

or proof of licensing to operate as an educational institution or training establishment in the State where the institution or establishment is located; and

(ii) the financial position of the institution or establishment, as prepared by an appropriate third-party entity; or

(B) other adequate evidence, as determined by the Secretary, that the institution or establishment is authorized to provide post-secondary education or training in the State where the institution or establishment is located.

(3) In the case of any course of education that is offered by an educational institution or training establishment that has never offered a course of education that was approved under this chapter, a requirement for the inclusion of information about the course of education covered by the application, including—

(A) the number of students who have entered and graduated from the course during the preceding two-year period; and

(B) if available, the cohort default rate for funds provided to the institution or establishment under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(4) In the case of any educational institution or training establishment that is not an institution of higher learning, a requirement for the inclusion of—

(A) a list of individuals who will serve as fully qualified instructors for the course of education, as of the date of the application, and an attestation that such individuals—

(i) have a degree or other training, as appropriate, in the field of the course;

(ii) effectively teach the skills offered under the course; and

(iii) have demonstrated relevant industry experience in the field of the course; and

(B) a list of individuals who will serve as career services employees for students enrolled in the course and an attestation that such individuals are skilled at identifying professions in the relevant industry that are in need of new employees to hire, tailoring the course of education to meet market needs, and identifying the employers likely to hire graduates.

(c) REQUIREMENTS FOR STATE APPROVING AGENCIES.—During the approval process with respect to a uniform application submitted by an educational institution or training establishment, a State approving agency, or the Secretary when acting in the role of a State approving agency, shall contact the Secretary of Education to determine whether the course of education subject to such approval process has withdrawn, or been denied or suspended, from receiving for benefits under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(d) APPROPRIATE EXECUTIVE.—In this section, the appropriate executive of an educational institution or training establishment is a senior executive official, senior administrator, owner, or operator designated by the institution or establishment.

(Added Pub. L. 117-333, §11(a), Jan. 5, 2023, 136 Stat. 6132.)

Editorial Notes

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (b)(1)(B)(i)(II), (2), (3)(B) and (c), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see section 1 of Pub. L. 89-329, set out as a Short Title note under section 1001 of Title 20 and Tables.

CODIFICATION

Pub. L. 117-333, §11(a), Jan. 5, 2023, 136 Stat. 6132, which directed the amendment of subchapter I of this chapter by adding this section after section 3672 of this title, was executed by adding this section after section 3672 in this subchapter, to reflect the probable intent of Congress and the redesignation of former subchapter I of this chapter as subchapter II by section 2(a)(1) of Pub. L. 117-333.

Statutory Notes and Related Subsidiaries

APPLICABILITY

Pub. L. 117-333, §11(c), Jan. 5, 2023, 136 Stat. 6134, provided that: “The application required by section 3672A of title 38, United States Code, as added by subsection (a), shall—

“(1) be developed by not later than October 1, 2023; and

“(2) be required for the approval of any new course of education proposed on or after that day.”

§ 3673. Approval activities: cooperation and coordination of activities

(a) COOPERATION IN ACTIVITIES.—The Secretary and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Secretary and each State approving agency under the educational programs established under this chapter and chapters 34 and 35 of this title. To assure that such programs are effectively and efficiently administered, the cooperation of the Secretary and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institutions, and particular attention should be given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which eligible persons or veterans are enrolled under this chapter and chapters 34 and 35 of this title.

(b) COORDINATION OF ACTIVITIES.—The Secretary shall take appropriate actions to ensure the coordination of approval activities performed by State approving agencies under this chapter and chapters 34 and 35 of this title and approval activities performed by the Department of Labor, the Department of Education, and other entities in order to reduce overlap and improve efficiency in the performance of such activities.

(c) AVAILABILITY OF INFORMATION MATERIAL.—The Secretary will furnish the State approving agencies with copies of such Department of Veterans Affairs informational material as may aid

them in carrying out chapters 34 and 35 of this title.

(d) USE OF STATE APPROVING AGENCIES FOR OVERSIGHT ACTIVITIES.—The Secretary shall utilize the services of a State approving agency for conducting a risk-based survey developed under section 3673A of this title and other such oversight purposes as the Secretary, in consultation with the State approving agencies, considers appropriate without regard to whether the Secretary or the agency approved the courses offered in the State concerned.

(e) NOTICE OF GOVERNMENT ACTION.—(1)(A) If the Secretary receives notice described in paragraph (2), or otherwise becomes aware of an action or event described in paragraph (3), with respect to an educational institution, the Secretary shall transmit such notice or provide notice of such action or event to the State approving agency for the State where the educational institution is located by not later than 30 days after the date on which the Secretary receives such notice or becomes aware of such action or event.

(B) If a State approving agency receives notice as described in paragraph (2), or otherwise becomes aware of an action or event described in paragraph (3), with respect to an educational institution, other than from the Secretary pursuant to subparagraph (A) of this paragraph, the State approving agency shall immediately notify the Secretary.

(C) Not later than 60 days after the date on which a State approving agency receives notice under subparagraph (A), receives notice as described in subparagraph (B), or becomes aware as described in such subparagraph, as the case may be, regarding an educational institution, such State approving agency shall—

(i) complete a risk-based survey of such educational institution; and

(ii) provide the Secretary with—

(I) a complete report on the findings of the State approving agency with respect to the risk-based survey completed under clause (i) and any actions taken as a result of such findings; and

(II) any supporting documentation and pertinent records.

(2) Notice described in this paragraph is any of the following:

(A) Notice from the Secretary of Education of an event under paragraph (3)(A).

(B) Notice of an event under paragraph (3)(B).

(C) Notice from a State of an action taken by that State under paragraph (3)(C).

(D) Notice provided by an accrediting agency or association of an action described in paragraph (3)(D) taken by that agency or association.

(E) Notice that the Secretary of Education has placed the educational institution on provisional certification status.

(3) An action or event under this paragraph is any of the following:

(A) The receipt by an educational institution of payments under the heightened cash monitoring level 2 payment method pursuant to section 487(c)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1094).

(B) Punitive action taken by the Attorney General, the Federal Trade Commission, or any other Federal department or agency for misconduct or misleading marketing practices that would violate the standards defined by the Secretary of Veterans Affairs.

(C) Punitive action taken by a State against an educational institution.

(D) The loss, or risk of loss, by an educational institution of an accreditation from an accrediting agency or association, including notice of probation, suspension, an order to show cause relating to the educational institution's academic policies and practices or to its financial stability, or revocation of accreditation.

(E) The placement of an educational institution on provisional certification status by the Secretary of Education.

(4) If a State approving agency disapproves or suspends an educational institution, the State approving agency shall provide notice of such disapproval or suspension to the Secretary and to all other State approving agencies.

(5) This subsection shall be carried out using amounts made available pursuant to section 3674(a)(4) of this title as long as such amounts remain available.

(6) For each notice transmitted or provided to a State approving agency under paragraph (1) with respect to an educational institution, the Secretary shall ensure the careful review of—

(A) to the extent possible, the action that gave rise to such notice; and

(B) any other action against the educational institution by any Federal or State government entity or by the educational institution's accreditor.

(7) In this subsection, the term "risk-based survey" means the risk-based survey developed under section 3673A of this title.

(f) OUTREACH ACTIVITIES.—(1) A State approving agency may conduct outreach activities if—

(A) the State approving agency has properly conducted its enforcement and approval of courses and programs of education under this chapter; and

(B) funds are still available to do so.

(2) For purposes of paragraph (1)(A), a State approving agency shall be considered to have properly conducted its enforcement and approval of courses and programs of education under this chapter if the State approving agency has—

(A) met fulfilled¹ its requirements pursuant to the applicable cooperative agreements between the State approving agency and the Department relating to the oversight and approval of courses and programs of education under this chapter; and

(B) completed a risk-based survey of any course or program of education determined to be of questionable quality or at risk by any Federal or State agency or any accrediting agency.

(3) Outreach activities conducted under paragraph (1) shall be carried out using amounts de-

¹ So in original.

rived from amounts not specifically appropriated to carry out this subsection.

(Added Pub. L. 88-126, §1, Sept. 23, 1963, 77 Stat. 158, §1773; amended Pub. L. 89-358, §3(a)(7), (11), Mar. 3, 1966, 80 Stat. 20, 21; Pub. L. 92-540, title IV, §403(6), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 97-295, §4(51), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 101-237, title IV, §423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered §3673, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 110-389, title III, §326(a)(1), (2)(A), (3), Oct. 10, 2008, 122 Stat. 4169; Pub. L. 111-377, title II, §203(b), Jan. 4, 2011, 124 Stat. 4125; Pub. L. 115-48, title III, §310, Aug. 16, 2017, 131 Stat. 994; Pub. L. 115-62, title V, §501(a), Sept. 29, 2017, 131 Stat. 1165; Pub. L. 116-315, title I, §§1013(b)(1), 1014(a), 1023, Jan. 5, 2021, 134 Stat. 4943, 4959.)

Editorial Notes

AMENDMENTS

2021—Subsec. (d). Pub. L. 116-315, §1013(b)(1), substituted “shall” for “may” and “a risk-based survey developed under section 3673A of this title” for “compliance and risk-based surveys”.

Subsec. (e). Pub. L. 116-315, §1014(a), added subsec. (e).

Subsec. (f). Pub. L. 116-315, §1023, added subsec. (f).

2017—Subsec. (d). Pub. L. 115-62 inserted “compliance and” before “risk-based surveys”.

Pub. L. 115-48, in heading, struck out “Compliance and” before “Oversight” and, in text, substituted “conducting risk-based surveys and other such oversight” for “such compliance and oversight”, and inserted “, in consultation with the State approving agencies,” after “as the Secretary”.

2011—Subsec. (d). Pub. L. 111-377 added subsec. (d).

2008—Pub. L. 110-389, §326(a)(2)(A), amended section catchline generally. Prior to amendment, catchline read as follows: “Cooperation”.

Subsec. (a). Pub. L. 110-389, §326(a)(3)(A), inserted heading.

Subsecs. (b), (c). Pub. L. 110-389, §326(a)(1), (3)(B), added subsec. (b), redesignated former subsec. (b) as (c), and inserted heading in subsec. (c).

1991—Pub. L. 102-83 renumbered section 1773 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing in subsecs. (a) and (b) and “Department of Veterans Affairs” for “Veterans’ Administration” in subsec. (b).

1982—Pub. L. 97-295 inserted “of this title” after “34 and 35” wherever appearing.

1972—Subsec. (a). Pub. L. 92-540 inserted “this chapter and” before “chapters 34 and 35” wherever appearing.

1966—Subsec. (a). Pub. L. 89-358, §3(a)(7), (11), substituted “chapters 34 and 35” for “this chapter” twice and inserted “or veterans” after “eligible persons”.

Subsec. (b). Pub. L. 89-358, §3(a)(7), substituted “chapters 34 and 35” for “this chapter”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-315, title I, §1013(b)(2), Jan. 5, 2021, 134 Stat. 4943, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 2022.”

Pub. L. 116-315, title I, §1014(b), Jan. 5, 2021, 134 Stat. 4945, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on August 1, 2021.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-377 effective Aug. 1, 2011, see section 203(e) of Pub. L. 111-377, set out as a note under section 3034 of this title.

§ 3673A. Risk-based surveys

(a) DEVELOPMENT REQUIRED.—The Secretary, in partnership with State approving agencies, shall develop a risk-based survey for oversight of educational institutions with courses and programs of education approved under this chapter.

(b) SCOPE.—(1) The scope of the risk-based survey developed under subsection (a) shall be determined by the Secretary, in partnership with the State approving agency.

(2) At a minimum the scope determined under paragraph (1) shall include the following:

(A) Rapid increase in veteran enrollment.

(B) Rapid increase in tuition and fees.

(C) Complaints tracked and published with the mechanism required by section 3698(b)(2) from students pursuing programs of education with educational assistance furnished under laws administered by the Secretary, based on severity or volume of the complaints.

(D) Compliance with section 3680A(d)(1) of this title.

(E) Veteran completion rates.

(F) Indicators of financial stability.

(G) Review of the advertising and recruiting practices of the educational institution, including those by third-party contractors of the educational institution.

(H) Matters for which the Federal Government or a State Government brings an action in a court of competent jurisdiction against an educational institution, including matters in cases in which the Federal Government or the State comes to a settled agreement on such matters outside of the court.

(c) DATABASE.—The Secretary, in partnership with the State approving agencies under this chapter, shall establish a searchable database or use an existing system, as the Secretary considers appropriate, to serve as a central repository for information required for or collected during site visits for the risk-based survey developed under subsection (a), so as to improve future oversight of educational institutions with programs of education approved under this chapter.

(d) NOTICE.—To the maximum amount feasible, the Secretary, or a State approving agency, as applicable, shall provide not more than one business day of notice to an educational institution before conducting a targeted risk-based survey of the institution under this section.

(Added Pub. L. 116-315, title I, §1013(a)(1), Jan. 5, 2021, 134 Stat. 4942; amended Pub. L. 117-16, §7(a)(3), (b)(1), June 8, 2021, 135 Stat. 285; Pub. L. 117-333, §12(a), Jan. 5, 2023, 136 Stat. 6134.)

Editorial Notes

AMENDMENTS

2023—Subsec. (d). Pub. L. 117-333 added subsec. (d).

2021—Pub. L. 117-16, §7(b)(1), made technical correction to directory language of Pub. L. 116-315, §1013(a)(1), which enacted this section.

Subsec. (a). Pub. L. 117-16, §7(a)(3)(A), struck out “searchable” before “risk-based survey”.

Subsec. (c). Pub. L. 117-16, §7(a)(3)(B), inserted “searchable” before “database”.