorganization Act says:

> No reorganization plan shall provide for, and no reorganization under this Act shall have the effect of— . . .
>
> (4) authorizing any agency to exercise any function which is not expressly authorized by law at the time the plan is transmitted to the Congress.

Reorganization Act of 1949, § 5(a), 63 Stat. 205 (1949) (App. 9). When the president transmitted the reorganization plan to Congress in 1966, there were no statutes that "expressly authorized" anyone to appoint the Task Force, as the Task Force did not exist at the time. So the "functions of the Public Health Service" that the reorganization plan "transferred" to the Secretary do not include the power to appoint the Task Force, as that function was not "expressly authorized by law" when the president transmitted the reorganization plan.[7] And section 2 of the reorganization plan, which allows the Secretary to "make . . . provisions" regarding the functions transferred to him,[8] does not empower the Secretary to do anything

7. *See* Reorganization Plan No. 3 of 1966, § 1(a), 80 Stat. 1610 ("Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Health, Education, and Welfare . . . all functions of the Public Health Service . . . .") (App. 12).
8. *See* Reorganization Plan No. 3 of 1966, § 2, 80 Stat. 1610 ("The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or agency of the Public Health Service or of the Department of Health, Education, and Welfare.").

with the Task Force, because none of those "functions" were "expressly authorized by law" in 1966.[9] So the defendants cannot claim that Reorganization Plan No. 3 "vests" the Secretary with any powers over the Task Force, or that it allows the Secretary to assume for himself the appointment powers that section 299b-4(a)(1) vests in the AHRQ Director.

Congress eventually ratified Reorganization Plan No. 3 of 1966 in the aftermath of *Chadha*:

> SECTION 1. The Congress hereby ratifies and affirms as law each reorganization plan that has, prior to the date of enactment of this Act, been implemented pursuant to the provisions of chapter 9 of title 5, United States Code, or any predecessor Federal reorganization statute.
>
> SEC. 2. Any actions taken prior to the date of enactment of this Act pursuant to a reorganization plan that is ratified and affirmed by section 1 shall be considered to have been taken pursuant to a reorganization expressly approved by Act of Congress.

Pub. L. 98-532, 98 Stat. 2705 (1984) (App. 13). But this law, though enacted by Congress, does not "vest" the HHS Secretary with appointment powers over the Task Force because the ratified reorganization plan did not (and could not) transfer those powers to the Secretary in 1966. *See* Reorganization Act of 1949, § 5(a), 63 Stat. 205 (1949); pp. 8–9, *supra*.

That leaves 42 U.S.C. § 299(a) as the only remaining congressional enactment that could "vest" the HHS Secretary with the appointment powers that section 299b-4(a)(1) assigns to the AHRQ Director. But all that section 299(a) says is:

> There is established within the Public Health Service an agency to be known as the Agency for Healthcare Research and Quality, which shall be headed by a director appointed by the Secretary. The Secretary shall carry out this subchapter acting through the Director.

42 U.S.C. § 299(a) (App. 3).

It is clear that section 299(a) empowers the Secretary to direct and commandeer the AHRQ Director in the performance of his statutory duties. So the Secretary may instruct the AHRQ Director to appoint his preferred members to the Task Force, in the same way that the president can direct his cabinet secretaries or other subordinates in the exercise of their statutorily vested appointment powers. But that does not mean that Congress has "vested" the appointment of the Task Force in the Secretary, any more than it has "vested" those powers in the president. The president, no less than the Secretary, can compel the AHRQ Director to appoint his desired slate of Task Force members, by virtue of his power to control the HHS Secretary and all non-independent components of the executive branch. Yet that does not show that Congress has "vested" the president with appointment powers over the Task Force, even though the president can supervise and direct the individuals that Congress has vested with appointment prerogatives. If that were true, then every statute that vests an appointment

9. *See* Tr. of Oral Arg. 13:3–8 (Justice Sotomayor suggesting that section 2 of Reorganization Plan No. 3 of 1966 vests the Secretary with appointment powers over the Task Force).

power in someone subject to the president's control is "vesting" that appointment prerogative in the president himself. *See Removal of Assistant Postmaster of Washington, D.C.*, 17 U.S. Op. Att'ys Gen. 475, 475 (1882) (rejecting this idea); *Mow Sun Wong v. Hampton*, 435 F. Supp. 37, 42 n.6 (N.D. Cal. 1977) (same).

More importantly, section 299(a) still requires the Director to make the appointment, even when the Secretary is pulling his strings. *See* 42 U.S.C. § 299(a) ("The Secretary shall carry out this subchapter *acting through the Director*." (emphasis added)). The arrangement is similar to a statute that vests appointment prerogatives in a Head of Department (such as a cabinet secretary) who remains subject to the president's direction and control. The president can instruct the Head of Department on how he should exercise his appointment responsibilities, and he can demand that the Head of Department appoint individuals of the president's choosing. But the president cannot make the appointments himself, nor can he claim that Congress has "vested" these appointments in the president by virtue of his authority to control and direct the Head of Department.

So section 299(a) does not allow the Secretary to directly appoint Task Force members if this Court accepts the government's construction of section 299b-4(a)(1). Section 299(a) merely allows the Secretary to tell the AHRQ Director how to exercise his appointment prerogatives under section 299b-4(a)(1). That does not "vest" appointment powers in the Secretary any more than it "vests" those powers in the president, who is equally empowered to tell the AHRQ Director how to do his job. *See* pp. 9–10, *supra*.

At the very least, there is a serious question whether section 299(a) "vests" the Secretary with the powers that section 299b-4(a)(1) purports to confer only on the AHRQ Director. And the government's interpretation of section 299b-4(a)(1) will violate the Constitution if it means that the AHRQ Director holds the exclusive power to appoint the Task Force. The Court will avoid this serious constitutional question by construing the word "convene" in accordance with its ordinary meaning, and by holding that section 299b-4(a)(1) does not require any particular method of appointing the Task Force.

II. Even If This Court Accepts The Government's Interpretation Of 299b-4(a)(1), The Relevant Statutes Still Do Not "Vest" The Appointment Of The Task Force In The Secretary

Suppose that the Court rejects the respondents' interpretation of section 299b-4(a)(1) and accepts the government's construction of the word "convene," despite the government's strained interpretation of that word and despite the canon of constitutional avoidance.

Suppose further that the Court accepts the government's claim that section 299b-4(a)(1), when read in conjunction with section 299(a), allows either the AHRQ Director or the HHS Secretary, but no one else, to appoint the Task Force. And suppose that the Court further holds that Task Force members are "inferior" rather than principal officers.

Even if the respondents spot the government all of that, the Task Force is *still* unconstitutionally appointed because a statutory regime that allows either the AHRQ Director or the Secretary to appoint does not "vest" the appointment of the Task Force in the Secretary. The statutory scheme envisioned by the government allows the AHRQ Director to appoint while giving the Secretary nothing more than an option to exercise the Director's appointment powers given his supervisory role over the Department. That is not enough to "vest" the appointment of the Task Force in the Secretary, because the statute permits the AHRQ Director to appoint Task Force members unilaterally without any secretarial involvement—and the AHRQ Director did so for more than 13 years after the ACA was signed into law.

The government claims that *Hartwell* supports this arrangement, but the statute in *Hartwell* required the Secretary of the Treasury (a Head of Department) to formally approve any appointment made by the assistant treasurer before the officer's appointment could take effect:

> The assistant treasurer of the United States at Boston is hereby authorized to appoint, *with the approbation of the Secretary of the Treasury*, . . . clerk[s] . . . .

14 Stat. 202 (emphasis added) (cited in *Hartwell*, 73 U.S. at 393).[10] *Hartwell* has no application here because no statute requires the HHS Secretary's "approbation" before a Task Force member is appointed; on the contrary, the statutes (even on the government's reading) are indifferent toward whether the Secretary has any involvement in the appointments. Yet a statute will not "vest" an appointment in a Head of Department if the statute allows other individuals to appoint without the Head of Department's approval.

United States v. Smith, 124 U.S. 525 (1888), confirms all of this. *Smith* holds that a clerk in the office of a collector of customs was not an "officer of the United States" because he was not appointed as an "officer" in accordance with the Appointments Clause. *See id.* at 531–32. The Court also held that Congress had not "vested" the appointment in the Treasury Secretary because no statute required the Secretary to approve the clerk's appointment:

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10. At oral argument, the government claimed that the statute in *Hartwell* prevented the Treasury Secretary from directing or controlling the assistant treasurer's appointment decisions, and that it allowed the Secretary only to veto or approve potential appointees that the assistant treasurer proposed to him. *See* Tr. of Oral Arg. 111:17–111:24 ("In *Hartwell*, . . . there was an inferior officer who had the ability to make the appointment with the Secretary's approval on the back end. But the decision in the first instance was vested in someone who wasn't the head of the department. And yet the Court still said that that was enough to satisfy the Appointments Clause."). If this is what the statute in *Hartwell* means, then *Hartwell* is wrong and should be overruled. A Head of Department cannot be "vested" with appointment powers if one of his subordinates can thwart or overrule the appointments that the Head of Department wants to make. Would anyone say that the president is "vested" with appointment powers under a statute that allows one of his cabinet secretaries to veto the president's desired appointee—or that allows the president only to approve or veto appointees that are proposed by one of his subordinates? The only sensible construction of the statute in *Hartwell* is that the requirement of secretarial "approbation" not only compels the Treasury Secretary to formally approve each appointment before it takes effect, but also empowers the Secretary to direct and commandeer the assistant treasurer's appointment decisions. And the only sensible interpretation of *Hartwell*'s holding is that a statute "vests" an appointment in a Head of Department if: (1) The statute requires the Head of Department to formally approve or sign off on the appointment before it takes effect; and (2) The statute allows the Head of Department to fully control the decisionmaking of others involved in the appointment process.

> The number of clerks the collector may employ may be limited by the Secretary of the Treasury, but their appointment is not made by the Secretary, nor is his approval thereof required.

Id. at 532 (emphasis added). The Court further held that the clerk would not have been appointed as an officer *even if* the Secretary had approved his appointment (as alleged in the indictment) because "no law required this approbation," and the Court distinguished *Hartwell* because the statute in that case required formal secretarial approval before a clerk's appointment could take effect:

> The case of *U.S. v. Hartwell*, 6 Wall. 385, does not militate against this view. The defendant there, it is true, was a clerk in the office of the assistant treasurer at Boston, but his appointment by that officer under the act of congress could only be made with the approbation of the Secretary of the Treasury. This fact, in the opinion of the court, rendered his appointment one by the head of the department within the constitutional provision upon the subject of the appointing power. *The necessity of the Secretary's approbation to the appointment distinguishes that case essentially from the one at the bar.* The Secretary, as already said, is not invested with the selection of the clerks of the collector; nor is their selection in any way dependent upon his approbation. It is true the indictment alleges that the appointment of the defendant as clerk was made with such approbation, but, *as no law required this approbation*, the averment cannot exert any influence on the mind of the court in the disposition of the questions presented. The fact averred, if it existed, could not add to the character, or powers, or dignity of the clerk.

Id. at 532–33 (emphasis added). Yet even if one accepts the government's interpretation of the relevant statutes, there is only a law that requires the AHRQ Director (not the Secretary) to appoint the Task Force (section 299b-4(a)(1)), along with a law that allows (but does not require) the Secretary to exercise the AHRQ Director's appointments prerogatives if he chooses to do so (section 299(a)). There is no "law" requiring secretarial "approbation" to the Task Force appointments, so this case is governed by *Smith* and not *Hartwell.*

Edmond v. United States, 520 U.S. 651 (1997), further reinforces this conclusion. *Edmond* held that 49 U.S.C. § 323(a) had "vested" the appointment of civilian Coast Guard judges in the Secretary of Transportation, but only after observing that there were no statutes authorizing anyone else to appoint the Coast Guard judges. *Id.* at 656–57 (rejecting the claim that 10 U.S.C. § 866(a) allowed the Judge Advocate General to appoint the judges). *Edmond* recognizes that Congress "vests" an appointment in a Head of Department when no other individual can appoint without the Head of Department's approval or formal sign-off. When a statute allows either a Head of Department or a non–Head of Department to appoint an officer, then the appointment is not "vested" in the Head of Department unless the statute requires the Head of Department's "approbation" before the appointment takes effect.[11]

11. At oral argument, respondents' counsel stated in response to a question that "If [a statute] says the Secretary or director may appoint, then Congress has vested the appointment authority in a head of department." Tr. of Oral Arg. 69:21–24. That is not correct. A hypothetical statute of that

Finally, *Hartwell* was a stretch to begin with, as it far from clear that a person appointed by a non–Head of Department has his appointment "vested" in the cabinet secretary who merely signs off on his subordinate's decision. *See Hartwell*, 73 U.S. at 399 (Miller, J., dissenting) ("The clerks in the office of the assistant treasurer are, by the terms of this act, appointed by him alone, although by an act passed long since, and which can have no effect on the construction of this one, the assent of the Secretary of the Treasury is required. But they still derive their appointment from the assistant treasurer, and are removable at his pleasure."). Its holding should not be extended to statutes that allow non–Heads of Department to appoint without requiring Heads of Department to formally approve those appointment decisions.

III. If The Court Concludes That Congress Has "By Law" Vested Appointment Powers In The Secretary, It Must Still Affirm The Court Of Appeals' Decision To Enjoin The Coverage Mandates Issued Between March 23, 2010, And June 28, 2023

The Task Force was appointed by the AHRQ Director until Secretary Becerra reappointed its members on June 28, 2023. The government has conceded (as it must) that the Task Force was unconstitutionally appointed from March 23, 2010 (the date on which the Affordable Care Act was signed into law) through June 28, 2023. So the "A" and "B" ratings that the Task Force issued during this 13-year window cannot be given binding legal force—even if this Court decides that Task Force members are "inferior" officers, and even if Congress has "vested" their appointment "by Law" in the Secretary of Health and Human Services. The most that this Court can do is allow the government to enforce the Task Force coverage recommendations that post-date the secretarial appointments of June 28, 2023.

At oral argument, the government asked the Court to "remand" so the lower courts could determine "whether the old recommendations either have to be enjoined or can be ratified by the Task Force." Tr. of Oral Arg. at 112:15–18. But there is nothing to remand because the government has already acknowledged that the Task Force was unconstitutionally appointed from March 23, 2010, through June 28, 2023, and the respondents acknowledge that the reappointed Task Force *can* reissue the previously announced "A" or "B" ratings if this Court rules that Congress has constitutionally vested the Secretary with appointment powers over the Task Force.[12] The problem is that the Task Force *has not* reissued those previously announced "A" or "B" ratings since it was reappointed by Secretary Becerra. So the Court must affirm the injunction that restrains the government from enforcing the "A" and "B" ratings that issued between March 23, 2010, and June 28, 2023, no matter how the Court resolves the Appointments Clause issues in this case.

A remand is doubly inappropriate because the lower courts have already enjoined the government from enforcing the "A" and "B" ratings that the Task Force issued between March 23,

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sort would "vest" appointment authority in a Head of Department only if the statute required formal secretarial approval before any Task Force appointment could take effect. *See Hartwell*, 73 U.S. at 393; *Smith*, 124 U.S. at 532–33.

12. Although any "A" or "B" ratings that the Task Force reissues will have to go through notice and comment as a substantive rule that implements or prescribes law or policy. *See* 5 U.S.C. § 553.

2010, and June 28, 2023,[13] and they explicitly rejected Secretary Becerra's attempt to "ratify" those previously issued coverage mandates in his memorandum of January 21, 2022. Pet. App. 26a–28a; *id*. at 106a; J.A. 34a–35a. The government has not argued that the court of appeals erred by rejecting Secretary Becerra's ratification efforts or by enjoining enforcement of the coverage mandates that the Task Force announced between March 23, 2010, and June 28, 2023. This Court must either affirm or vacate this portion of the court of appeals' judgment, and it has no basis for vacating when the government concedes that the Task Force was unconstitutionally appointed from March 23, 2010, through June 28, 2023, and when the government has not argued that the court of appeals erred by enjoining enforcement of the coverage mandates that issued during this 13-year window. The Task Force will of course be allowed to reissue the currently enjoined coverage recommendations if this Court rules that Task Force members are inferior officers and that Congress has vested their appointment in the Secretary. But the lower courts' injunction against the enforcement of those coverage mandates must remain in effect until that time.

IV. The Court Should Be Hesitant To Rule On Whether Congress Has Vested The Secretary With Appointment Powers

A ruling from this Court that Congress has not vested the Secretary with appointment powers over the Task Force will serve the passive virtues and constitutional avoidance by obviating the need for a ruling on the difficult and hotly contested principal-officer question. *See* p. 7, *supra*. But if the Court intends to hold that Task Force members are inferior officers, the respondents believe that it would be ill-advised for this Court to decide in the first instance whether Congress has vested the appointment of the Task Force in the Secretary. No court has ever weighed in on this question. The court of appeals did not consider it because it held that Task Force members are principal officers, Pet. App. 26a, and the district court did not reach it because Secretary Becerra did not reappoint the Task Force until after the government appealed, Pet. App. 26a; id. at 116a–117a. It is exceedingly unusual for this Court to resolve a contested issue of law that no court in the country has previously addressed, and it almost always declines requests to do so. *See, e.g.*, *Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005) ("[W]e are a court of review, not of first view").[14]

The respondents are also concerned that the arguments presented in these supplemental briefs have not run the ordinary gantlet of contested advocacy. Although the Court has invited the parties to submit supplemental briefs, it is not affording the parties an opportunity to respond to the other side's written submissions, and the attorneys are not being forced to defend their supplemental briefs at oral argument. Although the respondents are confident in the arguments that they are presenting and are convinced that the government's arguments that they have seen to this point are fatally deficient, the procedure chosen by this Court is not condu-

13. Pet. App. 47a; J.A. 58a–59a.

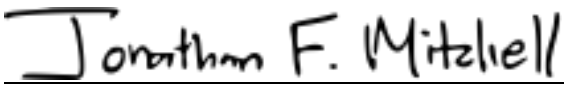
14. Hardly any commentators have written on this issue either. We have not found any relevant commentary in academic journals, and our research has uncovered only one blog post discussing the issue. *See* Seth Barrett Tillman and Josh Blackman, *The Supreme Court's Order for Supplemental Briefing in Kennedy v. Braidwood and the Reorganization Plan of 1966*, Reason: Volokh Conspiracy (April 28, 2025, 4:46 P.M.), https://perma.cc/C46H-BYV7.

cive to sound judicial decisionmaking, which should occur only after the attorneys have been provided an opportunity to hammer the weaknesses they perceive in their opponents' briefing and after counsel have been grilled on their written submissions at oral argument.

There may be an understandable desire to avoid a remand if members of this Court are concerned that continued litigation will prolong uncertainty over the legality of the preventive-care coverage regime. And there may be an equally understandable desire to dispose of this case in a manner that ensures a seamless and continuous enforceability of the previously announced coverage mandates. But a resolution of that sort is not possible, even if Task Force members qualify as inferior officers and even if Congress has vested their appointment in the Secretary of Health and Human Services. Both sides agree that the Task Force was unconstitutionally appointed by the AHRQ Director from March 23, 2010, through June 28, 2023, so the coverage mandates that the Task Force issued during that 13-year window will remain unenforceable no matter how this Court rules on the Appointments Clause issues. *See* pp. 13–14, *supra*. The most that this Court can provide is a clean bill of health for the handful of preventive-care coverage recommendations that the Task Force announced after June 28, 2023,[15] as well as any coverage mandates that the Task Force might impose in the future. *Id*.

The Court should also keep in mind that the executive branch can shield the future coverage recommendations of the Task Force from an Appointments Clause challenge. All it has to do is have the president reappoint the Task Force with the Senate's advice and consent. That will ensure the validity of subsequent coverage mandates even if the courts eventually decide that Congress has not vested the Secretary with appointment powers over the Task Force. Securing Senate confirmation for the 16-member Task Force is hardly a laborious task. And the executive should have every incentive to pursue Senate confirmation if the Court remands, given how vigorously it has defended the preventive-care coverage regime before this Court. The executive's unwillingness to go through the trouble of obtaining Senate confirmation for its Task Force nominees, or the Court's desire to spare the executive from these inconveniences, are not, in our view, a reason for this Court to decide a novel and contested question that no court has ever ruled upon, in reliance on supplemental briefs that have not been vetted by opposing counsel and that have not withstood the crucible of oral argument. The risk of error is real, and there is no reason to take this risk when the president and the Senate can promptly reappoint the Task Force if this Court remands and allows the lower courts to decide whether Congress has vested the Secretary with appointment powers over the Task Force.

Respectfully submitted.



JONATHAN F. MITCHELL
Counsel for Respondents

15. *See* https://perma.cc/U6RB-NL7Z (listing the eight preventive-care items and services that received "A" or "B" ratings from the Task Force after June 28, 2023).

APPENDIX

APPEDNIX PART I

APPEDNIX PART II
(Statutes Showing That The Power To "Convene" Excludes The Power To Appoint)

APPEDNIX PART III
(Statutes That Separately Confer The Power To "Convene" And The Power To Appoint)

PART I

U.S. Const., art. II, § 2, cl. 2

[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, anyersd which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

42 U.S.C. § 299(a). Mission and Duties

(a) In general

There is established within the Public Health Service an agency to be known as the Agency for Healthcare Research and Quality, which shall be headed by a director appointed by the Secretary. The Secretary shall carry out this subchapter acting through the Director.

42 U.S.C. § 299b-4(a). Research supporting primary care and access in underserved areas [current version]

(a) Preventive Services Task Force

(1) Establishment and purpose

The Director shall convene an independent Preventive Services Task Force (referred to in this subsection as the "Task Force") to be composed of individuals with appropriate expertise. Such Task Force shall review the scientific evidence related to the effectiveness, appropriateness, and cost-effectiveness of clinical preventive services for the purpose of developing recommendations for the health care community, and updating previous clinical preventive recommendations, to be published in the Guide to Clinical Preventive Services (referred to in this section as the "Guide"), for individuals and organizations delivering clinical services, including primary care professionals, health care systems, professional societies, employers, community organizations, non-profit organizations, Congress and other policy-makers, governmental public health agencies, health care quality organizations, and organizations developing national health objectives. Such recommendations shall consider clinical preventive best practice recommendations from the Agency for Healthcare Research and Quality, the National Institutes of Health, the Centers for Disease Control and Prevention, the Institute of Medicine, specialty medical associations, patient groups, and scientific societies.

(2) Duties

The duties of the Task Force shall include—

(A) the development of additional topic areas for new recommendations and interventions related to those topic areas, including those related to specific sub-populations and age groups;

(B) at least once during every 5-year period, review interventions and update recommendations related to existing topic areas, including new or improved techniques to assess the health effects of interventions;

(C) improved integration with Federal Government health objectives and related target setting for health improvement;

(D) the enhanced dissemination of recommendations;

(E) the provision of technical assistance to those health care professionals, agencies and organizations that request help in implementing the Guide recommendations; and

(F) the submission of yearly reports to Congress and related agencies identifying gaps in research, such as preventive services that receive an insufficient evidence statement, and recommending priority areas that deserve further examination, including areas related to populations and age groups not adequately addressed by current recommendations.

(3) Role of Agency

The Agency shall provide ongoing administrative, research, and technical support for the operations of the Task Force, including coordinating and supporting the dissemination of the recommendations of the Task Force, ensuring adequate staff resources, and assistance to those organizations requesting it for implementation of the Guide's recommendations.

(4) Coordination with Community Preventive Services Task Force

The Task Force shall take appropriate steps to coordinate its work with the Community Preventive Services Task Force and the Advisory Committee on Immunization Practices, including the examination of how each task force's recommendations interact at the nexus of clinic and community.

(5) Operation

Operation. In carrying out the duties under paragraph (2), the Task Force is not subject to the provisions of chapter 10 of Title 5.

(6) Independence

All members of the Task Force convened under this subsection, and any recommendations made by such members, shall be independent and, to the extent practicable, not subject to political pressure.

(7) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out the activities of the Task Force.

42 U.S.C. § 299b-4(a). Research supporting primary care and access in underserved areas [original 1999 version]

(a) Preventive Services Task Force

(1) Establishment and purpose

The Director may periodically convene a Preventive Services Task Force to be composed of individuals with appropriate expertise. Such a task force shall review the scientific evidence related to the effectiveness, appropriateness, and cost-effectiveness of clinical preventive services for the purpose of developing recommendations for the health care community, and updating previous clinical preventive recommendations.

(2) Role Of Agency

The Agency shall provide ongoing administrative, research, and technical support for the operations of the Preventive Services Task Force, including coordinating and supporting the dissemination of the recommendations of the Task Force.

(3) Operation

In carrying out its responsibilities under paragraph (1), the Task Force is not subject to the provisions of Appendix 2 of title 5, United States Code.

[CHAPTER 226]

AN ACT

To provide for the reorganization of Government agencies, and for other purposes.

June 20, 1949
[H. R. 2361]
[Public Law 109]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE

SECTION 1. This Act may be cited as the "Reorganization Act of 1949". Reorganization Act of 1949.

NEED FOR REORGANIZATIONS

SEC. 2. (a) The President shall examine and from time to time reexamine the organization of all agencies of the Government and shall determine what changes therein are necessary to accomplish the following purposes:

(1) to promote the better execution of the laws, the more effective management of the executive branch of the Government and of its agencies and functions, and the expeditious administration of the public business;

(2) to reduce expenditures and promote economy, to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

(b) The Congress declares that the public interest demands the carrying out of the purposes specified in subsection (a) and that such purposes may be accomplished in great measure by proceeding under the provisions of this Act, and can be accomplished more speedily thereby than by the enactment of specific legislation.

REORGANIZATION PLANS

SEC. 3. Whenever the President, after investigation, finds that— Findings by the President.

(1) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency; or

(2) the abolition of all or any part of the functions of any agency; or

(3) the consolidation or coordination of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; or

(4) the consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof; or

(5) the authorization of any officer to delegate any of his functions; or

(6) the abolition of the whole or any part of any agency which agency or part does not have, or upon the taking effect of the reorganization plan will not have any functions,

Preparation and transmittal of plans to Congress.

is necessary to accomplish one or more of the purposes of section 2 (a), he shall prepare a reorganization plan for the making of the reorganizations as to which he has made findings and which he includes in the plan, and transmit such plan (bearing an identifying number) to the Congress, together with a declaration that, with respect to each reorganization included in the plan, he has found that such reorganization is necessary to accomplish one or more of the purposes of section 2 (a). The delivery to both Houses shall be on the same day and shall be made to each House while it is in session. The President, in his message transmitting a reorganization plan, shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of such function, and shall specify the reduction of expenditures (itemized so far as practicable) which it is probable will be brought about by the taking effect of the reorganizations included in the plan.

Specification of statutory authority.

OTHER CONTENTS OF PLANS

SEC. 4. Any reorganization plan transmitted by the President under section 3—

(1) shall change, in such cases as he deems necessary, the name of any agency affected by a reorganization, and the title of its head; and shall designate the name of any agency resulting from a reorganization and the title of its head;

Appointment and compensation of certain officers.

(2) may include provisions for the appointment and compensation of the head and one or more other officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan such provisions are necessary. The head so provided for may be an individual or may be a commission or board with two or more members. In the case of any such appointment the term of office shall not be fixed at more than four years, the compensation shall not be at a rate in excess of that found by the President to prevail in respect of comparable officers in the executive branch, and, if the appointment is not under the classified civil service, it shall be by the President, by and with the advice and consent of the Senate, except that, in the case of any officer of the municipal government of the District of Columbia, it may be by the Board of Commissioners or other body or officer of such government designated in the plan;

Transfer of records, etc.

(3) shall make provision for the transfer or other disposition of the records, property, and personnel affected by any reorganization;

Transfer of funds, etc.

(4) shall make provision for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with any function or agency affected by a reorganization, as he deems necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have such have such functions after the reorganization plan is effective, but such unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made;

Abolished agency.

(5) shall make provision for terminating the affairs of any agency abolished.

LIMITATIONS ON POWERS WITH RESPECT TO REORGANIZATIONS

SEC. 5. (a) No reorganization plan shall provide for, and no reorganization under this Act shall have the effect of—

(1) abolishing or transferring an executive department or all the functions thereof or consolidating any two or more executive departments or all the functions thereof; or

(2) continuing any agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made; or

(3) continuing any function beyond the period authorized by law for its exercise, or beyond the time when it would have terminated if the reorganization had not been made; or

(4) authorizing any agency to exercise any function which is not expressly authorized by law at the time the plan is transmitted to the Congress; or

(5) increasing the term of any office beyond that provided by law for such office; or

(6) transferring to or consolidating with any other agency the municipal government of the District of Columbia or all those functions thereof which are subject to this Act, or abolishing said government or all said functions.

Time limitation for transmittal to Congress.

(b) No provision contained in a reorganization plan shall take effect unless the plan is transmitted to the Congress before April 1, 1953.

TAKING EFFECT OF REORGANIZATIONS

Effective date.

SEC. 6. (a) Except as may be otherwise provided pursuant to subsection (c) of this section, the provisions of the reorganization plan shall take effect upon the expiration of the first period of sixty calendar days, of continuous session of the Congress, following the date on which the plan is transmitted to it; but only if, between the date of transmittal and the expiration of such sixty-day period there has not been passed by either of the two Houses, by the affirmative vote of a majority of the authorized membership of that House, a resolution stating in substance that that House does not favor the reorganization plan.

(b) For the purposes of subsection (a)—

(1) continuity of session shall be considered as broken only by an adjournment of the Congress sine die; but

(2) in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(c) Any provision of the plan may, under provisions contained in the plan, be made operative at a time later than the date on which the plan shall otherwise take effect.

DEFINITION OF "AGENCY"

SEC. 7. When used in this Act, the term "agency" means any executive department, commission, council, independent establishment, Government corporation, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government, and means also any and all parts of the municipal government of the District of Columbia except the courts thereof. Such term does not include the Comptroller General of the United States or the General Accounting Office, which are a part of the legislative branch of the Government.

MATTERS DEEMED TO BE REORGANIZATIONS

"Reorganization."

SEC. 8. For the purposes of this Act the term "reorganization" means any transfer, consolidation, coordination, authorization, or abolition, referred to in section 3.

SAVING PROVISIONS

SEC. 9. (a) (1) Any statute enacted, and any regulation or other action made, prescribed, issued, granted, or performed in respect of or by any agency or function affected by a reorganization under the provisions of this Act, before the effective date of such reorganization, shall, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, have the same effect as if such reorganization had not been made; but where any such statute, regulation, or other action has vested the function in the agency from which it is removed under the plan, such function shall, insofar as it is to be exercised after the plan becomes effective, be considered as vested in the agency under which the function is placed by the plan.

"Regulation or other action."

(2) As used in paragraph (1) of this subsection the term "regulation or other action" means any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

Suits, proceedings, etc.

(b) No suit, action, or other proceeding lawfully commenced by or against the head of any agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any reorganization plan under the provisions of this Act, but the court may, on motion or supplemental petition filed at any time within twelve months after such reorganization plan takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the successor of such head or officer under the reorganization effected by such plan or, if there be no such successor, against such agency or officer as the President shall designate.

UNEXPENDED APPROPRIATIONS

SEC. 10. The appropriations or portions of appropriations unexpended by reason of the operation of this Act shall not be used for any purpose, but shall be impounded and returned to the Treasury.

PRINTING OF REORGANIZATION PLANS

SEC. 11. Each reorganization plan which shall take effect shall be printed in the Statutes at Large in the same volume as the public laws, and shall be printed in the Federal Register.

TITLE II

Congressional rules for consideration of plans.

SEC. 201. The following sections of this title are enacted by the Congress:

(a) As an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in section 202); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

Post, p. 207.

Modification.

(b) With full recognition of the constitutional right of either

House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

"Resolution."

SEC. 202. As used in this title, the term "resolution" means only a resolution of either of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the ——— does not favor the reorganization plan numbered — transmitted to Congress by the President on ————————, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; and does not include a resolution which specifies more than one reorganization plan.

Reference of resolution to committee.

SEC. 203. A resolution with respect to a reorganization plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

Discharge of committee.

SEC. 204. (a) If the committee to which has been referred a resolution with respect to a reorganization plan has not reported it before the expiration of ten calendar days after its introduction, it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such reorganization plan which has been referred to the committee.

Status of motion.

(b) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same reorganization plan), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same reorganization plan.

Procedure for consideration of resolution.

SEC. 205. (a) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(b) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

Motions to postpone.

SEC. 206. (a) All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a reorganization plan, and all motions to proceed to the consideration of other business, shall be decided without debate.

Appeals from decisions of Chair.

(b) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

Approved June 20, 1949.

(b) The Secretary of Health, Education, and Welfare shall make such provisions as he shall deem to be necessary respecting the winding up of any outstanding affairs of the Assistant Secretary whose office is abolished by subsection (a) of this section.

Reorganization Plan No. 3 of 1966

Transmitted Apr. 25, 1966. Effective June 25, 1966.

Ante, p. 394. 5 USC 901-913.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended.

PUBLIC HEALTH SERVICE

SECTION 1. *Transfer of functions.* (a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) all functions of the Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service.

(b) This section shall not apply to the functions vested by law in any advisory council, board, or committee of or in the Public Health Service which is established by law or is required by law to be established.

SEC. 2. *Performance of transferred functions.* The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or agency of the Public Health Service or of the Department of Health, Education, and Welfare.

SEC. 3. *Abolitions.* (a) The following agencies of the Public Health Service are hereby abolished:

(1) The Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services.

(2) The Bureau of State Services, including the office of Chief of the Bureau of State Services.

58 Stat. 683; 62 Stat. 469.

(3) The agency designated as the National Institutes of Health (42 U.S.C. 203), including the office of Director of the National Institutes of Health (42 U.S.C. 206(b)) but excluding the several research Institutes in the agency designated as the National Institutes of Health.

(4) The agency designated as the Office of the Surgeon General (42 U.S.C. 203(1)), together with the office held by the Deputy Surgeon General (42 U.S.C. 206(a)).

(b) The Secretary shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. *Incidental transfers.* As he may deem necessary in order to carry out the provisions of this reorganization plan, the Secretary may from time to time effect transfers within the Department of Health, Education, and Welfare of any of the records, property, personnel and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Department which relate to functions affected by this reorganization plan.

Public Law 98-532
98th Congress

An Act

To prevent disruption of the structure and functioning of the Government by ratifying all reorganization plans as a matter of law.

Oct. 19, 1984
[H.R. 6225]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government organization and employees.
5 USC 906 note.

SECTION 1. The Congress hereby ratifies and affirms as law each reorganization plan that has, prior to the date of enactment of this Act, been implemented pursuant to the provisions of chapter 9 of title 5, United States Code, or any predecessor Federal reorganization statute.

5 USC 901 *et seq.*

SEC. 2. Any actions taken prior to the date of enactment of this Act pursuant to a reorganization plan that is ratified and affirmed by section 1 shall be considered to have been taken pursuant to a reorganization expressly approved by Act of Congress.

5 USC 906 note.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 6225:

HOUSE REPORT No. 98-1104 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Oct. 1, considered and passed House.
Oct. 4, considered and passed Senate.

PART II

United States Code Annotated
Title 10. Armed Forces (Refs & Annos)
Subtitle A. General Military Law (Refs & Annos)
Part I. Organization and General Military Powers
Chapter 5. Joint Chiefs of Staff (Refs & Annos)

10 U.S.C.A. § 151

§ 151. Joint Chiefs of Staff: composition; functions

Effective: December 20, 2020
Currentness

(a) Composition.--There are in the Department of Defense the Joint Chiefs of Staff, headed by the Chairman of the Joint Chiefs of Staff. The Joint Chiefs of Staff consist of the following:

(1) The Chairman.

(2) The Vice Chairman.

(3) The Chief of Staff of the Army.

(4) The Chief of Naval Operations.

(5) The Chief of Staff of the Air Force.

(6) The Commandant of the Marine Corps.

(7) The Chief of the National Guard Bureau.

(8) The Chief of Space Operations.

(b) Function as military advisers.--(1) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, the Homeland Security Council, and the Secretary of Defense.

(2) The other members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, the Homeland Security Council, and the Secretary of Defense as specified in subsection (d).

(c) Consultation by Chairman.--(1) In carrying out his functions, duties, and responsibilities, the Chairman shall, as necessary, consult with and seek the advice of--

(A) the other members of the Joint Chiefs of Staff; and

(B) the commanders of the unified and specified combatant commands.

(2) Subject to subsection (d), in presenting advice with respect to any matter to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, the Chairman shall, as he considers appropriate, inform the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, as the case may be, of the range of military advice and opinion with respect to that matter.

(d) Advice and opinions of members other than Chairman.--(1) After first informing the Secretary of Defense and the Chairman, the members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisors, may provide advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense on a particular matter on the judgment of the military member.

(2) A member of the Joint Chiefs of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, as the case may be.

(3) The Chairman shall establish procedures to ensure that the presentation of his own advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

[**(e) Repealed.** Pub.L. 114-328, Div. A, Title IX, § 921(a)(2)(C), Dec. 23, 2016, 130 Stat. 2351]

(f) Recommendations to Congress.--After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

(g) Meetings of JCS.--(1) The Chairman **shall convene** regular meetings of the Joint Chiefs of Staff.

(2) Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman shall--

(A) preside over the Joint Chiefs of Staff;

(B) provide agenda for the meetings of the Joint Chiefs of Staff (including, as the Chairman considers appropriate, any subject for the agenda recommended by any other member of the Joint Chiefs of Staff);

(C) assist the Joint Chiefs of Staff in carrying on their business as promptly as practicable; and

(D) determine when issues under consideration by the Joint Chiefs of Staff shall be decided.

CREDIT(S)

(Added Pub.L. 99-433, Title II, § 201, Oct. 1, 1986, 100 Stat. 1005; amended Pub.L. 102-484, Div. A, Title IX, § 911(a), Oct. 23, 1992, 106 Stat. 2473; Pub.L. 109-163, Div. A, Title IX, § 908(a), Jan. 6, 2006, 119 Stat. 3403; Pub.L. 112-81, Div. A, Title V, § 512(a), Dec. 31, 2011, 125 Stat. 1393; Pub.L. 114-328, Div. A, Title IX, § 921(a), Dec. 23, 2016, 130 Stat. 2351; Pub.L. 116-92, Div. A, Title IX, § 953(c), Dec. 20, 2019, 133 Stat. 1564.)

10 U.S.C.A. § 151, 10 USCA § 151
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

End of Document

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Proposed Legislation

United States Code Annotated
Title 10. Armed Forces (Refs & Annos)
Subtitle A. General Military Law (Refs & Annos)
Part II. Personnel (Refs & Annos)
Chapter 36. Promotion, Separation, and Involuntary Retirement of Officers on the Active-Duty List (Refs & Annos)
Subchapter I. Selection Boards (Refs & Annos)

10 U.S.C.A. § 611

§ 611. Convening of selection boards

Effective: December 28, 2001
Currentness

(a) Whenever the needs of the service require, the Secretary of the military department concerned shall convene selection boards to recommend for promotion to the next higher permanent grade, under subchapter II of this chapter, officers on the active-duty list in each permanent grade from first lieutenant through brigadier general in the Army, Air Force, or Marine Corps and from lieutenant (junior grade) through rear admiral (lower half) in the Navy. The preceding sentence does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(b) Whenever the needs of the service require, the Secretary of the military department concerned may convene selection boards to recommend officers for continuation on active duty under section 637 of this title or for early retirement under section 638 of this title.

(c) The convening of selection boards under subsections (a) and (b) shall be under regulations prescribed by the Secretary of Defense.

CREDIT(S)

(Added Pub.L. 96-513, Title I, § 105, Dec. 12, 1980, 94 Stat. 2851; amended Pub.L. 97-86, Title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub.L. 99-145, Title V, § 514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub.L. 107-107, Div. A, Title V, § 505(a)(3), Dec. 28, 2001, 115 Stat. 1086.)

Notes of Decisions (2)

10 U.S.C.A. § 611, 10 USCA § 611
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

United States Code Annotated
Title 10. Armed Forces (Refs & Annos)
Subtitle A. General Military Law (Refs & Annos)
Part II. Personnel (Refs & Annos)
Chapter 36. Promotion, Separation, and Involuntary Retirement of Officers on the Active-Duty List (Refs & Annos)
Subchapter I. Selection Boards (Refs & Annos)

10 U.S.C.A. § 612

§ 612. Composition of selection boards

Effective: January 1, 2021
Currentness

(a)(1) Members of selection boards shall be appointed by the Secretary of the military department concerned in accordance with this section. A selection board shall consist of five or more officers of the same armed force as the officers under consideration by the board. Each member of a selection board (except as provided in paragraphs (2), (3), and (4)) shall be an officer on the active-duty list. Each member of a selection board must be serving in a grade higher than the grade of the officers under consideration by the board, except that no member of a board may be serving in a grade below major or lieutenant commander. The members of a selection board shall represent the diverse population of the armed force concerned to the extent practicable.

(2)(A) Except as provided in subparagraph (B), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

(B) A selection board need not include an officer from a competitive category to be considered by the board when there are no officers of that competitive category on the active-duty list in a grade higher than the grade of the officers to be considered by the board and eligible to serve on the board. However, in such a case the Secretary of the military department concerned, in his discretion, may appoint as a member of the board an officer of that competitive category who is not on the active-duty list from among officers of the same armed force as the officers under consideration by the board who hold a higher grade than the grade of the officers under consideration and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

(3) When reserve officers of an armed force are to be considered by a selection board, the membership of the board shall include at least one reserve officer of that armed force on active duty (whether or not on the active-duty list). The actual number of reserve officers shall be determined by the Secretary of the military department concerned, in the Secretary's discretion. Notwithstanding the first sentence of this paragraph, in the case of a board which is considering officers in the grade of colonel or brigadier general or, in the case of officers of the Navy, captain or rear admiral (lower half), no reserve officer need be included if there are no reserve officers of that armed force on active duty in the next higher grade who are eligible to serve on the board.

(4) Except as provided in paragraphs (2) and (3), if qualified officers on the active-duty list are not available in sufficient number to comprise a selection board, the Secretary of the military department concerned shall complete the membership of the board

by appointing as members of the board officers who are members of the same armed force and hold a grade higher than the grade of the officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

(5) A retired general or flag officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

(b) No officer may be a member of two successive selection boards convened under section 611(a) of this title for the consideration of officers of the same competitive category and grade.

(c)(1) Each selection board convened under section 611(a) of this title that will consider an officer described in paragraph (2) shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is a joint qualified officer.

(2) Paragraph (1) applies with respect to an officer who--

(A) is serving on, or has served on, the Joint Staff; or

(B) is a joint qualified officer.

(3) The Secretary of Defense may waive the requirement in paragraph (1) in the case of--

(A) any selection board of the Marine Corps; or

(B) any selection board that is considering officers in specialties identified in paragraph (2) or (3) of section 619a(b) of this title.

CREDIT(S)

(Added Pub.L. 96-513, Title I, § 105, Dec. 12, 1980, 94 Stat. 2851; amended Pub.L. 97-22, § 4(a), July 10, 1981, 95 Stat. 125; Pub.L. 97-86, Title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub.L. 99-145, Title V, § 514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub.L. 99-433, Title IV, § 402(a), Oct. 1, 1986, 100 Stat. 1030; Pub.L. 106-398, § 1 [Div. A, Title V, § 504(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-101; Pub.L. 111-383, Div. A, Title V, § 522(a), Jan. 7, 2011, 124 Stat. 4214; Pub.L. 116-283, Div. A, Title V, § 503(a)(1), Jan. 1, 2021, 134 Stat. 3564.)

10 U.S.C.A. § 612, 10 USCA § 612
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

United States Code Annotated
Title 15. Commerce and Trade
Chapter 14A. Aid to Small Business (Refs & Annos)

15 U.S.C.A. § 634c

§ 634c. Additional duties of Office of Advocacy

Effective: February 24, 2016
Currentness

(a) In general

The Office of Advocacy shall also perform the following duties on a continuing basis:

(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

(2) counsel small businesses on how to resolve questions and problems concerning the relationship of the small business to the Federal Government;

(3) develop proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such proposals to the appropriate Federal agencies;

(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business;

(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services; and

(6) carry out the responsibilities of the Office of Advocacy under chapter 6 of Title 5.

(b) Outreach and input from small businesses on trade promotion authority

(1) Definitions

In this subsection--

(A) the term "agency" has the meaning given the term in section 551 of Title 5;

(B) the term "Chief Counsel for Advocacy" means the Chief Counsel for Advocacy of the Small Business Administration;

(C) the term "covered trade agreement" means a trade agreement being negotiated pursuant to section 4202(b) of Title 19; and

(D) the term "Working Group" means the Interagency Working Group convened under paragraph (2)(A).

(2) Working Group

(A) In general

Not later than 30 days after the date on which the President submits the notification required under section 4204(a) of Title 19, the Chief Counsel for Advocacy **shall convene** an Interagency Working Group, which shall consist of an employee from each of the following agencies, as selected by the head of the agency or an official delegated by the head of the agency:

(i) The Office of the United States Trade Representative.

(ii) The Department of Commerce.

(iii) The Department of Agriculture.

(iv) Any other agency that the Chief Counsel for Advocacy, in consultation with the United States Trade Representative, determines to be relevant with respect to the subject of the covered trade agreement.

(B) Views of small businesses

Not later than 30 days after the date on which the Chief Counsel for Advocacy convenes the Working Group under subparagraph (A), the Chief Counsel for Advocacy shall identify a diverse group of small businesses, representatives of small businesses, or a combination thereof, to provide to the Working Group the views of small businesses in the manufacturing, services, and agriculture industries on the potential economic effects of the covered trade agreement.

(3) Report

(A) In general

Not later than 180 days after the date on which the Chief Counsel for Advocacy convenes the Working Group under paragraph (2)(A), the Chief Counsel for Advocacy shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Finance of the Senate and the Committee on Small Business and the Committee on Ways and Means of the House of Representatives a report on the economic impacts of the covered trade agreement on small businesses, which shall--

(i) identify the most important priorities, opportunities, and challenges to various industries from the covered trade agreement;

(ii) assess the impact for new small businesses to start exporting, or increase their exports, to markets in countries that are parties to the covered trade agreement;

(iii) analyze the competitive position of industries likely to be significantly affected by the covered trade agreement;

(iv) identify--

(I) any State-owned enterprises in each country participating in negotiations for the covered trade agreement that could pose a threat to small businesses; and

(II) any steps to take to create a level playing field for those small businesses;

(v) identify any rule of an agency that should be modified to become compliant with the covered trade agreement; and

(vi) include an overview of the methodology used to develop the report, including the number of small business participants by industry, how those small businesses were selected, and any other factors that the Chief Counsel for Advocacy may determine appropriate.

(B) Delayed submission

To ensure that negotiations for the covered trade agreement are not disrupted, the President may require that the Chief Counsel for Advocacy delay submission of the report under subparagraph (A) until after the negotiations for the covered trade agreement are concluded, provided that the delay allows the Chief Counsel for Advocacy to submit the report to Congress not later than 45 days before the Senate or the House of Representatives acts to approve or disapprove the covered trade agreement.

(C) Avoidance of duplication

The Chief Counsel for Advocacy shall, to the extent practicable, coordinate the submission of the report under this paragraph with the United States International Trade Commission, the United States Trade Representative, other agencies, and trade advisory committees to avoid unnecessary duplication of reporting requirements.

CREDIT(S)

(Pub.L. 94-305, Title II, § 203, June 4, 1976, 90 Stat. 669; Pub.L. 111-240, Title I, § 1602(a), Sept. 27, 2010, 124 Stat. 2551; Pub.L. 114-125, Title V, § 502, Feb. 24, 2016, 130 Stat. 172.)

15 U.S.C.A. § 634c, 15 USCA § 634c
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

End of Document

United States Code Annotated
Title 16. Conservation
Chapter 59A. Wetlands (Refs & Annos)

16 U.S.C.A. § 3951

§ 3951. Definitions

Currentness

As used in this chapter, the term--

(1) "Secretary" means the Secretary of the Army;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus [1] change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;

(4) "State" means the State of Louisiana;

(5) "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes; for the purposes of this chapter, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa;

(6) "coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this chapter or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions, or components of projects and operation, maintanence [2] and rehabilitation of completed projects; the primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits;

(7) "coastal wetlands conservation project" means--

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon;

(8) "Governor" means the Governor of Louisiana;

(9) "Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Commerce; and

(10) "Director" means the Director of the United States Fish and Wildlife Service.

CREDIT(S)

(Pub.L. 101-646, Title III, § 302, Nov. 29, 1990, 104 Stat. 4778.)

Footnotes

1 So in original. Probably should be "de minimis".

2 So in original. Probably should be "maintenance".

16 U.S.C.A. § 3951, 16 USCA § 3951
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

United States Code Annotated
Title 16. Conservation
Chapter 59A. Wetlands (Refs & Annos)

16 U.S.C.A. § 3952

§ 3952. Priority Louisiana coastal wetlands restoration projects

Effective: October 12, 1996
Currentness

(a) Priority project list

(1) Preparation of list

Within forty-five days after November 29, 1990, the Secretary **shall convene** the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) Task Force procedures

The Secretary **shall convene** meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to the Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 3953 of this title.

(3) Transmittal of list

No later than one year after November 29, 1990, the Secretary shall transmit to the Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to the Congress as part of the President's annual budget submission. Annual transmittals of the list to the Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure to carry out this chapter.

(4) List of contents

(A) Area identification; project description

The list of priority coastal wetlands restoration projects shall include, but not be limited to--

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of the lead Task Force member to undertake each proposed coastal wetlands restoration project and the responsibilities of each other participating Task Force member, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) Pre-plan

Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a five-year period commencing on the date the project is placed on the list.

(C) Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) Funding

The Secretary shall, with the funds made available in accordance with section 3955 of this title, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) Federal and State project planning

(1) Plan preparation

The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing the long-term conservation of coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within three years from November 29, 1990.

(2) Purpose of the plan

The purpose of the restoration plan is to develop a comprehensive approach to restore and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) Integration of existing plans

In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary of the Army and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the State of Louisiana's Wetlands Conservation and Restoration Task Force.

(4) Elements of the plan

The restoration plan developed pursuant to this subsection shall include--

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B) and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations;

(D) a listing of such coastal wetlands restoration projects, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) Plan modification

The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) Plan submission

Upon completion of the restoration plan, the Secretary shall submit the plan to the Congress. The restoration plan shall become effective ninety days after the date of its submission to the Congress.

(7) Plan evaluation

Not less than three years after the completion and submission of the restoration plan required by this subsection and at least every three years thereafter, the Task Force shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting and enhancing coastal wetlands in Louisiana.

(c) Coastal wetlands restoration project benefits

Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) Consistency

(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 1455 of this title.

(e) Funding of wetlands restoration projects

The Secretary shall, with the funds made available in accordance with this chapter, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section. The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations.

(f) Cost-sharing

(1) Federal share

Amounts made available in accordance with section 3955 of this title to carry out coastal wetlands restoration projects under this chapter shall provide 75 percent of the cost of such projects.

(2) Federal share upon conservation plan approval

Notwithstanding the previous paragraph, if the State develops a Coastal Wetlands Conservation Plan pursuant to this chapter, and such conservation plan is approved pursuant to section 3953 of this title, amounts made available in accordance with section 3955 of this title for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary, the Director, and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to this chapter, amounts made available in accordance with section 3955 of this title for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project: *Provided, however,* that [1] such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary, the Director, and Administrator, and the State has been given ninety days from such notice or hearing to take corrective action.

(3) Form of State share

The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way, or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) Existing cost-sharing agreements

Paragraphs (1), (2), (3), and (5) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

(5) Federal share in calendar years 1996 and 1997

Notwithstanding paragraphs (1) and (2), upon approval of the conservation plan under section 3953 of this title and a determination by the Secretary that a reduction in the non-Federal share is warranted, amounts made available in accordance with section 3955 of this title to carry out coastal wetlands restoration projects under this section in calendar years 1996 and 1997 shall provide 90 percent of the cost of such projects.

CREDIT(S)

(Pub.L. 101-646, Title III, § 303, Nov. 29, 1990, 104 Stat. 4779; Pub.L. 104-303, Title V, § 532, Oct. 12, 1996, 110 Stat. 3774.)

Footnotes

1 So in original. Probably should be capitalized.

16 U.S.C.A. § 3952, 16 USCA § 3952
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

End of Document

United States Code Annotated
Title 18. Crimes and Criminal Procedure (Refs & Annos)
Part II. Criminal Procedure
Chapter 208. Speedy Trial (Refs & Annos)

18 U.S.C.A. § 3168

§ 3168. Planning process

Currentness

(a) Within sixty days after July 1, 1975, each United States district court **shall convene** a planning group consisting at minimum of the Chief Judge, a United States magistrate judge, if any designated by the Chief Judge, the United States Attorney, the Clerk of the district court, the Federal Public Defender, if any, two private attorneys, one with substantial experience in the defense of criminal cases in the district and one with substantial experience in civil litigation in the district, the Chief United States Probation Officer for the district, and a person skilled in criminal justice research who shall act as reporter for the group. The group shall advise the district court with respect to the formulation of all district plans and shall submit its recommendations to the district court for each of the district plans required by section 3165. The group shall be responsible for the initial formulation of all district plans and of the reports required by this chapter and in aid thereof, it shall be entitled to the planning funds specified in section 3171.

(b) The planning group shall address itself to the need for reforms in the criminal justice system, including but not limited to changes in the grand jury system, the finality of criminal judgments, habeas corpus and collateral attacks, pretrial diversion, pretrial detention, excessive reach of Federal criminal law, simplification and improvement of pretrial and sentencing procedures, and appellate delay.

(c) Members of the planning group with the exception of the reporter shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in carrying out the duties of the advisory group in accordance with the provisions of title 5, United States Code, chapter 57. The reporter shall be compensated in accordance with section 3109 of title 5, United States Code, and notwithstanding other provisions of law he may be employed for any period of time during which his services are needed.

CREDIT(S)

(Added Pub.L. 93-619, Title I, § 101, Jan. 3, 1975, 88 Stat. 2083; amended Pub.L. 96-43, § 9(d), Aug. 2, 1979, 93 Stat. 330; Pub.L. 101-650, Title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

18 U.S.C.A. § 3168, 18 USCA § 3168
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

End of Document

United States Code Annotated
Title 20. Education
Chapter 6A. Vending Facilities for Blind in Federal Buildings

20 U.S.C.A. § 107d-2

§ 107d-2. Arbitration

Currentness

(a) Notice and hearing

Upon receipt of a complaint filed under section 107d-1 of this title, the Secretary **shall convene** an ad hoc arbitration panel as provided in subsection (b). Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of Title 5, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency action for purposes of chapter 7 of such Title 5.

(b) Composition of panel; designation of chairman; termination of violations

(1) The arbitration panel convened by the Secretary to hear grievances of blind licensees shall be composed of three members appointed as follows:

(A) one individual designated by the State licensing agency;

(B) one individual designated by the blind licensee; and

(C) one individual, not employed by the State licensing agency or, where appropriate, its parent agency, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (1)(A), (B), or (C), the Secretary shall designate such member on behalf of such party.

(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

(A) one individual, designated by the State licensing agency;

(B) one individual, designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

(C) one individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (2)(A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this chapter, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

(c) Publication of decisions in Federal Register

The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

(d) Payment of costs by the Secretary

The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

CREDIT(S)

(June 20, 1936, c. 638, § 6, as added Pub.L. 93-516, Title II, § 206, Dec. 7, 1974, 88 Stat. 1626; Pub.L. 93-651, Title II, § 206, Nov. 21, 1974, 89 Stat. 2-11.)

20 U.S.C.A. § 107d-2, 20 USCA § 107d-2
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

United States Code Annotated
Title 20. Education
Chapter 28. Higher Education Resources and Student Assistance (Refs & Annos)
Subchapter IV. Student Assistance (Refs & Annos)
Part G. General Provisions Relating to Student Assistance Programs (Refs & Annos)

20 U.S.C.A. § 1090

§ 1090. Forms and regulations

Effective: July 1, 2010
Currentness

(a) Common financial aid form development and processing

(1) In general

The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A). The forms shall be made available to applicants in both paper and electronic formats and shall be referred to as the "Free Application for Federal Student Aid" or the "FAFSA". The Secretary shall work to make the FAFSA consumer-friendly and to make questions on the FAFSA easy for students and families to read and understand, and shall ensure that the FAFSA is available in formats accessible to individuals with disabilities.

(2) Paper format

(A) In general

The Secretary shall develop, make available, and process--

(i) a paper version of EZ FAFSA, as described in subparagraph (B); and

(ii) a paper version of the other forms described in this subsection, in accordance with subparagraph (C), for any applicant who does not meet the requirements of or does not wish to use the process described in subparagraph (B).

(B) EZ FAFSA

(i) In general

The Secretary shall develop and use, after appropriate field testing, a simplified paper form, to be known as the EZ FAFSA, to be used for applicants meeting the requirements of subsection (b) or (c) of section 1087ss of this title.

(ii) Reduced data requirements

The EZ FAFSA shall permit an applicant to submit, for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 1087ss of this title.

(iii) State data

The Secretary shall include on the EZ FAFSA such data items as may be necessary to award State financial assistance, as provided under paragraph (5), except that the Secretary shall not include a State's data if that State does not permit the State's resident applicants to use the EZ FAFSA for State assistance.

(iv) Free availability and processing

The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (10).

(C) Promoting the use of electronic FAFSA

(i) In general

The Secretary shall make all efforts to encourage all applicants to utilize the electronic version of the forms described in paragraph (3).

(ii) Maintenance of the FAFSA in a printable electronic file

The Secretary shall maintain a version of the paper forms described in subparagraphs (A) and (B) in a printable electronic file that is easily portable, accessible, and downloadable to students on the same website used to provide students with the electronic version of the forms described in paragraph (3).

(iii) Requests for printed copy

The Secretary shall provide a printed copy of the full paper version of FAFSA upon request.

(iv) Reporting requirement

The Secretary shall maintain data, and periodically report to Congress, on the impact of the digital divide on students completing applications for aid under this subchapter. The Secretary shall report on the steps taken to eliminate the digital

divide and reduce production of the paper form described in subparagraph (A). The Secretary's report shall specifically address the impact of the digital divide on the following student populations:

(I) Independent students.

(II) Traditionally underrepresented students.

(III) Dependent students.

(3) Electronic format

(A) In general

The Secretary shall produce, distribute, and process forms in electronic format to meet the requirements of paragraph (1). The Secretary shall develop an electronic version of the forms for applicants who do not meet the requirements of subsection (b) or (c) of section 1087ss of this title.

(B) Simplified applications: FAFSA on the web

(i) In general

The Secretary shall develop and use a simplified electronic version of the form to be used by applicants meeting the requirements under subsection (b) or (c) of section 1087ss of this title.

(ii) Reduced data requirements

The simplified electronic version of the forms shall permit an applicant to submit, for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 1087ss of this title.

(iii) Use of forms

Nothing in this subsection shall be construed to prohibit the use of the forms developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software provider, a consortium thereof, or such other entities as the Secretary may designate.

(C) State data

The Secretary shall include on the electronic version of the forms such items as may be necessary to determine eligibility for State financial assistance, as provided under paragraph (5), except that the Secretary shall not require an applicant to enter data pursuant to this subparagraph that are required by any State other than the applicant's State of residence.

(D) Availability and processing

The data collected by means of the simplified electronic version of the forms shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (10).

(E) Privacy

The Secretary shall ensure that data collection under this paragraph complies with section 552a of Title 5 and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the forms. Data collected by such electronic version of the forms shall be used only for the application, award, and administration of aid awarded under this subchapter, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the forms shall be used for making final aid awards under this subchapter until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this subchapter.

(F) Signature

Notwithstanding any other provision of this chapter, the Secretary may continue to permit an electronic version of the form under this paragraph to be submitted without a signature, if a signature is subsequently submitted by the applicant or if the applicant uses a personal identification number provided by the Secretary under subparagraph (G).

(G) Personal identification numbers authorized

The Secretary may continue to assign to an applicant a personal identification number--

(i) to enable the applicant to use such number as a signature for purposes of completing an electronic version of a form developed under this paragraph; and

(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this subchapter.

(H) Personal identification number improvement

The Secretary shall continue to work with the Commissioner of Social Security to minimize the time required for an applicant to obtain a personal identification number when applying for aid under this subchapter through an electronic version of a form developed under this paragraph.

(4) Streamlining

(A) Streamlined reapplication process

(i) In general

The Secretary shall continue to streamline reapplication forms and processes for an applicant who applies for financial assistance under this subchapter in the next succeeding academic year subsequent to an academic year for which such applicant applied for financial assistance under this subchapter.

(ii) Updating of data elements

The Secretary shall determine, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, the data elements that may be transferred from the previous academic year's application and those data elements that shall be updated.

(iii) Reduced data authorized

Nothing in this subchapter shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

(iv) Zero family contribution

Applicants determined to have a zero family contribution pursuant to section 1087ss(c) of this title shall not be required to provide any financial data in a reapplication form, except data that are necessary to determine eligibility under such section.

(B) Reduction of data elements

(i) Reduction encouraged

Of the number of data elements on the FAFSA used for the 2009-2010 award year, the Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance and consistent with efforts under subsection (c), shall continue to reduce the number of such data elements required to be entered by all applicants, with the goal of reducing such number by 50 percent.

(ii) Report

The Secretary shall submit a report on the process of this reduction to each of the authorizing committees by June 30, 2011.

(5) State requirements

(A) In general

Except as provided in paragraphs (2)(B)(iii), (3)(B), and (4)(A)(ii), the Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with State agencies in order to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such data items shall not be less than the number included on the form for the 2008-2009 award year unless a State notifies the Secretary that the State no longer requires those data items for the distribution of State need-based aid.

(B) Annual review

The Secretary shall conduct an annual review to determine--

(i) which data items each State requires to award need-based State aid; and

(ii) if the State will permit an applicant to file a form described in paragraph (2)(B) or (3)(B).

(C) Federal Register notice

Beginning with the forms developed under paragraphs (2)(B) and (3)(B) for the award year 2010-2011, the Secretary shall publish on an annual basis a notice in the Federal Register requiring State agencies to inform the Secretary--

(i) if the State agency is unable to permit applicants to utilize the simplified forms described in paragraphs (2)(B) and (3)(B); and

(ii) of the State-specific nonfinancial data that the State agency requires for delivery of State need-based financial aid.

(D) Use of simplified forms encouraged

The Secretary shall encourage States to take such steps as are necessary to encourage the use of simplified forms under this subsection, including those forms described in paragraphs (2)(B) and (3)(B), for applicants who meet the requirements of subsection (b) or (c) of section 1087ss of this title.

(E) Consequences if State does not accept simplified forms

If a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based financial aid, the Secretary may determine that State-specific questions for such State will not be included on a form described in paragraph (2)(B) or (3)(B). If the Secretary makes such determination, the Secretary shall advise the State of the Secretary's determination.

(F) Lack of State response to request for information

If a State does not respond to the Secretary's request for information under subparagraph (B), the Secretary shall--

(i) permit residents of that State to complete simplified forms under paragraphs (2)(B) and (3)(B); and

(ii) not require any resident of such State to complete any data items previously required by that State under this section.

(G) Restriction

The Secretary shall, to the extent practicable, not require applicants to complete any financial or nonfinancial data items that are not required--

(i) by the applicant's State; or

(ii) by the Secretary.

(6) Charges to students and parents for use of forms prohibited

The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may be determined only by using a form developed by the Secretary under this subsection. Such forms shall be produced, distributed, and processed by the Secretary, and no parent or student shall be charged a fee by the Secretary, a contractor, a third-party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. No data collected on a form for which a fee is charged shall be used to complete the form prescribed under this section, except that a Federal or State income tax form prepared by a paid income tax preparer or preparer service for the primary purpose of filing a Federal or State income tax return may be used to complete the form prescribed under this section.

(7) Restrictions on use of PIN

No person, commercial entity, or other entity may request, obtain, or utilize an applicant's personal identification number assigned under paragraph (3)(G) for purposes of submitting a form developed under this subsection on an applicant's behalf.

(8) Application processing cycle

The Secretary shall enable students to submit forms developed under this subsection and initiate the processing of such forms under this subsection, as early as practicable prior to January 1 of the student's planned year of enrollment.

(9) Early estimates

The Secretary shall continue to--

(A) permit applicants to enter data in such forms as described in this subsection in the years prior to enrollment in order to obtain a non-binding estimate of the applicant's family contribution (as defined in section 1087mm of this title);

(B) permit applicants to update information submitted on forms described in this subsection, without needing to re-enter previously submitted information;

(C) develop a means to inform applicants, in the years prior to enrollment, of student aid options for individuals in similar financial situations;

(D) develop a means to provide a clear and conspicuous notice that the applicant's expected family contribution is subject to change and may not reflect the final expected family contribution used to determine Federal student financial aid award amounts under this subchapter; and

(E) consult with representatives of States, institutions of higher education, and other individuals with experience or expertise in student financial assistance application processes in making updates to forms used to provide early estimates under this paragraph.

(10) Distribution of data

Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using a form developed under this subsection for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.

(11) Third party servicers and private software providers

To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by institutions of higher education for the administration of funds under this subchapter, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) to be so used. The specifications shall contain record layouts for required data. The Secretary shall develop in advance of each processing cycle an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use multiple means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such

as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

(12) Parent's social security number and birth date

The Secretary is authorized to include space on the forms developed under this subsection for the social security number and birth date of parents of dependent students seeking financial assistance under this subchapter.

(b) Information to committees of Congress

Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this subchapter shall be provided to the authorizing committees at least 45 days prior to their effective date.

(c) Toll-free information

The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this subchapter. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education or other appropriate provider of technical assistance and information on postsecondary educational services for individuals with disabilities, including the National Technical Assistance Center under section 1140q of this title. The Secretary shall continue to implement, to the extent practicable, a toll-free telephone based system to permit applicants who meet the requirements of subsection (b) or (c) of section 1087ss of this title to submit an application over such system.

(d) Assistance in preparation of financial aid application

(1) Preparation authorized

Notwithstanding any provision of this chapter, an applicant may use a preparer for consultative or preparation services for the completion of a form developed under subsection (a) if the preparer satisfies the requirements of this subsection.

(2) Preparer identification required

If an applicant uses a preparer for consultative or preparation services for the completion of a form developed under subsection (a), and for which a fee is charged, the preparer shall--

(A) include, at the time the form is submitted to the Department, the name, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer on the applicant's form; and

(B) be subject to the same penalties as an applicant for purposely giving false or misleading information in the application.

(3) Additional requirements

A preparer that provides consultative or preparation services pursuant to this subsection shall--

(A) clearly inform each individual upon initial contact, including contact through the Internet or by telephone, that the FAFSA and EZ FAFSA are free forms that may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

(B) include in any advertising clear and conspicuous information that the FAFSA and EZ FAFSA are free forms that may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

(C) if advertising or providing any information on a website, or if providing services through a website, include on the website a link to the website that provides the electronic version of the forms developed under subsection (a); and

(D) not produce, use, or disseminate any other form for the purpose of applying for Federal student financial aid other than the form developed by the Secretary under subsection (a).

(4) Special rule

Nothing in this chapter shall be construed to limit preparers of the forms required under this subchapter that meet the requirements of this subsection from collecting source information from a student or parent, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

(e) Early application and estimated award demonstration program

(1) Purpose and objectives

The purpose of the demonstration program under this subsection is to measure the benefits, in terms of student aspirations and plans to attend an institution of higher education, and any adverse effects, in terms of program costs, integrity, distribution, and delivery of aid under this subchapter, of implementing an early application system for all dependent students that allows dependent students to apply for financial aid using information from two years prior to the year of enrollment. Additional objectives associated with implementation of the demonstration program are the following:

(A) To measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in their junior year of secondary school, using information from two years prior to the year of enrollment, by completing any of the forms under this subsection.

(B) To identify whether receiving final financial aid award estimates not later than the fall of the senior year of secondary school provides students with additional time to compete for the limited resources available for State and institutional financial aid and positively impacts the college aspirations and plans of these students.

(C) To measure the impact of using income information from the years prior to enrollment on--

(i) eligibility for financial aid under this subchapter and for other State and institutional aid; and

(ii) the cost of financial aid programs under this subchapter.

(D) To effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of financial aid.

(2) Program authorized

Not later than two years after August 14, 2008, the Secretary shall implement an early application demonstration program enabling dependent students who wish to participate in the program--

(A) to complete an application under this subsection during the academic year that is two years prior to the year such students plan to enroll in an institution of higher education; and

(B) based on the application described in subparagraph (A), to obtain, not later than one year prior to the year of the students' planned enrollment, information on eligibility for Federal Pell Grants, Federal student loans under this subchapter, and State and institutional financial aid for the student's first year of enrollment in the institution of higher education.

(3) Early application and estimated award

For all dependent students selected for participation in the demonstration program who submit a completed FAFSA, or, as appropriate, an EZ FAFSA, two years prior to the year such students plan to enroll in an institution of higher education, the Secretary shall, not later than one year prior to the year of such planned enrollment--

(A) provide each student who completes an early application with an estimated determination of such student's--

(i) expected family contribution for the first year of the student's enrollment in an institution of higher education; and

(ii) Federal Pell Grant award for the first such year, based on the Federal Pell Grant amount, determined under section 1070a(b)(2)(A) of this title, for which a student is eligible at the time of application; and

(B) remind the students of the need to update the students' information during the calendar year of enrollment using the expedited reapplication process provided for in subsection (a)(4)(A).

(4) Participants

The Secretary shall include as participants in the demonstration program--

(A) States selected through the application process described in paragraph (5);

(B) institutions of higher education within the selected States that are interested in participating in the demonstration program, and that can make estimates or commitments of institutional student financial aid, as appropriate, to students the year before the students' planned enrollment date; and

(C) secondary schools within the selected States that are interested in participating in the demonstration program, and that can commit resources to--

(i) advertising the availability of the program;

(ii) identifying students who might be interested in participating in the program;

(iii) encouraging such students to apply; and

(iv) participating in the evaluation of the program.

(5) Applications

Each State that is interested in participating in the demonstration program shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require. The application shall include--

(A) information on the amount of the State's need-based student financial assistance available, and the eligibility criteria for receiving such assistance;

(B) a commitment to make, not later than the year before the dependent students participating in the demonstration program plan to enroll in an institution of higher education, an estimate of the award of State financial aid to such dependent students;

(C) a plan for recruiting institutions of higher education and secondary schools with different demographic characteristics to participate in the program;

(D) a plan for selecting institutions of higher education and secondary schools to participate in the program that--

(i) demonstrate a commitment to encouraging students to submit a FAFSA, or, as appropriate, an EZ FAFSA, two years before the students' planned date of enrollment in an institution of higher education;

(ii) serve different populations of students;

(iii) in the case of institutions of higher education--

(I) to the extent possible, are of varying types and sectors; and

(II) commit to making, not later than the year prior to the year that dependent students participating in the demonstration program plan to enroll in the institution--

(aa) estimated institutional awards to participating dependent students; and

(bb) estimated grants or other financial aid available under this subchapter (including supplemental grants under subpart 3 of part A of this subchapter), for all participating dependent students, along with information on State awards, as provided to the institution by the State;

(E) a commitment to participate in the evaluation conducted by the Secretary; and

(F) such other information as the Secretary may require.

(6) Special provisions

(A) Discretion of student financial aid administrators

A financial aid administrator at an institution of higher education participating in a demonstration program under this subsection may use the discretion provided under section 1087tt of this title as necessary for students participating in the demonstration program.

(B) Waivers

The Secretary is authorized to waive, for an institution of higher education participating in the demonstration program, any requirements under this subchapter, or regulations prescribed under this subchapter, that will make the demonstration

program unworkable, except that the Secretary shall not waive any provisions with respect to the maximum award amounts for grants and loans under this subchapter.

(7) Outreach

The Secretary shall make appropriate efforts to notify States of the demonstration program under this subsection. Upon determination of participating States, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within participating States of the opportunity to participate in the demonstration program and of the participation requirements.

(8) Evaluation

The Secretary shall conduct a rigorous evaluation of the demonstration program to measure the program's benefits and adverse effects, as the benefits and effects relate to the purpose and objectives of the program described in paragraph (1). In conducting the evaluation, the Secretary shall--

(A) determine whether receiving financial aid estimates one year prior to the year in which the student plans to enroll in an institution of higher education, has a positive impact on the higher education aspirations and plans of such student;

(B) measure the extent to which using a student's income information from the year that is two years prior to the student's planned enrollment date had an impact on the ability of States and institutions of higher education to make financial aid awards and commitments;

(C) determine what operational changes are required to implement the program on a larger scale;

(D) identify any changes to Federal law that are necessary to implement the program on a permanent basis;

(E) identify the benefits and adverse effects of providing early estimates on program costs, program operations, program integrity, award amounts, distribution, and delivery of aid; and

(F) examine the extent to which estimated awards differ from actual awards made to students participating in the program.

(9) Consultation

The Secretary shall consult, as appropriate, with the Advisory Committee on Student Financial Assistance established under section 1098 of this title on the design, implementation, and evaluation of the demonstration program.

(f) Reduction of income and asset information to determine eligibility for student financial aid

(1) Continuation of current FAFSA simplification efforts

The Secretary shall continue to examine--

(A) how the Internal Revenue Service can provide to the Secretary income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

(B) whether data provided by the Internal Revenue Service can be used to--

(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

(ii) generate an expected family contribution without additional action on the part of the student and taxpayer; and

(C) whether the data elements collected on the FAFSA that are needed to determine eligibility for student aid, or to administer the Federal student financial aid programs under this subchapter, but are not needed to compute an expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

(2) Report on FAFSA simplification efforts to date

Not later than 90 days after August 14, 2008, the Secretary shall provide a written report to the authorizing committees on the work the Department has done with the Secretary of the Treasury regarding--

(A) how the expected family contribution of a student can be calculated using substantially less income and asset information than was used on March 31, 2008;

(B) the extent to which the reduced income and asset information will result in a redistribution of Federal grants and subsidized loans under this subchapter, State aid, or institutional aid, or in a change in the composition of the group of recipients of such aid, and the amount of such redistribution;

(C) how the alternative approaches for calculating the expected family contribution will--

(i) rely mainly, in the case of students and parents who file income tax returns, on information available on the 1040, 1040EZ, and 1040A; and

(ii) include formulas for adjusting income or asset information to produce similar results to the existing approach with less data;

(D) how the Internal Revenue Service can provide to the Secretary of Education income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

(E) whether data provided by the Internal Revenue Service can be used to--

(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

(ii) generate an expected family contribution without additional action on the part of the student and taxpayer;

(F) the extent to which the use of income data from two years prior to a student's planned enrollment date will change the expected family contribution computed in accordance with part F, and potential adjustments to the need analysis formula that will minimize the change; and

(G) the extent to which the data elements collected on the FAFSA on March 31, 2008, that are needed to determine eligibility for student aid or to administer the Federal student financial aid programs, but are not needed to compute an expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

(3) Study

(A) Formation of study group

Not later than 90 days after August 14, 2008, the Comptroller General shall convene a study group the membership of which shall include the Secretary of Education, the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, representatives of institutions of higher education with expertise in Federal and State financial aid assistance, State chief executive officers of higher education with a demonstrated commitment to simplifying the FAFSA, and such other individuals as the Comptroller General and the Secretary of Education may designate.

(B) Study required

The Comptroller General, in consultation with the study group convened under subparagraph (A) shall--

(i) review and build on the work of the Secretary of Education and the Secretary of the Treasury, and individuals with expertise in analysis of financial need, to assess alternative approaches for calculating the expected family contribution under the statutory need analysis formula in effect on the day before August 14, 2008, and under a new calculation that will use substantially less income and asset information than was used for the 2008-2009 FAFSA;

(ii) conduct an additional analysis if necessary; and

(iii) make recommendations to the authorizing committees.

(C) Objectives of study

The objectives of the study required under subparagraph (B) are--

(i) to determine methods to shorten the FAFSA and make the FAFSA easier and less time-consuming to complete, thereby increasing higher education access for low-income students;

(ii) to identify changes to the statutory need analysis formula that will be necessary to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid without causing significant redistribution of Federal grants and subsidized loans under this subchapter; and

(iii) to review State and institutional needs and uses for data collected on the FAFSA, and to determine the best means of addressing such needs in the case of modification of the FAFSA as described in clause (i), or modification of the need analysis formula as described in clause (ii).

(D) Required subjects of study

The study required under subparagraph (B) shall examine--

(i) with respect to simplification of the financial aid application process using the statutory requirements for need analysis--

(I) additional steps that can be taken to simplify the financial aid application process for students who (or, in the case of dependent students, whose parents) are not required to file a Federal income tax return for the prior taxable year;

(II) information on State use of information provided on the FAFSA, including--

(aa) whether a State uses, as of the time of the study, or can use, a student's expected family contribution based on data from two years prior to the student's planned enrollment date;

(bb) the extent to which States and institutions will accept the data provided by the Internal Revenue Service to prepopulate the electronic version of the FAFSA to determine the distribution of State and institutional student financial aid funds;

(cc) what data are used by States, as of the time of the study, to determine eligibility for State student financial aid, and whether the data are used for merit- or need-based aid;

(dd) whether State data are required by State law, State regulations, or policy directives; and

(ee) the extent to which any State-specific information requirements can be met by completion of a State application linked to the electronic version of the FAFSA; and

(III) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

(ii) ways to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid, taking into account--

(I) the amount of redistribution of Federal grants and subsidized loans under this subchapter caused by such a reduction, and the benefits to be gained by having an application process that will be easier for students and their families;

(II) students and families who do not file income tax returns;

(III) the extent to which the full array of income and asset information collected on the FAFSA, as of the time of the study, plays an important role in the awarding of need-based State financial aid, and whether the State can use an expected family contribution generated by the FAFSA, instead of income and asset information or a calculation with reduced data elements, to support determinations of eligibility for such State aid programs and, if not, what additional information will be needed or what changes to the FAFSA will be required; and

(IV) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

(V) changes to this chapter or other laws that will be required to implement a modified need analysis system.

(4) Consultation

The Secretary shall consult with the Advisory Committee on Student Financial Assistance established under section 1098 of this title as appropriate in carrying out this subsection.

(5) Reports

(A) Reports on study

The Secretary shall prepare and submit to the authorizing committees--

(i) not later than one year after August 14, 2008, an interim report on the progress of the study required under paragraph (3) that includes any preliminary recommendations by the study group established under such paragraph; and

(ii) not later than two years after August 14, 2008, a final report on the results of the study required under paragraph (3) that includes recommendations by the study group established under such paragraph.

(B) Reports on FAFSA simplification efforts

The Secretary shall report to the authorizing committees, from time to time, on the progress of the simplification efforts under this subsection.

(g) Addressing the digital divide

The Secretary shall utilize savings accrued by moving more applicants to the electronic version of the forms described in subsection (a)(3) to improve access to the electronic version of the forms described in such subsection for applicants meeting the requirements of subsection (b) or (c) of section 1087ss of this title.

(h) Adjustments

The Secretary shall disclose, on the form notifying a student of the student's expected family contribution, that the student may, on a case-by-case basis, qualify for an adjustment under section 1087tt of this title to the cost of attendance or the values of the data items required to calculate the expected contribution for the student or parent. Such disclosure shall specify--

(1) the special circumstances under which a student or family member may qualify for such adjustment; and

(2) additional information regarding the steps a student or family member may take in order to seek an adjustment under section 1087tt of this title.

CREDIT(S)

(Pub.L. 89-329, Title IV, § 483, as added Pub.L. 99-498, Title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1478; amended Pub.L. 100-50, § 15(3) to (6), June 3, 1987, 101 Stat. 356; Pub.L. 102-325, Title IV, § 483, July 23, 1992, 106 Stat. 612; Pub.L. 103-208, § 2(h)(8) to (12), Dec. 20, 1993, 107 Stat. 2476; Pub.L. 105-244, Title IV, § 482, Oct. 7, 1998, 112 Stat. 1733; Pub.L. 110-315,

Title I, § 103(b)(10), Title IV, § 483(a), Aug. 14, 2008, 122 Stat. 3090, 3272; Pub.L. 111-39, Title IV, § 407(b)(3), July 1, 2009, 123 Stat. 1950; Pub.L. 111-152, Title II, § 2101(b)(4), Mar. 30, 2010, 124 Stat. 1073.)

AMENDMENT OF SECTION

<Pub.L. 116-260, Div. FF, Title VII, §§ 701(b), 702(m)(1), Dec. 27, 2020, 134 Stat. 3137, 3168, as amended, as amended Pub.L 117-103, Div. R, § 102(b)(4), Mar. 15, 2022, 136 Stat. 819, provided that, effective July 1, 2024, and applicable with respect to award year 2024-2025 and each subsequent award year, as determined under the Higher Education Act of 1965, this section is amended to read as follows:>

<§ 1090. Free Application for Federal Student Aid>

<(a) Simplified application for Federal student financial aid>

<(1) In general>

<Each individual seeking to apply for Federal financial aid under this subchapter for award year 2024-2025 and any subsequent award year shall file a free application with the Secretary, known as the "Free Application for Federal Student Aid", to determine eligibility for such aid, as described in paragraph (2), and in accordance with section 1087ss of this title.>

<(2) Free application>

<(A) In general>

<The Secretary shall make available, for the purposes of paragraph (1), a free application to determine the eligibility of a student for Federal financial aid under this subchapter.>

<(B) Information required by the applicant>

<(i) In general>

<The applicant, and, if necessary, the parents or spouse of the applicant, shall provide the Secretary with the applicable information described in clause (ii) in order to be eligible for Federal financial aid under this subchapter.>

<(ii) Information to be provided>

<The information described in this clause is the following:>

<**(I)** Name.>

<**(II)** Contact information, including address, phone number, email address, or other electronic address.>

<**(III)** Social security number.>

<**(IV)** Date of birth.>

<**(V)** Marital status.>

<**(VI)** Citizenship status, including alien registration number, if applicable.>

<**(VII)** Sex.>

<**(VIII)** Race or ethnicity, using categories developed in consultation with the Bureau of the Census and the Director of the Institute of Education Sciences that, to the greatest extent practicable, separately capture the racial groups specified in the American Community Survey of the Bureau of the Census.>

<**(IX)** State of legal residence and date of residency.>

<**(X)** The following information on secondary school completion:>

<**(aa)** Name and location of the high school from which the applicant received, or will receive prior to the period of enrollment for which aid is sought, a regular high school diploma;>

<**(bb)** name and location of the entity from which the applicant received, or will receive prior to the period of enrollment for which aid is sought, a recognized equivalent of a regular high school diploma; or>

<**(cc)** if the applicant completed or will complete prior to the period of enrollment for which aid is sought, a secondary school education in a home school setting that is treated as a home school or private school under State law.>

<**(XI)** Name of each institution where the applicant intends to apply for enrollment or continue enrollment.>

<**(XII)** Year in school for period of enrollment for which aid is sought, including whether applicant will have finished first bachelor's degree prior to the period of enrollment for which aid is sought.>

<**(XIII)** Whether one or both of the applicant's parents attended college.>

<**(XIV)** Any required asset information, unless exempt under section 1087ss of this title, in which the applicant shall indicate-->

<**(aa)** the annual amount of child support received, if applicable; and>

<**(bb)** all required asset information not described in item (aa).>

<**(XV)** The number of members of the applicant's family who will also be enrolled in an eligible institution of higher education on at least a half-time basis during the same enrollment period as the applicant.>

<**(XVI)** If the applicant meets any of the following designations:>

<**(aa)** Is an unaccompanied homeless youth, or is unaccompanied, at risk of homelessness, and self-supporting.>

<**(bb)** Is an emancipated minor.>

<**(cc)** Is in legal guardianship.>

<**(dd)** Has been a dependent ward of the court at any time since the applicant turned 13.>

<**(ee)** Has been in foster care at any time since the applicant turned 13.>

<**(ff)** Both parents have died since the applicant turned 13.>

<**(gg)** Is a veteran of the Armed Forces of the United States or is serving (on the date of the application) on active duty in the Armed Forces for other than training purposes.>

<**(hh)** Is under the age of 24 and has a dependent child or relative.>

<**(ii)** Does not have access to parental information due to an unusual circumstance described in section 1087vv(d)(9) of this title.>

<**(XVII)** If the applicant receives or has received any of the following means-tested Federal benefits within the last two years:>

<**(aa)** The supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.).>

<**(bb)** The supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), a nutrition assistance program carried out under section 19 of such Act (7 U.S.C. 2028), or a supplemental nutrition assistance program carried out under section 1841(c) of Title 48. >

<**(cc)** The free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).>

<**(dd)** The program of block grants for States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).>

<**(ee)** The special supplemental nutrition program for women, infants, and children established by section 1786 of Title 42.>

<**(ff)** The Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).>

<**(gg)** Federal housing assistance programs, including tenant-based assistance under section 1437f(o) of Title 42, and public housing, as defined in section 1437a(b)(1) of Title 42.>

<**(hh)** Refundable credit for coverage under a qualified health plan under section 36B of Title 26.>

<**(ii)** The Earned Income Tax Credit under section 32 of Title 26.>

<**(jj)** Any other means-tested program determined by the Secretary to be appropriate.>

<**(XVIII)** If the applicant, or, if necessary, the parents or spouse of the applicant, reported receiving tax exempt payments from an individual retirement plan (as defined in section 7701 of Title 26) distribution or

from pensions or annuities on a Federal tax return, information as to how much of the individual retirement plan distribution or pension or annuity disbursement was a qualified rollover.>

<**(XIX)** If the applicant, or, if necessary, the parents or spouse of the applicant, reported receiving foreign income that is exempt from Federal taxation or for which a permanent resident of the United States or United States citizen receives a foreign tax credit, information regarding the amount of such foreign income.>

<**(XX)** If the applicant, or, if applicable, the parents or spouse of the applicant, elects to report receiving college grant and scholarship aid included in gross income on a Federal tax return described in section 1087vv(e)(2) of this title, information regarding the amount of such aid [sic; probably should be followed by a period.]>

<**(iii) Prohibition against requesting information more than once**>

<Any information requested during the process of creating an account for completing the free application under this subsection, shall, to the fullest extent possible, not be required a second time for the same award year, or in a duplicative manner, when completing such free application except in the case of an unusual situation, such as a temporary inability to access an account for completing such free application.>

<**(iv) Change in family size**>

<The Secretary shall provide a process by which an applicant shall confirm the accuracy of family size or update the family size with respect to such applicant for purposes of determining the need of such applicant for financial assistance under this subchapter based on a change in family size from the tax year data used for such determination.>

<**(v) Single question for homeless status**>

<The Secretary shall ensure that-->

<**(I)** on the form developed under this section for which the information is applicable, there is a single, easily understood screening question to identify an applicant who is an unaccompanied homeless youth or is unaccompanied, at risk of homelessness, and self-supporting; and>

<**(II)** such question is distinct from those relating to an individual who does not have access to parental income due to an unusual circumstance.>

<**(vi) Adjustments**>

<The Secretary shall disclose on the FAFSA that the student may, on a case-by-case basis, qualify for an adjustment under section 1087tt of this title to the cost of attendance or the values of the data items required to calculate the student's eligibility for a Federal Pell Grant or the student aid index for the student or parent.>

<**(C) Notification and approval of request for tax return information**>

<The Secretary shall notify students and borrowers who wish to submit an application for Federal student financial aid under this subchapter (as well as parents and spouses who must sign such an application or request or a Master Promissory Note on behalf of those students and borrowers) of the authority of the Secretary to require that such persons affirmatively approve that the Internal Revenue Service disclose their tax return information as described in section 1098h of this title.>

<**(D) Authorizations available to the applicant**>

<**(i) Authorization to disclose FAFSA information, including a redisclosure of tax return information, to institution, State higher education agency, and designated scholarship organizations**>

<An applicant and, if necessary, the parents or spouse of the applicant shall provide the Secretary with authorization to disclose to an institution, State higher education agency, and scholarship organizations (designated (prior to December 19, 2019) by the Secretary under subsection (a)(3)(E)) as in effect on such date, as specified by the applicant and in accordance with section 1098h of this title, in order for the applicant's eligibility for Federal financial aid programs, State financial aid programs, institutional financial aid programs, and scholarship programs at scholarship organizations (designated (prior to December 19, 2019) by the Secretary under subsection (a)(3)(E)) as in effect on such date, to be determined, the following:>

<**(I)** Information described under section 6103(l)(13) of Title 26.>

<**(II)** All information provided by the applicant on the application described by this subsection to determine the applicant's eligibility for Federal financial aid under this subchapter and for the application, award, and administration of such Federal financial aid, except the name of an institution to which an applicant selects to redisclose information shall not be disclosed to any other institution.>

<**(ii) Authorization to disclose to benefits programs**>

<An applicant and, if necessary, the parents or spouse of the applicant may provide the Secretary with authorization to disclose to applicable agencies that handle applications for means-tested Federal benefit programs, as defined in section 1087ss(b)(4)(H) of this title, all information provided by the applicant on the application described by this subsection as well as such applicant's student aid index and scheduled Federal Pell Grant award to assist in identification, outreach and application efforts for the application, award, and administration of such means-tested Federal benefits programs, except such information shall not include Federal tax information as specified in section 6103(l)(13)(C) of Title 26.>

<**(E) Action by the Secretary**>

<Upon receiving-->

<**(i)** an application under this section, the Secretary shall, as soon as practicable, perform the necessary functions with the Commissioner of Internal Revenue to calculate the applicant's student aid index and scheduled award for a Federal Pell Grant, if applicable, assuming full-time enrollment for an academic year, and note to the applicant the assumptions relationship to the scheduled award; and>

<**(ii)** an authorization under subparagraph (D), the Secretary shall, as soon as practicable, disclose the information described under such subparagraph, as specified by the applicant, in order for the applicant's

eligibility for Federal, State, or institutional student financial aid programs or means-tested Federal benefit programs to be estimated or determined.>

<**(F) Work study wages**>

<With respect to an applicant who has received income earned from work under part C of this subchapter, the Secretary shall take the steps necessary to collect information on the amount of such income for the purposes of calculating such applicant's student aid index and scheduled award for a Federal Pell Grant, if applicable, without adding additional questions to the FAFSA, including by collecting such information from institutions of higher education participating in work-study programs under part C of this subchapter.>

<**(3) Information to be supplied by the Secretary of Education**>

<**(A) In general**>

<Upon receiving and timely processing a free application that contains the information described in paragraph (2), the Secretary shall provide to the applicant the following information based on full-time attendance for an academic year:>

<**(i)** The estimated dollar amount of a Federal Pell Grant scheduled award for which the applicant is eligible for such award year.>

<**(ii)** Information on other types of Federal financial aid for which the applicant may be eligible (including situations in which the applicant could qualify for 150 percent of a scheduled Federal Pell Grant award and loans made under this subchapter) and how the applicant can find additional information regarding such aid.>

<**(iii)** Consumer-tested information regarding each institution selected by the applicant in accordance with paragraph (2)(B)(ii)(XI), which may include the following:>

<**(I)** The following information, as collected through the Integrated Postsecondary Education Data System or a successor Federal data system as designated by the Secretary:>

<**(aa)** Net price by the income categories, as described under section 1015a(i)(6) of this title, and disaggregated by undergraduate and graduate programs, as applicable.>

<**(bb)** Graduation rate.>

<**(cc)** Retention rate.>

<**(dd)** Transfer rate, if available.>

<**(II)** Median debt of students upon completion.>

<**(III)** Institutional default rate, as calculated under section 1085 of this title.>

<**(iv)** If the student is eligible for a student aid index of less than or equal to zero under section 1087mm of this title, a notification of the Federal means-tested benefits that they have not already indicated they receive, but for which they may be eligible, and relevant links and information on how to apply for such benefits.>

<**(v)** Information on education tax benefits described in paragraphs (1) and (2) of section 25A(a) of Title 26 or other applicable education tax benefits determined in consultation with the Secretary of the Treasury.>

<**(vi)** If the individual identified as a veteran, or as serving (on the date of the application) on active duty in the Armed Forces for other than training purposes, information on benefits administered by the Department of Veteran Affairs or Department of Defense, respectively.>

<**(vii)** If applicable, the applicant's current outstanding balance of loans under this subchapter.>

<**(B) Information provided to the State**>

<**(i) In general**>

<The Secretary shall redisclose, with authorization from the applicant in accordance with paragraph (2)(D)(i), to a State higher education agency administering State-based financial aid and serving the applicant's State of residence, the information described under section 6103(l)(13) of Title 26 and information described in paragraph (2)(B) for the application, award, and administration of grants and other student financial aid provided directly from the State to be determined by such State. Such information shall include the list of institutions provided by the applicant on the application.>

<**(ii) Use of information**>

<A State agency administering State-based financial aid-->

<**(I)** shall use the information provided under clause (i) solely for the application, award, and administration of State-based financial aid for which the applicant is eligible;>

<**(II)** may use the information, except for the information described under section 6103(l)(13) of Title 26, for State agency research that does not release any individually identifiable information on any applicant to promote college attendance, persistence, and completion;>

<**(III)** may use identifying information provided by student applicants on the FAFSA to determine whether or not a graduating secondary student has filed the application in coordination with local educational agencies or secondary schools to encourage students to complete the application; and>

<**(IV)** may share the application information, excluding the information described under section 6103(l)(13) of Title 26, with any other entity, only if such applicant provides explicit written consent of the applicant, except as provided in subclause (III).>

<**(iii) Limitation on consent process**>

<A State may provide a consent process whereby an applicant may elect to share the information described in clause (i), except for the information described in section 6103(l)(13) of Title 26, through explicit written

consent to Federal, State, or local government agencies or tribal organizations to assist such applicant in applying for and receiving Federal, State, or local government assistance, or tribal assistance for any component of the applicant's cost of attendance that may include financial assistance or non-monetary assistance.>

<**(iv) Prohibition**>

<Any entity that receives applicant information under clause (iii) shall not sell, share, or otherwise use applicant information other than for the purposes outlined in clause (iii).>

<**(C) Use of information provided to the institution**>

<An institution-->
<**(i)** shall use the information provided to it solely for the application, award, and administration of financial aid to the applicant;>

<**(ii)** may use the information provided, excluding the information described under section 6013(l)(13) of Title 26, for research that does not release any individually identifiable information on any applicant, to promote college attendance, persistence, and completion; and>

<**(iii)** shall not share such educational record information with any other entity without the explicit written consent of the applicant.>

<**(D) Prohibition**>

<Any entity that receives applicant information under subparagraph (C)(iii) shall not sell, share, or otherwise use applicant information other than for the purposes outlined in subparagraph (C).>

<**(E) FAFSA information that includes tax return information**>

<An applicant's FAFSA information that includes return or return information as described in section 6103(l)(13) of Title 26 may be disclosed or redisclosed (which shall include obtaining, sharing, or discussing such information) only in accordance with the procedures described in section 1098h of this title.>

<**(4) Development of form and information exchange**>

<Prior to the design of the free application under this subsection, the Secretary shall, to the maximum extent practicable, on an annual basis-->
<**(A)** consult with stakeholders to gather information about innovations and technology available to-->
<**(i)** ensure an efficient and effective process;>

<**(ii)** mitigate unintended consequences; and>

<**(iii)** determine the best practices for outreach to students and families during the transition to the streamlined process for the determination of Federal financial aid and Federal Pell Grant eligibility while reducing the data burden on applicants and families; and>

<**(B)** solicit public comments for the format of the free application that provides for adequate time to incorporate feedback prior to development of the application for the succeeding award year.>

<**(5) No additional information requests permitted**>

<In carrying out this subsection, the Secretary may not require additional information to be submitted by an applicant (or the parents or spouse of an applicant) for Federal financial aid through other requirements or reporting, except as required under a process or procedure exercised in accordance with the authority under section 1087tt of this title.>

<**(6) State-run programs**>

<**(A) In general**>

<The Secretary shall conduct outreach to States in order to research the benefits to students of States relying solely on the student aid index, scheduled Pell Grant Award, or the financial data made available, upon authorization by the applicant, as a result of an application for aid under this subsection for determining the eligibility of the applicant for State provided financial aid.>

<**(B) Secretarial review**>

<If a State determines that there is a need for additional data elements beyond those provided pursuant to this subsection for determining the eligibility of an applicant for State provided financial aid, the State shall forward a list of those additional data elements determined necessary, but not provided by virtue of the application under this subsection, to the Secretary. The Secretary shall make readily available to the public through the Department's websites and other means-->

<**(i)** a list of States that do not require additional financial information separate from the Free Application for Federal Student Aid and do not require asset information from students who qualify for the exemption from asset reporting under section 1087ss of this title for the purposes of awarding State scholarships and grant aid;>

<**(ii)** a list of States that require asset information from students who qualify for the exemption from asset reporting under section 1087ss of this title for the purposes of awarding State scholarships and grant aid;>

<**(iii)** a list of States that have indicated that they require additional financial information separate from the Free Application for Federal Student Aid for purposes of awarding State scholarships and grant aid; and>

<**(iv)** with the publication of the lists under this subparagraph, information about additional resources available to applicants, including links to such State websites.>

<**(7) Institution-run financial aid**>

<**(A) In general**>

<The Secretary shall conduct outreach to institutions of higher education to describe the benefits to students of relying solely on the student aid index, scheduled Pell Grant Award, or the financial data made available, upon authorization for release by the applicant, as a result of an application for aid under this subsection for determining the eligibility of the applicant for institutional financial aid. The Secretary shall make readily available to the public through its websites and other means-->

<**(i)** a list of institutions that do not require additional financial information separate from the Free Application for Federal Student Aid and do not require asset information from students who qualify for the exemption from asset reporting under section 1087ss of this title for the purpose of awarding institution-run financial aid;>

<**(ii)** a list of institutions that require asset information from students who qualify for the exemption from asset reporting under section 1087ss of this title for the purpose of awarding institution-run financial aid;>

<**(iii)** a list of institutions that require additional financial information separate from the Free Application for Federal Student Aid for the purpose of awarding institution-run financial aid; and>

<**(iv)** with the publication of the list in clause (iii), information about additional resources available to applicants.>

<**(8) Security of data**>

<The Secretary shall, in consultation with the Secretary of the Treasury-->

<**(A)** take all necessary steps to safeguard the data required to be transmitted for the purpose of this section between Federal agencies and to States and institutions of higher education and secure the transmittal of such data;>

<**(B)** provide guidance to States and institutions of higher education regarding their obligation to ensure the security of the data provided under this section and section 6103 of Title 26; and>

<**(C)** provide guidance on the implementation of section 6103 of Title 26, including how it intersects with the provisions of section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974"), and any additional consent processes that may be available to applicants in accordance with Title 26 regarding sharing of Federal tax information.>

<**(9) Report to Congress**>

<**(A) In general**>

<Not later than 1 year after December 27, 2020, the Secretary shall report to the authorizing committees on the progress of the Secretary in carrying out this subsection, including planning and stakeholder consultation. Such report shall include-->

<**(i)** benchmarks for implementation;>

<**(ii)** entities and organizations that the Secretary consulted;>

<**(iii)** system requirements for such implementation and how they will be addressed;>

<**(iv)** any areas of concern and potential problem issues uncovered that may hamper such implementation; and>

<**(v)** solutions determined to address such issues.>

<**(B) Updates**>

<The Secretary shall provide updates to the authorizing committees-->
<**(i)** as to the progress and planning described in subparagraph (A) prior to implementation of the revisions to the Free Application for Federal Student Aid under this subsection not less often than quarterly; and>

<**(ii)** at least 6 months and 1 year after implementation of the revisions to the Free Application for Federal Student Aid.>

<**(b) Adjustments and improvements**>
<**(1) In general**>

<The Secretary shall disclose in a consumer-tested format, upon completion of the Free Application for Federal Student Aid under this section, that the student may, on a case-by-case basis, qualify for an adjustment under section 1087tt of this title to the cost of attendance or the values of the data items required to calculate the Federal Pell Grant or the need analysis for the student or parent. Such disclosure shall specify-->
<**(A)** examples of the special circumstances under which a student or family member may qualify for such adjustment or determination of independence; and>

<**(B)** additional information regarding the steps a student or family member may take in order to seek an adjustment under section 1087tt of this title.>

<**(2) Consumer testing**>
<**(A) In general**>

<Not later than 9 months after December 27, 2020, the Secretary shall begin consumer testing the design of the Free Application for Federal Student Aid under this section with prospective first-generation college students, representatives of students (including low-income students, English learners, first-generation college students, adult students, veterans, servicemembers, and prospective students), students' families (including low-income families, families with English learners, families with first-generation college students, and families with prospective students), institutions of higher education, secondary school and postsecondary counselors, and nonprofit consumer groups.>

<**(B) Updates**>

<For award year 2024-2025 and at least each fourth succeeding award year thereafter, the Secretary shall update the design of the Free Application for Federal Student Aid based on additional consumer testing with the populations described in subparagraph (A) in order to improve the usability and accessibility of the application.>

<**(3) Accessibility of the FAFSA**>

<The Secretary shall-->

<**(A)** in conjunction with the Bureau of the Census, determine the most common languages spoken by English learner students and their parents in the United States;>

<**(B)** develop and make publicly available versions of the Free Application for Federal Student Aid form in not fewer than 11 of the most common languages determined under subparagraph (A) and make such versions available and accessible to applicants in paper and electronic formats; and>

<**(C)** ensure that the Free Application for Federal Student Aid is available in formats accessible to individuals with disabilities and compliant with the most recent Web Content Accessibility Guidelines, or successor guidelines.>

<**(4) Reapplication in a succeeding academic year**>

<In order to streamline an applicant's experience in applying for financial aid, the Secretary shall allow an applicant who electronically applies for financial assistance under this subchapter for an academic year subsequent to an academic year for which such applicant applied for financial assistance under this subchapter to automatically electronically import all of the applicant's (including parents', guardians', or spouses', as applicable) identifying, demographic, and school data from the previous application and to update such information to reflect any circumstances that have changed.>

<**(5) Technology accessibility**>

<The Secretary shall make the application under this section available through prevalent technology. Such technology shall, at a minimum, enable applicants to-->

<**(A)** save data; and>

<**(B)** submit the application under this subchapter to the Secretary through such technology.>

<**(6) Verification burden**>

<The Secretary shall-->

<**(A)** to the maximum extent practicable, streamline and simplify the process of verification for applicants for Federal financial aid;>

<**(B)** in establishing policies and procedures to verify applicants' eligibility for Federal financial aid, consider-->

<**(i)** the burden placed on low-income applicants;>

<**(ii)** the risk to low-income applicants of failing to complete the application, enroll in college, or complete a postsecondary credential as a result of being selected for verification;>

<**(iii)** the effectiveness of the policies and procedures in preventing overpayments; and>

<**(iv)** the reasons for the source of any improper payments; and>

<**(C)** issue a public report not less often than annually that includes the number and percentage of applicants subject to verification, whether the applicants ultimately received Federal financial aid disbursements, the extent to which the student aid index changed for such applicants as a result of verification, and the extent to which such applicants' eligibility for Federal financial aid under this subchapter changed.>

<**(7) Studies**>

<The Secretary shall periodically conduct studies on-->
<**(A)** whether the Free Application for Federal Student Aid is a barrier to college enrollment by examining-->
<**(i)** the effect of States requiring additional information specified in clauses (ii) and (iii) of subsection (a)(6)(B) on the determination of State financial aid awards, including-->
<**(I)** how much financial aid awards would change if the additional information were not required; and>

<**(II)** the number of students who started but did not finish the Free Application for Federal Student Aid, compared to the baseline year of 2021; and>

<**(ii)** the number of students who-->
<**(I)** started a Free Application for Federal Student Aid but did not receive financial assistance under this subchapter for the applicable academic year; and>

<**(II)** if available, did not enroll in an institution of higher education in the applicable academic year;>

<**(B)** the most common barriers faced by applicants in completing the Free Application for Federal Student Aid; and>

<**(C)** the most common reasons that students and families do not fill out the Free Applications for Federal Student Aid.>

<**(c) Data and information**>
<**(1) In general**>

<The Secretary shall publish data in a publicly accessible manner-->

<**(A)** annually on the total number of Free Applications for Federal Student Aid submitted by application cycle, disaggregated by demographic characteristics, type of institution or institutions of higher education to which the applicant applied, the applicant's State of legal residence, and high school and public school district;>

<**(B)** quarterly on the total number of Free Applications for Federal Student Aid submitted by application cycle, disaggregated by type of institution or institutions of higher education to which the applicant applied, the applicant's State of legal residence, and high school and public school district;>

<**(C)** weekly on the total number of Free Applications for Federal Student Aid submitted, disaggregated by high school and public school district; and>

<**(D)** annually on the number of individuals who apply for federal financial aid pursuant to this section who indicated that they are-->
<**(i)** an unaccompanied homeless youth or unaccompanied, at risk of homelessness, and self-supporting; or>

<**(ii)** a foster care youth.>

<**(2) Contents**>

<The data described in paragraph (1)(D) with respect to homeless youth shall include, at a minimum, for each application cycle-->
<**(A)** the total number of all applicants who were determined to be individuals described in section 1087vv(d)(8) of this title; and>

<**(B)** the number of applicants described in subparagraph (A), disaggregated-->
<**(i)** by State; and>

<**(ii)** by the sources of determination as described in section 1087uu-2(b) of this title.>

<**(3) Data sharing**>

<The Secretary may enter into data sharing agreements with the appropriate Federal or State agencies to conduct outreach regarding, and connect applicants directly with, the means-tested Federal benefit programs described in subsection (a)(2)(B)(ii)(XVII) for which the applicants may be eligible.>

<**(d) Ensuring form usability**>
<**(1) Signature**>

<Notwithstanding any other provision of this subchapter, the Secretary may permit the Free Application for Federal Student Aid to be submitted without a signature, if a signature is subsequently submitted by the applicant, or if the applicant uses an access device provided by the Secretary.>

<**(2) Free preparation authorized**>

<Notwithstanding any other provision of this subchapter, an applicant may use a preparer for consultative or preparation services for the completion of the Free Application for Federal Student Aid without charging a fee to the applicant if the preparer-->

<**(A)** includes, at the time the application is submitted to the Department, the name, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer on the applicant's form;>

<**(B)** is subject to the same penalties as an applicant for purposely giving false or misleading information in the application;>

<**(C)** clearly informs each individual upon initial contact, that the Free Application for Federal Student Aid is a free form that may be completed without professional assistance; and>

<**(D)** does not produce, use, or disseminate any other form for the purpose of applying for Federal financial aid other than the Free Application for Federal Student Aid developed by the Secretary under this section.>

<**(3) Charges to students and parents for use of forms prohibited**>

<The need for and eligibility of a student for financial assistance under this subchapter may be determined only by using the Free Application for Federal Student Aid developed by the Secretary under this section. Such application shall be produced, distributed, and processed by the Secretary, and no parent or student shall be charged a fee by the Secretary, a contractor, a third-party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of Federal financial aid through the use of such application. No data collected on a form for which a fee is charged shall be used to complete the Free Application for Federal Student Aid prescribed under this section, except that a Federal or State income tax form prepared by a paid income tax preparer or preparer service for the primary purpose of filing a Federal or State income tax return may be used to complete the Free Application for Federal Student Aid prescribed under this section.>

<**(4) Application processing cycle**>

<The Secretary shall enable applicants to submit a Free Application for Federal Student Aid developed under this section and initiate the processing of such application, not later than January 1 of the applicant's planned year of enrollment, to the maximum extent practicable, on or around October 1 prior to the applicant's planned year of enrollment.>

<**(5) Early estimates**>

<The Secretary shall maintain an electronic method for applicants to enter income and family size information to calculate a non-binding estimate of the applicant's Federal financial aid available under this subchapter and shall place such calculator on a prominent location at the beginning of the Free Application for Federal Student Aid.>

<**(6) Additional forms**>

<Notwithstanding any other provision of this subchapter, an institution may not condition the packaging or receipt of Federal financial aid on the completion of additional requests for financial information beyond the Free Application for Federal Student Aid, unless such information is required for verification, a determination of independence, or professional judgement.>

Notes of Decisions (2)

20 U.S.C.A. § 1090, 20 USCA § 1090
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

End of Document

United States Code Annotated
Title 22. Foreign Relations and Intercourse
Chapter 58. Diplomatic Security
Subchapter III. Performance and Accountability

22 U.S.C.A. § 4831

§ 4831. Security Review Committees

Effective: December 23, 2022
Currentness

(a) In general

(1) Convening the Security Review Committee

In any case of a serious security incident involving loss of life, serious injury, or significant destruction of property at, or related to, a United States Government diplomatic mission abroad (referred to in this subchapter as a "Serious Security Incident"), and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, the Secretary of State shall convene a Security Review Committee, which shall issue a report providing a full account of what occurred, consistent with section 4834 of this title.

(2) Committee composition

The Secretary shall designate a Chairperson and may designate additional personnel of commensurate seniority to serve on the Security Review Committee, which shall include--

(A) the Director of the Office of Management Strategy and Solutions;

(B) the Assistant Secretary responsible for the region where the incident occurred;

(C) the Assistant Secretary of State for Diplomatic Security;

(D) the Assistant Secretary of State for Intelligence and Research;

(E) an Assistant Secretary-level representative from any involved United States Government department or agency; and

(F) other personnel determined to be necessary or appropriate.

(3) Exceptions to convening a Security Review Committee

(A) In general

The Secretary of State is not required to convene a Security Review Committee--

(i) if the Secretary determines that the incident involves only causes unrelated to security, such as when the security at issue is outside of the scope of the Secretary of State's security responsibilities under section 4802 of this title;

(ii) if operational control of overseas security functions has been delegated to another agency in accordance with section 4805 of this title;

(iii) if the incident is a cybersecurity incident and is covered by other review mechanisms; or

(iv) in the case of an incident described in paragraph (1) that involves any facility, installation, or personnel of the Department of Defense with respect to which

the Secretary has delegated operational control of overseas security functions to the Secretary of Defense pursuant to section 4805 of this title.

(B) Department of Defense investigations

In the case of an incident described in subparagraph (A)(iv), the Secretary of Defense shall conduct an appropriate inquiry. The Secretary of Defense shall report the findings and recommendations of such inquiry, and the action taken with respect to such recommendations, to the Secretary of State and Congress.

(4) Facilities in Afghanistan, Yemen, Syria, and Iraq

(A) Limited exemptions from requirement to convene Board

The Secretary of State is not required to convene a Board in the case of an incident that--

(i) involves serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission in Afghanistan, Yemen, Syria, or Iraq; and

(ii) occurs during the period beginning on October 1, 2020, and ending on September 30, 2022.

(B) Reporting requirements

In the case of an incident described in subparagraph (A), the Secretary shall--

(i) promptly notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of the incident;

(ii) conduct an inquiry of the incident; and

(iii) upon completion of the inquiry required by clause (ii), submit to each such Committee a report on the findings and recommendations related to such inquiry and the actions taken with respect to such recommendations.

(5) Rulemaking

The Secretary of State shall promulgate regulations defining the membership and operating procedures for the Security Review Committee and provide such guidance to the Chair and ranking members of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(b) Deadlines for convening Security Review Committees

(1) In general

The Secretary of State shall convene a Security Review Committee not later than 60 days after the occurrence of an incident described in subsection (a)(1), or 60 days after the Department first becomes aware of such an incident, whichever is earlier, except that the 60-day period for convening a Security Review Committee may be extended for one additional 60-day period if the Secretary determines that the additional period is necessary.

(2) Delay in cases involving intelligence activities

With respect to breaches of security involving intelligence activities, the Secretary of State may delay the establishment of a Board if, after consultation with the chairman of the Select Committee on Intelligence of the Senate and the chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that the establishment of a Board would compromise intelligence sources or methods. The Secretary shall promptly advise the chairmen of such committees of each determination pursuant to this paragraph to delay the establishment of a Board.

(c) Congressional notification

Whenever the Secretary of State convenes a Security Review Committee, the Secretary shall promptly inform the chair and ranking member of--

(1) the Committee on Foreign Relations of the Senate;

(2) the Select Committee on Intelligence of the Senate;

(3) the Committee on Appropriations of the Senate;

(4) the Committee on Foreign Affairs of the House of Representatives;

(5) the Permanent Select Committee on Intelligence of the House of Representatives; and

(6) the Committee on Appropriations of the House of Representatives.

CREDIT(S)

(Pub.L. 99-399, Title III, § 301, Aug. 27, 1986, 100 Stat. 859; Pub.L. 100-204, Title I, § 156(a), Dec. 22, 1987, 101 Stat. 1354; Pub.L. 106-113, Div. B, § 1000(a)(7) [Div. A, Title VI, § 608], Nov. 29, 1999, 113 Stat. 1536, 1501A-458; Pub.L. 109-140, § 3, Dec. 22, 2005, 119 Stat. 2650; Pub.L. 117-81, Div. E, Title LIII, § 5316, Dec. 27, 2021, 135 Stat. 2366; Pub.L. 117-263, Div. I, Title XCIII, § 9302(d), Dec. 23, 2022, 136 Stat. 3884.)

22 U.S.C.A. § 4831, 22 USCA § 4831
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

End of Document

United States Code Annotated
Title 22. Foreign Relations and Intercourse
Chapter 80. Diplomatic Telecommunications Service Program Office (Dts-PO)

22 U.S.C.A. § 7302

§ 7302. Establishment of the Diplomatic Telecommunications Service Governance Board

Effective: October 7, 2010
Currentness

(a) Governance Board

(1) Establishment

There is established the Diplomatic Telecommunications Service Governance Board to direct and oversee the activities and performance of the DTS-PO.

(2) Executive Agent

(A) Designation

The Director of the Office of Management and Budget shall designate, from among the departments and agencies of the United States Government that use the DTS Network, a department or agency as the DTS-PO Executive Agent.

(B) Duties

The Executive Agent designated under subparagraph (A) shall--

(i) nominate a Director of the DTS-PO for approval by the Governance Board in accordance with subsection (e); and

(ii) perform such other duties as established by the Governance Board in the determination of written implementing arrangements and other relevant and appropriate governance processes and procedures under paragraph (3).

(3) Requirement for implementing arrangements

Subject to the requirements of this chapter, the Governance Board shall determine the written implementing arrangements and other relevant and appropriate governance processes and procedures to manage, oversee, resource, or otherwise administer the DTS-PO.

(b) Membership

(1) Selection

The Director of the Office of Management and Budget shall designate from among the departments and agencies that use the DTS Network--

(A) four departments and agencies to each appoint one voting member of the Governance Board from the personnel of such departments and agencies; and

(B) any other departments and agencies that the Director considers appropriate to each appoint one nonvoting member of the Governance Board from the personnel of such departments and agencies.

(2) Voting and nonvoting members

The Governance Board shall consist of voting members and nonvoting members as follows:

(A) Voting members

The voting members shall consist of a Chair, who shall be designated by the Director of the Office of Management and Budget, and the four members appointed by departments and agencies designated under paragraph (1)(A).

(B) Nonvoting members

The nonvoting members shall consist of the members appointed by departments and agencies designated under paragraph (1)(B) and shall act in an advisory capacity.

(c) Chair duties and authorities

The Chair of the Governance Board shall--

(1) preside over all meetings and deliberations of the Governance Board;

(2) provide the Secretariat functions of the Governance Board; and

(3) propose bylaws governing the operation of the Governance Board.

(d) Quorum, decisions, meetings

A quorum of the Governance Board shall consist of the presence of the Chair and four voting members. The decisions of the Governance Board shall require a majority of the voting membership. The Chair **shall convene** a meeting of the Governance Board not less than four times each year to carry out the functions of the Governance Board. The Chair or any voting member may convene a meeting of the Governance Board.

(e) Governance Board duties

The Governance Board shall have the following duties with respect to the DTS-PO:

(1) To approve and monitor the plans, services, priorities, policies, and pricing methodology of the DTS-PO for bandwidth costs and projects carried out at the request of a department or agency that uses the DTS Network.

(2) To provide to the DTS-PO Executive Agent the recommendation of the Governance Board with respect to the approval, disapproval, or modification of each annual budget request for the DTS-PO, prior to the submission of any such request by the Executive Agent.

(3) To review the performance of the DTS-PO against plans approved under paragraph (1) and the management activities and internal controls of the DTS-PO.

(4) To require from the DTS-PO any plans, reports, documents, and records the Governance Board considers necessary to perform its oversight responsibilities.

(5) To conduct and evaluate independent audits of the DTS-PO.

(6) To approve or disapprove the nomination of the Director of the DTS-PO by the Executive Agent with a majority vote of the Governance Board.

(7) To recommend to the Executive Agent the replacement of the Director of the DTS-PO with a majority vote of the Governance Board.

(f) National security interests

The Governance Board shall ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization.

CREDIT(S)

(Pub.L. 106-567, Title III, § 322, as added Pub.L. 111-259, Title V, § 501(a)(1), Oct. 7, 2010, 124 Stat. 2735.)

22 U.S.C.A. § 7302, 22 USCA § 7302
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

United States Code Annotated
Title 42. The Public Health and Welfare
Chapter 6A. Public Health Service (Refs & Annos)
Subchapter III-A. Substance Abuse and Mental Health Services Administration (Refs & Annos)
Part D. Miscellaneous Provisions Relating to Substance Abuse and Mental Health (Refs & Annos)

42 U.S.C.A. § 290ee-5

§ 290ee-5. Funding

Effective: December 29, 2022
Currentness

(a) Best practices for operating recovery housing

(1) In general

The Secretary, in consultation with the individuals and entities specified in paragraph (2), shall continue activities to identify, facilitate the development of, and periodically update consensus-based best practices, which may include model laws for implementing suggested minimum standards for operating, and promoting the availability of, high-quality recovery housing.

(2) Consultation

In carrying out the activities described in paragraph (1), the Secretary shall consult with, as appropriate--

(A) officials representing the agencies described in subsection (e)(2);

(B) directors or commissioners, as applicable, of State health departments, Tribal health departments, State Medicaid programs, and State insurance agencies;

(C) representatives of health insurance issuers;

(D) national accrediting entities and reputable providers of, and analysts of, recovery housing services, including Indian Tribes, Tribal organizations, and Tribally designated housing entities that provide recovery housing services, as applicable;

(E) individuals with a history of substance use disorder; and

(F) other stakeholders identified by the Secretary.

(G) Redesignated (F)

(3) Availability

The best practices referred to in paragraph (1) shall be--

(A) made publicly available; and

(B) published on the public website of the Substance Abuse and Mental Health Services Administration.

(4) Exclusion of guideline on treatment services

In facilitating the development of best practices under paragraph (1), the Secretary may not include any best practices with respect to substance use disorder treatment services.

(b) Identification of fraudulent recovery housing operators

(1) In general

The Secretary, in consultation with the individuals and entities described in paragraph (2), shall identify or facilitate the development of common indicators that could be used to identify potentially fraudulent recovery housing operators.

(2) Consultation

In carrying out the activities described in paragraph (1), the Secretary shall consult with, as appropriate, the individuals and entities specified in subsection (a)(2) and the Attorney General of the United States.

(3) Requirements

(A) Practices for identification and reporting

In carrying out the activities described in paragraph (1), the Secretary shall consider how law enforcement, public and private payers, and the public can best identify and report fraudulent recovery housing operators.

(B) Factors to be considered

In carrying out the activities described in paragraph (1), the Secretary shall identify or develop indicators, which may include indicators related to--

(i) unusual billing practices;

(ii) average lengths of stays;

(iii) excessive levels of drug testing (in terms of cost or frequency); and

(iv) unusually high levels of recidivism.

(c) Dissemination

The Secretary shall, as appropriate, disseminate the best practices identified or developed under subsection (a) and the common indicators identified or developed under subsection (b) to--

(1) State agencies, which may include the provision of technical assistance to State agencies seeking to adopt or implement such best practices;

(2) Indian Tribes, Tribal organizations, and tribally designated housing entities;

(3) the Attorney General of the United States;

(4) the Secretary of Labor;

(5) the Secretary of Housing and Urban Development;

(6) State and local law enforcement agencies;

(7) health insurance issuers;

(8) recovery housing entities; and

(9) the public.

(d) Requirements

In carrying out the activities described in subsections (a) and (b), the Secretary, in consultation with appropriate individuals and entities described in subsections (a)(2) and (b)(2), shall consider how recovery housing is able to support recovery and

prevent relapse, recidivism, or overdose (including overdose death), including by improving access and adherence to treatment, including medication-assisted treatment.

(e) Coordination of Federal activities to promote the availability of housing for individuals experiencing homelessness, individuals with a mental illness, and individuals with a substance use disorder

(1) In general

The Secretary, acting through the Assistant Secretary, and the Secretary of Housing and Urban Development **shall convene** an interagency working group for the following purposes:

(A) To increase collaboration, cooperation, and consultation among the Department of Health and Human Services, the Department of Housing and Urban Development, and the Federal agencies listed in paragraph (2)(B), with respect to promoting the availability of housing, including high-quality recovery housing, for individuals experiencing homelessness, individuals with mental illnesses, and individuals with substance use disorder.

(B) To align the efforts of such agencies and avoid duplication of such efforts by such agencies.

(C) To develop objectives, priorities, and a long-term plan for supporting State, Tribal, and local efforts with respect to the operation of high-quality recovery housing that is consistent with the best practices developed under this section.

(D) To improve information on the quality of recovery housing.

(2) Composition

The interagency working group under paragraph (1) shall be composed of--

(A) the Secretary, acting through the Assistant Secretary, and the Secretary of Housing and Urban Development, who shall serve as the co-chairs; and

(B) representatives of each of the following Federal agencies:

(i) The Centers for Medicare & Medicaid Services.

(ii) The Substance Abuse and Mental Health Services Administration.

(iii) The Health Resources and Services Administration.

(iv) The Office of the Inspector General of the Department of Health and Human Services.

(v) The Indian Health Service.

(vi) The Department of Agriculture.

(vii) The Department of Justice.

(viii) The Office of National Drug Control Policy.

(ix) The Bureau of Indian Affairs.

(x) The Department of Labor.

(xi) The Department of Veterans Affairs.

(xii) Any other Federal agency as the co-chairs determine appropriate.

(3) Meetings

The working group shall meet on a quarterly basis.

(4) Reports to Congress

Not later than 4 years after December 29, 2022, the working group shall submit to the Committee on Health, Education, Labor, and Pensions, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance of the Senate and the Committee on Energy and Commerce, the Committee on Ways and Means, the Committee on Agriculture, and the Committee on Financial Services of the House of Representatives a report describing the work of the working group and any recommendations of the working group to improve Federal, State, and local coordination with respect to recovery housing and other housing resources and operations for individuals experiencing homelessness, individuals with a mental illness, and individuals with a substance use disorder.

(f) Grants for implementing national recovery housing best practices

(1) In general

The Secretary shall award grants to States (and political subdivisions thereof), Indian Tribes, and territories--

(A) for the provision of technical assistance to implement the guidelines and recommendations developed under subsection (a); and

(B) to promote--

(i) the availability of recovery housing for individuals with a substance use disorder; and

(ii) the maintenance of recovery housing in accordance with best practices developed under this section.

(2) State promotion plans

Not later than 90 days after receipt of a grant under paragraph (1), and every 2 years thereafter, each State (or political subdivisions thereof,) Indian Tribe, or territory receiving a grant under paragraph (1) shall submit to the Secretary, and publish on a publicly accessible internet website of the State (or political subdivisions thereof), Indian Tribe, or territory--

(A) the plan of the State (or political subdivisions thereof), Indian Tribe, or territory, with respect to the promotion of recovery housing for individuals with a substance use disorder located within the jurisdiction of such State (or political subdivisions thereof), Indian Tribe, or territory; and

(B) a description of how such plan is consistent with the best practices developed under this section.

(g) Rule of construction

Nothing in this section shall be construed to provide the Secretary with the authority to require States to adhere to minimum standards in the State oversight of recovery housing.

(h) Definitions

In this section:

(1) The term "recovery housing" means a shared living environment free from alcohol and illicit drug use and centered on peer support and connection to services that promote sustained recovery from substance use disorders.

(2) The terms "Indian Tribe" and "Tribal organization" have the meanings given those terms in section 5304 of Title 25.

(3) The term "tribally designated housing entity" has the meaning given that term in section 4103 of Title 25.

(i) Authorization of appropriations

To carry out this section, there is authorized to be appropriated $5,000,000 for the period of fiscal years 2023 through 2027.

CREDIT(S)

(July 1, 1944, c. 373, Title V, § 550, as added Pub.L. 115-271, Title VII, § 7031, Oct. 24, 2018, 132 Stat. 4014; amended Pub.L. 117-328, Div. FF, Title I, §§ 1232, 1233, 1235, 1236, Dec. 29, 2022, 136 Stat. 5674, 5676.)

42 U.S.C.A. § 290ee-5, 42 USCA § 290ee-5
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

United States Code Annotated
Title 50. War and National Defense (Refs & Annos)
Chapter 44. National Security (Refs & Annos)
Subchapter I. Coordination for National Security

50 U.S.C.A. § 3022
Formerly cited as 50 USCA § 402-1

§ 3022. Joint Intelligence Community Council

Effective: December 20, 2019
Currentness

(a) Joint Intelligence Community Council

There is a Joint Intelligence Community Council.

(b) Membership

The Joint Intelligence Community Council shall consist of the following:

(1) The Director of National Intelligence, who shall chair the Council.

(2) The Secretary of State.

(3) The Secretary of the Treasury.

(4) The Secretary of Defense.

(5) The Attorney General.

(6) The Secretary of Energy.

(7) The Secretary of Homeland Security.

(8) Such other officers of the United States Government as the President may designate from time to time.

(c) Functions

The Joint Intelligence Community Council shall assist the Director of National Intelligence in developing and implementing a joint, unified national intelligence effort to protect national security by--

(1) advising the Director on establishing requirements, developing budgets, financial management, and monitoring and evaluating the performance of the intelligence community, and on such other matters as the Director may request; and

(2) ensuring the timely execution of programs, policies, and directives established or developed by the Director.

(d) Meetings

The Director of National Intelligence shall convene meetings of the Joint Intelligence Community Council as the Director considers appropriate.

(e) Advice and opinions of members other than Chairman

(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Director of National Intelligence to the President or the National Security Council, in the role of the Chairman as Chairman

of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

(f) Recommendations to Congress

Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.

CREDIT(S)

(July 26, 1947, c. 343, Title I, § 101A, as added Pub.L. 108-458, Title I, § 1031, Dec. 17, 2004, 118 Stat. 3677; amended Pub.L. 116-92, Div. E, Title LXIII, § 6311(a), Dec. 20, 2019, 133 Stat. 2191.)

50 U.S.C.A. § 3022, 50 USCA § 3022
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

End of Document

PART III

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

United States Code Annotated
Title 10. Armed Forces (Refs & Annos)
Subtitle A. General Military Law (Refs & Annos)
Part II. Personnel (Refs & Annos)
Chapter 36. Promotion, Separation, and Involuntary Retirement of Officers on the Active-Duty List (Refs & Annos)
Subchapter I. Selection Boards (Refs & Annos)

10 U.S.C.A. § 611

§ 611. Convening of selection boards

Effective: December 28, 2001
Currentness

(a) Whenever the needs of the service require, the Secretary of the military department concerned shall convene selection boards to recommend for promotion to the next higher permanent grade, under subchapter II of this chapter, officers on the active-duty list in each permanent grade from first lieutenant through brigadier general in the Army, Air Force, or Marine Corps and from lieutenant (junior grade) through rear admiral (lower half) in the Navy. The preceding sentence does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(b) Whenever the needs of the service require, the Secretary of the military department concerned may convene selection boards to recommend officers for continuation on active duty under section 637 of this title or for early retirement under section 638 of this title.

(c) The convening of selection boards under subsections (a) and (b) shall be under regulations prescribed by the Secretary of Defense.

CREDIT(S)

(Added Pub.L. 96-513, Title I, § 105, Dec. 12, 1980, 94 Stat. 2851; amended Pub.L. 97-86, Title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub.L. 99-145, Title V, § 514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub.L. 107-107, Div. A, Title V, § 505(a)(3), Dec. 28, 2001, 115 Stat. 1086.)

Notes of Decisions (2)

10 U.S.C.A. § 611, 10 USCA § 611
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

United States Code Annotated
Title 10. Armed Forces (Refs & Annos)
Subtitle A. General Military Law (Refs & Annos)
Part II. Personnel (Refs & Annos)
Chapter 36. Promotion, Separation, and Involuntary Retirement of Officers on the Active-Duty List (Refs & Annos)
Subchapter I. Selection Boards (Refs & Annos)

10 U.S.C.A. § 612

§ 612. Composition of selection boards

Effective: January 1, 2021
Currentness

(a)(1) Members of selection boards shall be appointed by the Secretary of the military department concerned in accordance with this section. A selection board shall consist of five or more officers of the same armed force as the officers under consideration by the board. Each member of a selection board (except as provided in paragraphs (2), (3), and (4)) shall be an officer on the active-duty list. Each member of a selection board must be serving in a grade higher than the grade of the officers under consideration by the board, except that no member of a board may be serving in a grade below major or lieutenant commander. The members of a selection board shall represent the diverse population of the armed force concerned to the extent practicable.

(2)(A) Except as provided in subparagraph (B), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

(B) A selection board need not include an officer from a competitive category to be considered by the board when there are no officers of that competitive category on the active-duty list in a grade higher than the grade of the officers to be considered by the board and eligible to serve on the board. However, in such a case the Secretary of the military department concerned, in his discretion, may appoint as a member of the board an officer of that competitive category who is not on the active-duty list from among officers of the same armed force as the officers under consideration by the board who hold a higher grade than the grade of the officers under consideration and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

(3) When reserve officers of an armed force are to be considered by a selection board, the membership of the board shall include at least one reserve officer of that armed force on active duty (whether or not on the active-duty list). The actual number of reserve officers shall be determined by the Secretary of the military department concerned, in the Secretary's discretion. Notwithstanding the first sentence of this paragraph, in the case of a board which is considering officers in the grade of colonel or brigadier general or, in the case of officers of the Navy, captain or rear admiral (lower half), no reserve officer need be included if there are no reserve officers of that armed force on active duty in the next higher grade who are eligible to serve on the board.

(4) Except as provided in paragraphs (2) and (3), if qualified officers on the active-duty list are not available in sufficient number to comprise a selection board, the Secretary of the military department concerned shall complete the membership of the board

by appointing as members of the board officers who are members of the same armed force and hold a grade higher than the grade of the officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

(5) A retired general or flag officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

(b) No officer may be a member of two successive selection boards convened under section 611(a) of this title for the consideration of officers of the same competitive category and grade.

(c)(1) Each selection board convened under section 611(a) of this title that will consider an officer described in paragraph (2) shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is a joint qualified officer.

(2) Paragraph (1) applies with respect to an officer who--

(A) is serving on, or has served on, the Joint Staff; or

(B) is a joint qualified officer.

(3) The Secretary of Defense may waive the requirement in paragraph (1) in the case of--

(A) any selection board of the Marine Corps; or

(B) any selection board that is considering officers in specialties identified in paragraph (2) or (3) of section 619a(b) of this title.

CREDIT(S)

(Added Pub.L. 96-513, Title I, § 105, Dec. 12, 1980, 94 Stat. 2851; amended Pub.L. 97-22, § 4(a), July 10, 1981, 95 Stat. 125; Pub.L. 97-86, Title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub.L. 99-145, Title V, § 514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub.L. 99-433, Title IV, § 402(a), Oct. 1, 1986, 100 Stat. 1030; Pub.L. 106-398, § 1 [Div. A, Title V, § 504(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-101; Pub.L. 111-383, Div. A, Title V, § 522(a), Jan. 7, 2011, 124 Stat. 4214; Pub.L. 116-283, Div. A, Title V, § 503(a)(1), Jan. 1, 2021, 134 Stat. 3564.)

10 U.S.C.A. § 612, 10 USCA § 612
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

21 U.S.C.A. § 379dd

§ 379dd. Establishment and functions of the Foundation

Effective: March 15, 2022
Currentness

(a) In general

A nonprofit corporation to be known as the Reagan-Udall Foundation for the Food and Drug Administration (referred to in this part as the "Foundation") shall be established in accordance with this section. The Foundation shall be headed by an Executive Director, appointed by the members of the Board of Directors under subsection (e) [1] . The Foundation shall not be an agency or instrumentality of the United States Government.

(b) Purpose of Foundation

The purpose of the Foundation is to advance the mission of the Food and Drug Administration to modernize medical, veterinary, food, food ingredient, and cosmetic product development, accelerate innovation, and enhance product safety.

(c) Duties of the Foundation

The Foundation shall--

(1) taking into consideration the Critical Path reports and priorities published by the Food and Drug Administration, identify unmet needs in the development, manufacture, and evaluation of the safety and effectiveness, including postapproval, of devices, including diagnostics, biologics, and drugs, and the safety of food, food ingredients, and cosmetics, and including the incorporation of more sensitive and predictive tools and devices to measure safety;

(2) establish goals and priorities in order to meet the unmet needs identified in paragraph (1);

(3) in consultation with the Secretary, identify existing and proposed Federal intramural and extramural research and development programs relating to the goals and priorities established under paragraph (2), coordinate Foundation activities with such programs, and minimize Foundation duplication of existing efforts;

(4) award grants to, or enter into contracts, memoranda of understanding, or cooperative agreements with, scientists and entities, which may include the Food and Drug Administration, university consortia, public-private partnerships, institutions of higher education, entities described in section 501(c)(3) of Title 26 (and exempt from tax under section 501(a) of such title), and industry, to efficiently and effectively advance the goals and priorities established under paragraph (2);

(5) recruit meeting participants and hold or sponsor (in whole or in part) meetings as appropriate to further the goals and priorities established under paragraph (2);

(6) release and publish information and data and, to the extent practicable, license, distribute, and release material, reagents, and techniques to maximize, promote, and coordinate the availability of such material, reagents, and techniques for use by the Food and Drug Administration, nonprofit organizations, and academic and industrial researchers to further the goals and priorities established under paragraph (2);

(7) ensure that--

(A) action is taken as necessary to obtain patents for inventions developed by the Foundation or with funds from the Foundation;

(B) action is taken as necessary to enable the licensing of inventions developed by the Foundation or with funds from the Foundation; and

(C) executed licenses, memoranda of understanding, material transfer agreements, contracts, and other such instruments, promote, to the maximum extent practicable, the broadest conversion to commercial and noncommercial applications of licensed and patented inventions of the Foundation to further the goals and priorities established under paragraph (2);

(8) provide objective clinical and scientific information to the Food and Drug Administration and, upon request, to other Federal agencies to assist in agency determinations of how to ensure that regulatory policy accommodates scientific advances and meets the agency's public health mission;

(9) conduct annual assessments of the unmet needs identified in paragraph (1); and

(10) carry out such other activities consistent with the purposes of the Foundation as the Board determines appropriate.

(d) Board of Directors

(1) Establishment

(A) In general

The Foundation shall have a Board of Directors (referred to in this part as the "Board"), which shall be composed of ex officio and appointed members in accordance with this subsection. All appointed members of the Board shall be voting members.

(B) Ex officio members

The ex officio members of the Board shall be the following individuals or their designees:

(i) The Commissioner.

(ii) The Director of the National Institutes of Health.

(iii) The Director of the Centers for Disease Control and Prevention.

(iv) The Director of the Agency for Healthcare Research and Quality.

(C) Appointed members

(i) In general

The ex officio members of the Board under subparagraph (B) shall, by majority vote, appoint to the Board 14 individuals, of which 9 shall be from a list of candidates to be provided by the National Academy of Sciences and 5 shall be from lists of candidates provided by patient and consumer advocacy groups, professional scientific and medical societies, and industry trade organizations. Of such appointed members--

(I) 4 shall be representatives of the general pharmaceutical, device, food, cosmetic, and biotechnology industries;

(II) 3 shall be representatives of academic research organizations;

(III) 2 shall be representatives of patient or consumer advocacy organizations;

(IV) 1 shall be a representative of health care providers; and

(V) 4 shall be at-large members with expertise or experience relevant to the purpose of the Foundation.

(ii) Additional members

The Board, through amendments to the bylaws of the Foundation, may provide that the number of voting members of the Board shall be a number (to be specified in such amendment) greater than 14. Any Board positions that are established by any such amendment shall be appointed (by majority vote) by the individuals who, as of the date of such amendment, are voting members of the Board and persons so appointed may represent any of the categories specified in subclauses (I) through (V) of clause (i), so long as no more than 30 percent of the total voting members of the Board (including members whose positions are established by such amendment) are representatives of the general pharmaceutical, device, food, cosmetic, and biotechnology industries.

(iii) Requirements

(I) Expertise

The ex officio members, acting pursuant to clause (i), and the Board, acting pursuant to clause (ii), shall ensure the Board membership includes individuals with expertise in areas including the sciences of developing, manufacturing, and evaluating the safety and effectiveness of devices, including diagnostics, biologics, and drugs, and the safety of food, food ingredients, and cosmetics.

(II) Federal employees

No employee of the Federal Government shall be appointed as a member of the Board under this subparagraph or under paragraph (3)(B). For purposes of this section, the term "employee of the Federal Government" does not include a special Government employee, as that term is defined in section 202(a) of Title 18.

(D) Initial meeting

(i) In general

Not later than 30 days after September 27, 2007, the Secretary **shall** **convene** a meeting of the ex officio members of the Board to--

(I) incorporate the Foundation; and

(II) appoint the members of the Board in accordance with subparagraph (C).

(ii) Service of ex officio members

Upon the appointment of the members of the Board under clause (i)(II)--

(I) the terms of service of the Director of the Centers for Disease Control and Prevention and of the Director of the Agency for Healthcare Research and Quality as ex officio members of the Board shall terminate; and

(II) the Commissioner and the Director of the National Institutes of Health shall continue to serve as ex officio members of the Board, but shall be nonvoting members.

(iii) Chair

The ex officio members of the Board under subparagraph (B) shall designate an appointed member of the Board to serve as the Chair of the Board.

(2) Duties of Board

The Board shall--

(A) establish bylaws for the Foundation that--

(i) are published in the Federal Register and available for public comment;

(ii) establish policies for the selection of the officers, employees, agents, and contractors of the Foundation;

(iii) establish policies, including ethical standards, for the acceptance, solicitation, and disposition of donations and grants to the Foundation and for the disposition of the assets of the Foundation, including appropriate limits on the ability of donors to designate, by stipulation or restriction, the use or recipient of donated funds;

(iv) establish policies that would subject all employees, fellows, and trainees of the Foundation to the conflict of interest standards under section 208 of Title 18;

(v) establish licensing, distribution, and publication policies that support the widest and least restrictive use by the public of information and inventions developed by the Foundation or with Foundation funds to carry out the duties described in paragraphs (6) and (7) of subsection (c), and may include charging cost-based fees for published material produced by the Foundation;

(vi) specify principles for the review of proposals and awarding of grants and contracts that include peer review and that are consistent with those of the Foundation for the National Institutes of Health, to the extent determined practicable and appropriate by the Board;

(vii) specify a cap on administrative expenses for recipients of a grant, contract, or cooperative agreement from the Foundation;

(viii) establish policies for the execution of memoranda of understanding and cooperative agreements between the Foundation and other entities, including the Food and Drug Administration;

(ix) establish policies for funding training fellowships, whether at the Foundation, academic or scientific institutions, or the Food and Drug Administration, for scientists, doctors, and other professionals who are not employees of regulated industry, to foster greater understanding of and expertise in new scientific tools, diagnostics, manufacturing techniques, and potential barriers to translating basic research into clinical and regulatory practice;

(x) specify a process for annual Board review of the operations of the Foundation; and

(xi) establish specific duties of the Executive Director;

(B) prioritize and provide overall direction to the activities of the Foundation;

(C) evaluate the performance of the Executive Director; and

(D) carry out any other necessary activities regarding the functioning of the Foundation.

(3) Terms and vacancies

(A) Term

The term of office of each member of the Board appointed under paragraph (1)(C)(i), and the term of office of any member of the Board whose position is established pursuant to paragraph (1)(C)(ii), shall be 4 years, except that--

(i) the terms of offices for the members of the Board initially appointed under paragraph (1)(C)(i) shall expire on a staggered basis as determined by the ex officio members; and

(ii) the terms of office for the persons initially appointed to positions established pursuant to paragraph (1)(C)(ii) may be made to expire on a staggered basis, as determined by the individuals who, as of the date of the amendment establishing such positions, are members of the Board.

(B) Vacancy

Any vacancy in the membership of the Board--

(i) shall not affect the power of the remaining members to execute the duties of the Board; and

(ii) shall be filled by appointment by the appointed members described in paragraph (1)(C) by majority vote.

(C) Partial term

If a member of the Board does not serve the full term applicable under subparagraph (A), the individual appointed under subparagraph (B) to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(D) Serving past term

A member of the Board may continue to serve after the expiration of the term of the member until a successor is appointed.

(4) Compensation

Members of the Board may not receive compensation for service on the Board. Such members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board, as set forth in the bylaws issued by the Board.

(e) Incorporation

The ex officio members of the Board shall serve as incorporators and shall take whatever actions necessary to incorporate the Foundation.

(f) Nonprofit status

In carrying out subsection (b), the Board shall establish such policies and bylaws under subsection (d), and the Executive Director shall carry out such activities under subsection (g), as may be necessary to ensure that the Foundation maintains status as an organization that--

(1) is described in subsection (c)(3) of section 501 of Title 26; and

(2) is, under subsection (a) of such section, exempt from taxation.

(g) Executive Director

(1) In general

The Board shall appoint an Executive Director who shall serve at the pleasure of the Board. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Board shall prescribe.

(2) Compensation

The compensation of the Executive Director shall be fixed by the Board.

(h) Administrative powers

In carrying out this part, the Board, acting through the Executive Director, may--

(1) adopt, alter, and use a corporate seal, which shall be judicially noticed;

(2) hire, promote, compensate, and discharge 1 or more officers, employees, and agents, as may be necessary, and define their duties;

(3) prescribe the manner in which--

(A) real or personal property of the Foundation is acquired, held, and transferred;

(B) general operations of the Foundation are to be conducted; and

(C) the privileges granted to the Board by law are exercised and enjoyed;

(4) with the consent of the applicable executive department or independent agency, use the information, services, and facilities of such department or agencies in carrying out this section;

(5) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

(6) hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation under subsection (i);

(7) enter into such other contracts, leases, cooperative agreements, and other transactions as the Board considers appropriate to conduct the activities of the Foundation;

(8) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this part;

(9) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

(10) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

(11) appoint other groups of advisors as may be determined necessary to carry out the functions of the Foundation; and

(12) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this part.

(i) Acceptance of funds from other sources

The Executive Director may solicit and accept on behalf of the Foundation, any funds, gifts, grants, devises, or bequests of real or personal property made to the Foundation, including from private entities, for the purposes of carrying out the duties of the Foundation.

(j) Service of Federal employees

Federal Government employees may serve on committees advisory to the Foundation and otherwise cooperate with and assist the Foundation in carrying out its functions, so long as such employees do not direct or control Foundation activities.

(k) Detail of Government employees; fellowships

(1) Detail from Federal agencies

Federal Government employees may be detailed from Federal agencies with or without reimbursement to those agencies to the Foundation at any time, and such detail shall be without interruption or loss of civil service status or privilege. Each such employee shall abide by the statutory, regulatory, ethical, and procedural standards applicable to the employees of the agency from which such employee is detailed and those of the Foundation.

(2) Voluntary service; acceptance of Federal employees

(A) Foundation

The Executive Director of the Foundation may accept the services of employees detailed from Federal agencies with or without reimbursement to those agencies.

(B) Food and Drug Administration

The Commissioner may accept the uncompensated services of Foundation fellows or trainees. Such services shall be considered to be undertaking an activity under contract with the Secretary as described in section 379 of this title.

(l) Annual reports

(1) Reports to Foundation

Any recipient of a grant, contract, fellowship, memorandum of understanding, or cooperative agreement from the Foundation under this section shall submit to the Foundation a report on an annual basis for the duration of such grant, contract, fellowship, memorandum of understanding, or cooperative agreement, that describes the activities carried out under such grant, contract, fellowship, memorandum of understanding, or cooperative agreement.

(2) Report to Congress and the FDA

Beginning with fiscal year 2009, the Executive Director shall submit to Congress and the Commissioner an annual report that--

(A) describes the activities of the Foundation and the progress of the Foundation in furthering the goals and priorities established under subsection (c)(2), including the practical impact of the Foundation on regulated product development;

(B) provides a specific accounting of the source and use of all funds used by the Foundation to carry out such activities; and

(C) provides information on how the results of Foundation activities could be incorporated into the regulatory and product review activities of the Food and Drug Administration.

(m) Separation of funds

The Executive Director shall ensure that the funds received from the Treasury are managed as individual programmatic funds under subsection (i), according to best accounting practices.

(n) Funding

From amounts appropriated to the Food and Drug Administration for each fiscal year, the Commissioner shall transfer not less than $1,250,000 and not more than $5,000,000, to the Foundation to carry out subsections (a), (b), and (d) through (m).

CREDIT(S)

(June 25, 1938, c. 675, § 770, as added Pub.L. 110-85, Title VI, § 601(a), Sept. 27, 2007, 121 Stat. 890; amended Pub.L. 114-255, Div. A, Title III, § 3076, Dec. 13, 2016, 130 Stat. 1139; Pub.L. 117-101, § 2(a), Mar. 15, 2022, 136 Stat. 47.)

Footnotes

1 So in original. Probably should be "subsection (g)".

21 U.S.C.A. § 379dd, 21 USCA § 379dd
Current through P.L.118-10. Some statute sections may be more current, see credits for details.

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