

dren's services pursuant to a collective bargaining agreement that—

(A) took effect before March 31, 1994; and

(B) includes provisions relating to smoking privileges that are in violation of the requirements of this section.

(2) Termination of waiver

A special waiver granted under this subsection shall terminate on the earlier of—

(A) the first expiration date (after March 31, 1994) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(B) the date that is 1 year after March 31, 1994.

(f) Civil penalties

(1) In general

Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred. For the purpose of the prohibition in subsection (c) of this section, the term "person" shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

(2) Administrative proceeding

A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued, by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5. Before making such assessment or issuing such order, or both, the Secretary shall give written notice thereof to such person by certified mail with return receipt and provide therein an opportunity to request in writing not later than 30 days after the date of receipt of such notice such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing which should be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

(3) Circumstances affecting penalty or order

In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of

achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C) such other matters as justice may require.

(4) Modification

The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or its agencies or instrumentalities owes to the person against whom the penalty is assessed.

(5) Petition for review

Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review thereof with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy thereof to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

(6) Failure to comply

If a person fails to pay an assessment of a civil penalty or comply with an order, after either or both are final under this section, or after a court under paragraph (5) has entered a final judgment in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at then currently prevailing rates from the day either or both are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

(Pub. L. 103-227, title X, §1043, Mar. 31, 1994, 108 Stat. 272.)

§ 6084. Preemption

Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.

(Pub. L. 103-227, title X, §1044, Mar. 31, 1994, 108 Stat. 274.)

CHAPTER 69—SCHOOL-TO-WORK OPPORTUNITIES

Sec.
6101. Findings.

- Sec. 6102. Purposes and Congressional intent.
 - (a) Purposes.
 - (b) Congressional intent.
- 6103. Definitions.
- 6104. Federal administration.
 - (a) Joint administration.
 - (b) Acceptance of gifts.
 - (c) Use of voluntary and uncompensated services.

SUBCHAPTER I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

- 6111. General program requirements.
- 6112. School-based learning component.
- 6113. Work-based learning component.
 - (a) Mandatory activities.
 - (b) Permissible activities.
- 6114. Connecting activities component.

SUBCHAPTER II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

PART A—STATE DEVELOPMENT GRANTS

- 6121. Purpose.
- 6122. Authorization.
 - (a) Grants to States.
 - (b) Grants to territories.
- 6123. Application.
 - (a) In general.
 - (b) Contents.
 - (c) Coordination with Goals 2000: Educate America Act.
- 6124. Approval of application.
- 6125. Use of amounts.
- 6126. Maintenance of effort.
 - (a) In general.
 - (b) Waiver.
- 6127. Reports.

PART B—STATE IMPLEMENTATION GRANTS

- 6141. Purpose.
- 6142. Authorization.
 - (a) Grants to States.
 - (b) Grants to territories.
 - (c) Period of grant.
 - (d) Limitation.
- 6143. Application.
 - (a) In general.
 - (b) Contents.
 - (c) Coordination with Goals 2000: Educate America Act.
 - (d) State plan.
- 6144. Review of application.
 - (a) Considerations.
 - (b) Approval criteria.
 - (c) Actions.
 - (d) Use of funds for review of applications.
- 6145. Use of amounts.
 - (a) In general.
 - (b) Subgrants to local partnerships.
 - (c) Additional State activities.
- 6146. Allocation requirement.
- 6147. Limitation on administrative costs.
- 6148. Reports.

PART C—DEVELOPMENT AND IMPLEMENTATION GRANTS FOR SCHOOL-TO-WORK PROGRAMS FOR INDIAN YOUTHS

- 6161. Authorization.
 - (a) In general.
 - (b) Additional authorities.
- 6162. Requirements.

SUBCHAPTER III—FEDERAL IMPLEMENTATION GRANTS TO LOCAL PARTNERSHIPS

- 6171. Purposes.
- 6172. Authorization.
 - (a) Grants to local partnerships.

- Sec. 6173. Application.
 - (b) Grants to local partnerships in high poverty areas.
 - (c) Period of grant.
 - (a) In general.
 - (b) Time limit for State review and comment.
 - (c) Contents.
 - (d) Use of funds for review of applications.

- 6174. Use of amounts.
- 6175. Conformity with approved State plan.
- 6176. Reports.
- 6177. "High poverty area" defined.

SUBCHAPTER IV—NATIONAL PROGRAMS

- 6191. Research, demonstration, and other projects.
 - (a) In general.
 - (b) Additional use of funds.
- 6192. Performance outcomes and evaluation.
 - (a) In general.
 - (b) Evaluation.
 - (c) Reports to Secretaries.
- 6193. Training and technical assistance.
 - (a) Purpose.
 - (b) Authorized activities.
- 6194. Capacity Building and Information and Dissemination Network.
- 6195. Reports to Congress.
 - (a) In general.
 - (b) Contents.
- 6196. Funding.

SUBCHAPTER V—WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS

- 6211. State and local partnership requests and responsibilities for waivers.
 - (a) State request for waiver.
 - (b) Local partnership request for waiver.
 - (c) Waiver criteria.
 - (d) Support by appropriate State agencies.
- 6212. Waiver authority of Secretary of Education.
 - (a) Waiver authority.
 - (b) Included programs.
 - (c) Waivers not authorized.
 - (d) Termination of waivers.
- 6213. Waiver authority of Secretary of Labor.
 - (a) Waiver authority.
 - (b) Waivers not authorized.
 - (c) Termination of waivers.
- 6214. Combination of Federal funds for high poverty schools.
 - (a) In general.
 - (b) Use of funds.
 - (c) Additional information in application.
 - (d) Provision of information.
- 6215. Combination of Federal funds by States for school-to-work activities.
 - (a) In general.
 - (b) Use of funds.
 - (c) Additional information in application.
 - (d) Extension.
 - (e) Limitation.

SUBCHAPTER VI—GENERAL PROVISIONS

- 6231. Requirements.
- 6232. Sanctions.
 - (a) Termination or suspension of assistance.
 - (b) Nondelegation.
- 6233. State authority.
- 6234. Prohibition on Federal mandates, direction, and control.
- 6235. Authorization of appropriations.
 - (a) In general.
 - (b) Reservations.