

## PART 36—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

Sec.

36.1 Purpose.

36.2 Penalty adjustment.

AUTHORITY: 20 U.S.C. 1221e-3 and 3474; 28 U.S.C. 2461 note, as amended by §701 of Pub. Law 114-74, unless otherwise noted.

SOURCE: 67 FR 69655, Nov. 18, 2002, unless otherwise noted.

### § 36.1 Purpose.

The purpose of this part is to make inflation adjustments to the civil monetary penalties within the jurisdiction of the Department of Education. These

penalties are subject to review and adjustment as necessary at least once every 4 years in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(Authority: 20 U.S.C. 1221e-3 and 3474; 28 U.S.C. 2461 note, as amended by §701 of Pub. Law 114-74.)

[67 FR 69655, Nov. 18, 2002, as amended at 77 FR 60049, Oct. 2, 2012; 81 FR 50323, Aug. 1, 2016]

### § 36.2 Penalty adjustment.

The citations for the adjusted penalty provisions, a brief description of the penalty, and the adjusted maximum (and minimum, if applicable) penalty amounts are listed in Table I.

TABLE I, SECTION 36.2—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

Statute	Description	New maximum (and minimum, if applicable) penalty amount
20 U.S.C. 1015(c)(5) (Section 131(c)(5) of the Higher Education Act of 1965 (HEA)).	Provides for a fine, as set by Congress in 1998, of up to \$25,000 for failure by an institution of higher education (IHE) to provide information on the cost of higher education to the Commissioner of Education Statistics.	\$36,849
20 U.S.C. 1022d(a)(3) (Section 205(a)(3) of the HEA).	Provides for a fine, as set by Congress in 2008, of up to \$27,500 for failure by an IHE to provide information to the State and the public regarding its teacher-preparation programs.	30,694
20 U.S.C. 1082(g) (Section 432(g) of the HEA).	Provides for a civil penalty, as set by Congress in 1986, of up to \$25,000 for violations by lenders and guaranty agencies of Title IV of the HEA, which authorizes the Federal Family Education Loan Program.	54,789
20 U.S.C. 1094(c)(3)(B) (Section 487(c)(3)(B) of the HEA).	Provides for a civil penalty, as set by Congress in 1986, of up to \$25,000 for an IHE's violation of Title IV of the HEA, which authorizes various programs of student financial assistance.	54,789
20 U.S.C. 1228c(c)(2)(E) (Section 429 of the General Education Provisions Act).	Provides for a civil penalty, as set by Congress in 1994, of up to \$1,000 for an educational organization's failure to disclose certain information to minor students and their parents.	1,617
31 U.S.C. 1352(c)(1) and (c)(2)(A) ...	Provides for a civil penalty, as set by Congress in 1989, of \$10,000 to \$100,000 for recipients of Government grants, contracts, etc. that improperly lobby Congress or the Executive Branch with respect to the award of Government grants and contracts.	19,246 to 192,459
31 U.S.C. 3802(a)(1) and (a)(2) .....	Provides for a civil penalty, as set by Congress in 1986, of up to \$5,000 for false claims and statements made to the Government.	10,957

(Authority: 20 U.S.C. 1221e-3 and 3474; 28 U.S.C. 2461 note, as amended by §701 of Pub. Law 114-74).

[67 FR 69655, Nov. 18, 2002, as amended at 70 FR 298, Jan. 4, 2005; 77 FR 60049, Oct. 2, 2012; 81 FR 50323, Aug. 1, 2016; 82 FR 18562, Apr. 20, 2017]

## PART 60—INDEMNIFICATION OF DEPARTMENT OF EDUCATION EMPLOYEES

Sec.

60.1 What are the policies of the Department regarding indemnification?

60.2 What procedures apply to requests for indemnification?

AUTHORITY: 20 U.S.C. 3411, 3461, 3471, and 3474.

## § 60.1

SOURCE: 54 FR 7148, Feb. 16, 1989, unless otherwise noted.

### § 60.1 What are the policies of the Department regarding indemnification?

(a)(1) The Department of Education may indemnify, in whole or in part, an employee for any verdict, judgment, or other monetary award rendered against the employee if—

(i) The conduct giving rise to the verdict, judgment, or award occurred within the scope of his or her employment with the Department; and

(ii) The indemnification is in the interest of the United States, as determined by the Secretary.

(2) The regulations in this part apply to an action pending against an ED employee as of March 30, 1989, as well as to any action commenced after that date.

(3) As used in this part, the term *employee* includes—

(i) A present or former officer or employee of the Department or of an advisory committee to the Department, including a special Government employee;

(ii) An employee of another Federal agency on detail to the Department; or

(iii) A student volunteer under 5 U.S.C. 3111.

(4) As used in this part the term *Secretary* means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

(b)(1) The Department may pay, in whole or in part, to settle or compromise a personal damage claim against an employee if—

(i) The alleged conduct giving rise to the personal damage claim occurred within the scope of employment; and

(ii) The settlement or compromise is in the interest of the United States, as determined by the Secretary.

(2) Payment under paragraph (b)(1) of this section may include reimbursement, in whole or in part, of an employee for prior payment made by the employee under a settlement or compromise that meets the requirements of this section.

(c) The Department does not indemnify or settle a personal damage claim before entry of an adverse verdict,

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judgment, or monetary award unless the Secretary determines that exceptional circumstances justify the earlier indemnification or settlement.

(d) Any payment under this part, either to indemnify a Department of Education employee or to settle a personal damage claim, is contingent upon the availability of appropriated funds.

(Authority: 20 U.S.C. 3411, 3461, 3471, and 3474)

### § 60.2 What procedures apply to requests for indemnification?

(a) When an employee of the Department of Education becomes aware that an action has been filed against the employee in his or her individual capacity as a result of conduct taken within the scope of his or her employment, the employee shall immediately notify the head of his or her principal operating component and shall cooperate with appropriate officials of the Department in the defense of the action.

(b) As part of the notification in paragraph (a) of this section or at a later time, the employee may request—

(1) Indemnification to satisfy a verdict, judgment, or award entered against the employee; or

(2) Payment to satisfy the requirements of a settlement proposal.

(c)(1) The employee's request must be in writing to the head of his or her principal operating component and must be accompanied by copies of the complaint and other documents filed in the action, including the verdict, judgment, award, settlement, or settlement proposal, as appropriate.

(2)(i) As used in this section, the term *principal operating component* means an office in the Department headed by an Assistant Secretary, a Deputy Under Secretary, or an equivalent departmental officer who reports directly to the Secretary.

(ii) The term also includes the Office of the Secretary and the Office of the Under Secretary.

(d) The head of the employee's principal operating component submits to the General Counsel, in a timely manner, the request, together with a recommended disposition of the request.

(e) The General Counsel forwards to the Secretary for decision—

(1) The employee's request;

(2) The recommendation of the head of the employee's principal operating component; and

(3) The General Counsel's recommendation.

(Authority: 20 U.S.C. 3411, 3461, 3471, and 3474)

### PART 73—STANDARDS OF CONDUCT

Sec.

73.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

73.2 Conflict of interest waiver.

APPENDIX TO PART 73—CODE OF ETHICS FOR GOVERNMENT SERVICE

AUTHORITY: 5 U.S.C. 301, 7301; 18 U.S.C. 208; and E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306.

SOURCE: 60 FR 5818, Jan. 30, 1995, unless otherwise noted.

#### § 73.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Department of Education are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635 and to the Department of Education regulation at 5 CFR part 6301 which supplements the executive branch-wide standards with a requirement for employees to obtain prior approval to participate in certain outside activities. In addition, employees are subject to the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

#### § 73.2 Conflict of interest waiver.

If a financial interest arises from ownership by an employee—or other person or enterprise referred to in 5 CFR 2635.402(b)(2)—of stock in a widely diversified mutual fund or other regulated investment company that in turn owns stock in another enterprise, that financial interest is exempt from the prohibition in 5 CFR 2635.402(a).

APPENDIX TO PART 73—CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should: Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.

Seek to find and employ more efficient and economical ways of getting tasks accomplished.

Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

Expose corruption wherever discovered.

Uphold these principles, ever conscious that public office is a public trust.

(This Code of Ethics was unanimously passed by the United States Congress on June 27, 1980, and signed into law as Public Law 96-303 by the President on July 3, 1980.)

### PART 75—DIRECT GRANT PROGRAMS

#### Subpart A—General

REGULATIONS THAT APPLY TO DIRECT GRANT PROGRAMS

Sec.

75.1 Programs to which part 75 applies.

75.2 Exceptions in program regulations to part 75.

75.4 Department contracts.

#### ELIGIBILITY FOR A GRANT

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#### INELIGIBILITY OF CERTAIN INDIVIDUALS TO RECEIVE ASSISTANCE

75.60 Individuals ineligible to receive assistance.

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