''(3) a national institute for literacy would—

''(A) provide a national focal point for research, technical assistance and research dissemination, policy analysis, and program evaluation in the area of literacy; and

''(B) facilitate a pooling of ideas and expertise across fragmented programs and research efforts.''

FAMILY LITERACY PUBLIC BROADCASTING PROGRAM

Section 304 of Pub. L. 102–73 provided that:

''(a) PROGRAM AUTHORIZED.—(1) The Secretary is authorized, subject to the availability of appropriations, to enter into a contract with the Corporation for Public Broadcasting to arrange for the production and dissemination of family literacy programming and accompanying materials which would assist parents in improving family literacy skills and language development. In producing and developing such programming, the Corporation for Public Broadcasting shall work in cooperation with local public broadcasting stations to avoid duplication of efforts.

''(2) After the program described in paragraph (1) is produced, the Corporation for Public Broadcasting shall arrange to have audio and video instructional media materials for distribution at sites chosen from among—

''(A) State and local libraries operating literacy programs, and

''(B) nonprofit entities serving hard-to-serve populations as defined in section 304(b)(2)[sic], including community-based organizations, volunteer organizations and other nongovernmental entities.

''(3) The audio and video instructional media materials described in paragraph (2) shall be used at sites described in paragraph (2), and on a loan basis, distributed to families.

''(4) One year after distribution of the audio and video instructional media materials, the Corporation for Public Broadcasting shall report to the Congress on the distribution and use of the audio and video instructional media materials produced pursuant to this subsection and such audio and video instructional media materials' contribution in promoting literacy.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1992 to carry out the provisions of subsection (i) [probably should be ''(a)''], of which $100,000 shall be reserved for reproducing and distributing programming or audio and video instructional media materials.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1213d. Limitation

No grant may be made under this chapter for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term ''school or department of divinity'' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(Pub. L. 89–750, title III, § 385, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 319.)

CHAPTER 31—GENERAL PROVISIONS CONCERNING EDUCATION

Sec.

1221. Short title; applicability; definitions.
- (a) Short title.
- (b) Applicability of chapter.
- (c) Definitions.
- (d) Application of other laws unaffected.

1221–1. National policy with respect to equal educational opportunity.

1221–2. National policy with respect to museums as educational institutions.

1221–3. Repealed.

SUBCHAPTER I—FUNCTIONS OF DEPARTMENT OF EDUCATION

1221a to 1221e–1c. Repealed.

1221e–1d. Use of Council staff and facilities.

1221e–2. Repealed.

1221e–3. General authority of Secretary.
- (a) Rules and regulations for agency operation; personnel; gifts; transactions; construction of facilities; acquisition and disposal of property; reimbursement of Federal agencies for use of services.
- (b) Qualifications of persons engaged in competitive review of grant applications.
- (c) Delegation of functions.
- (d) ''Administrative head of an education agency'' defined.

1221e–4. Educational impact statement.

1221f to 1221i. Repealed.

1221j. Television program assistance.
- (a) Granting and contracting authority.
- (b) Administration and studies.

SUBCHAPTER II—APPROPRIATIONS AND EVALUATIONS

PART 1—APPROPRIATIONS

1222. Repealed.

1223. Forward funding.

1224. Repealed.

1225. Availability of appropriations on academic or school-year basis; additional period for obligation of funds.
- (a) Academic or differing fiscal year.
- (b) Succeeding fiscal year.
- (c) Institution of judicial proceedings.

1226. Repealed.

1226a. Contingent extension of programs.
- (a) Automatic extension.
- (b) Amount of appropriation.
- (c) Acts and determinations necessary for program continuation.
- (d) Application to commissions, councils, and committees required by law to terminate.

1226a–1. Payments; installments, advances or reimbursement, and adjustments.

PART 2—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

1226b. Responsibility of States to furnish information.
- (a) Biennial reports; contents.
- (b) Additional contents.
- (c) Delinquent or incomplete reports.

(d) Availability of information.
(e) Congressional telecommunications network.
(f) Reports by Secretary.
1226c. Biennial evaluation report.
1226c–1. Availability of education reports, etc., to Congressional committees.
1226d, 1227. Repealed.
1228. Prohibition against use of appropriated funds for busing.
1228a. Equity for students, teachers, and other program beneficiaries.
(a) Purpose.
(b) Requirement to develop steps to ensure equity.
(c) Establishment of criteria.
(d) Effect on other laws.
1228b. Coordination.
1228c. Disclosure requirements.
(a) In general.
(b) Nondiscriminatory enrollment and service policy.
(c) Enforcement.
(d) Definitions.

SUBCHAPTER III—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF SECRETARY

1230. Repealed.

PART 1—GENERAL AUTHORITY

1231. Joint funding of programs.
(a) Joint projects; transfers of appropriations; contracts or grants; criteria.
(b) Joint applications.
(c) Limitations on joint funding.
(d) Congressional notice.
1231a. Collection and dissemination of information.
1231b, 1231b–1. Repealed.
1231b–2. Review of applications.
(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions.
(b) Appeals to Secretary; persons aggrieved; notice; orders prescribing appropriate agency actions; finality of agency fact findings; interim orders pending appeal or review.
(c) Records; availability.
(d) Termination of assistance for noncompliance with provisions or orders.
1231c. Advice, counsel, and technical assistance.
(a) State educational agencies, institutions of higher education.
(b) Cost allocation, collection, etc., by local educational agencies.
(c) Dissemination.
(d) Annual report by Secretary.
1231c–1. Repealed.
1231d. Parental involvement and dissemination.
1231e. Use of funds withheld.
1231f. Repealed.

PART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

1231g. Applications.
(a) Submission and amendments of applications.
(b) Uniform dates.
(c) Development of common applications.
1232. Regulations.
(a) ''Regulation'' defined.
(b) Citation of authority.
(c) Uniform application.
(d) Application of exemption.
(e) Schedule for promulgation of final regulations.
(f) Transmittal of final regulations.
1232–1. Repealed.
1232a. Prohibition against Federal control of education.
1232b. Labor standards.

PART 3—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

1232c. State educational agency monitoring and enforcement.
(a) State plan.
(b) State enforcement of Federal requirements.
(c) Withholding of payments.
1232d. Single State application.
(a) Submission of general application; approval by State supervisory authority.
(b) Assurances.
(c) Effective term of general application.
1232e. Single local educational agency application.
(a) General application to State agency or board.
(b) Assurances.
(c) Effective term of general application.

PART 4—RECORDS; PRIVACY; LIMITATION ON WITHHOLDING FEDERAL FUNDS

1232f. Records.
(a) Records kept by recipient; full disclosure; five-year maintenance period.
(b) Audit examination.
1232g. Family educational and privacy rights.
(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions.
(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping.
(c) Surveys or data-gathering activities; regulations.
(d) Students' rather than parents' permission or consent.
(e) Informing parents or students of rights under this section.
(f) Enforcement; termination of assistance.
(g) Office and review board; creation; functions.

(h) Disciplinary records; disclosure.
1232h. Protection of pupil rights.
(a) Inspection of instructional materials by parents or guardians.
(b) Limits on survey, analysis, or evaluations.
(c) Notice.
(d) Enforcement.
(e) Office and review board.
1232i. Limitations on withholding of Federal assistance.
(a) Refusal to supply personal data on students or families.
(b) Noncompliance with nondiscrimination provisions of Federal law.
(c) Failure to comply with imposition of quotas.

SUBCHAPTER IV—ENFORCEMENT

1234. Office of Administrative Law Judges.
(a) Establishment; duties.
(b) Appointment.
(c) Employment requirements; chief judge.
(d) Assignment of judges.
(e) Review and evidentiary functions.
(f) Conduct of proceedings; costs and fees of parties.
(g) Discovery; scope, time, etc.; issue and enforcement of subpoenas.
(h) Mediation of disputes.
(i) Professional personnel; employment, assignment, or transfer.
1234a. Recovery of funds.
(a) Preliminary departmental decision; grounds of determination; notice requirements; prima facie case; amount of funds recoverable.
(b) Review of preliminary departmental decision; form and contents of application for review; inadequate preliminary decisions; duties of recipient to subrecipients after preliminary decision; burden of proof.
(c) Time for hearing.
(d) Review of findings of fact in preliminary decision; conclusiveness; remand; new or modified findings.
(e) Time for filing petition for review of preliminary decision.
(f) Stay of collection or other adverse action by Secretary against recipient.
(g) Preliminary decision as final agency action.
(h) Publication of decisions as final agency actions.
(i) Collection amounts and procedures.
(j) Compromise of preliminary departmental decisions; preconditions; notice requirements.
(k) Limitation period respecting return of funds.
(*l*) Foregoing of interest during period of administrative review.
1234b. Measure of recovery.
(a) Amount returned proportionate to extent of harm violation caused to an identifiable Federal interest; reduction; determination of identifiable Federal interest.
(b) Reduction or waiver of amount based on mitigating circumstances; burden of proof; determination of mitigating circumstances; weight, etc., of written request for guidance.
(c) Review of written requests for guidance on periodic basis.
1234c. Remedies for existing violations.
1234d. Withholding.
(a) Discretionary authority over further payments under applicable program.
(b) Notice requirements.
(c) Hearing.
(d) Suspension of payments, authorities, etc.
(e) Findings of fact.
(f) Final agency action.
1234e. Cease and desist orders.
(a) Issuance and contents of complaint.
(b) Appearance contesting order.
(c) Report; issuance of cease and desist order.
(d) Report and order as final agency action.
(e) Enforcement of final order.
1234f. Compliance agreements.
(a) Discretionary authority; purposes of agreement.
(b) Procedures applicable.
(c) Contents.
(d) Failure of recipient to comply with terms and conditions.
1234g. Judicial review.
(a) Recipients entitled to review; stay of action by Secretary.
(b) Petition for review; filing of record.
(c) Findings of fact.
(d) Scope of review; review by Supreme Court.
1234h. Use of recovered funds.
(a) Repayment to recipient; factors considered.
(b) Terms and conditions of repayment.
(c) Availability of funds.
(d) Publication in Federal Register of notice of intent to enter into repayment arrangement.
1234i. Definitions.

SUBCHAPTER V—READY TO LEARN TELEVISION

1235. Ready to learn.
(a) In general.
(b) Availability.
1235a. Educational programming.
(a) Awards.
(b) Eligible entities.
(c) Cultural experiences.
1235b. Duties of Secretary.
1235c. Applications.
1235d. Reports and evaluation.
(a) Annual report to Secretary.
(b) Report to Congress.
1235e. Authorization of appropriations.
(a) In general.
(b) Special projects.

1235f. Administrative costs.
1235g. ''Distance learning'' defined.

AMENDMENTS

1970—Pub. L. 91–230, title IV, § 401(a)(1), Apr. 13, 1970, 84 Stat. 164, substituted as chapter heading ''GENERAL PROVISIONS CONCERNING EDUCATION'' for ''LEAD-TIME AND PLANNING AND EVALUATION IN ELEMENTARY AND SECONDARY EDUCATION PROGRAMS''.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1652, 3441, 3489, 6104, 6512, 8901 of this title; title 42 section 2473b.

§ 1221. Short title; applicability; definitions

(a) Short title

This chapter may be cited as the ''General Education Provisions Act''.

(b) Applicability of chapter

(1) Except as otherwise provided, this chapter applies to each applicable program of the Department of Education.

(2) Except as otherwise provided, this chapter does not apply to any contract made by the Department of Education.

(c) Definitions

As used in this chapter, the following terms have the following meanings:

(1) The term ''applicable program'' means any program for which the Secretary or the Department has administrative responsibility as provided by law or by delegation of authority pursuant to law. The term includes each program for which the Secretary or the Department has administrative responsibility under the Department of Education Organization Act [20 U.S.C. 3401 et seq.] or under Federal law effective after the effective date of that Act.

(2) The term ''applicable statute'' means—

(A) the Act or the title, part, section, or any other subdivision of an Act, as the case may be, that authorizes the appropriation for an applicable program;

(B) this chapter; and

(C) any other statute that by its terms expressly controls the administration of an applicable program.

(3) The term ''Department'' means the Department of Education.

(4) The term ''Secretary'' means the Secretary of Education.

(d) Application of other laws unaffected

Nothing in this chapter shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], the Age Discrimination Act [42 U.S.C. 6101 et seq.], or other statutes prohibiting discrimination, to any applicable program.

(Pub. L. 90–247, title IV, § 400, formerly § 401, Jan. 2, 1968, 81 Stat. 814; Pub. L. 90–576, title III, § 301(a), Oct. 16, 1968, 82 Stat. 1094; Pub. L. 91–230, title IV, § 401(a)(2), Apr. 13, 1970, 84 Stat. 164; renumbered § 400, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; Pub. L. 93–380, title V, § 505(a)(1), Aug. 21, 1974, 88 Stat. 561; Pub. L. 103–382, title II, § 211, Oct. 20, 1994, 108 Stat. 3912.)

REFERENCES IN TEXT

The Department of Education Organization Act, referred to in subsec. (c)(1), is Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, as amended, which is classified principally to chapter 48 (§ 3401 et seq.) of this title. For the effective date of the Act, see Effective Date note set out under section 3401 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in subsec. (d), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Act is classified generally to subchapter V (§ 790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Age Discrimination Act, referred to in subsec. (d), probably means the Age Discrimination Act of 1975, which is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, and which is classified generally to chapter 76 (§ 6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

AMENDMENTS

1994—Pub. L. 103–382 amended section generally, inserting provision that this chapter not apply to any contract made by the Department of Education, substituting definition of ''Department'' as meaning Department of Education for definition of ''Director'' as meaning Director of the National Institute of Education, striking out reference to the Civil Rights Act of 1964, adding references to title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, and other statutes prohibiting discrimination, and striking out provision authorizing appropriations for any fiscal year of such sums as may be necessary to carry out the provisions of this chapter.

1974—Subsec. (a). Pub. L. 93–380 redesignated subsec. (d) as (a). Former subsec. (a) provisions ''The provisions of this chapter shall apply to any program for which the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute. Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments'' were incorporated in part in subsec. (b).

Subsec. (b). Pub. L. 93–380 incorporated subsec. (a) provisions in subsec. (b), inserting introductory text ''Except where otherwise specified,'', substituting ''an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law'' for ''the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute.'', deleting ''Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments.'' Former subsec. (b) definition provisions for

''Commissioner'', ''Secretary'', and ''applicable program'' incorporated in subsec. (c)(1).

Subsec. (c). Pub. L. 93–380 incorporated subsec. (b)(3), (1), (2) provisions in par. (1)(A), (D), (F), respectively; inserted in par. (1)(A) '', under the terms of subsection (b) of this section,''; and added pars. (1)(B), (C), (E), (2), and (3). Former subsec. (c) provisions ''There are hereby authorized to be appropriated for any fiscal year, as part of the appropriations for salaries and expenses for the Office of Education, such sums as the Congress may determine to be necessary to carry out the provisions of this chapter,'' incorporated in subsec. (d).

Subsec. (d). Pub. L. 93–380 incorporated subsec. (c) provisions in provisions designated as subsec. (d), inserting introductory text ''Except as otherwise limited in this chapter,'', and deleting '', as part of the appropriations for salaries and expenses for the Office of Education,'' after ''fiscal year''. Former subsec. (d) redesignated (a).

Subsec. (e). Pub. L. 93–380 added subsec. (e).

1970—Pub. L. 91–230, § 401(a)(2)(A), provided for definitions and authorization of appropriations in section catchline.

Subsecs. (b), (c). Pub. L. 91–230, § 401(a)(2)(B), added subsecs. (b) and (c).

1968—Pub. L. 90–576 substituted general reference to ''any program for which the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute'' for specific references to ''title I of the Elementary and Secondary Education Act of 1965 (title II of Pub. L. 81–874), titles II, III, V, VI, VII, and VIII of the Elementary and Secondary Education Act of 1965, and the Adult Education Act of 1966 (title III of the Elementary and Secondary Education Amendments of 1966), as now in effect or hereafter from time to time amended'' as the areas in which the provisions of this chapter shall apply and inserted provision that amendments to the programs covered shall not affect the applicability of this chapter unless so specified by such amendments.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 3(a)(2) of Pub. L. 103–382 provided that: ''Title II of this Act [§§ 211 to 272 of Pub. L. 103–382, see Tables for classification] and the amendments made by title II of this Act shall take effect on the date of enactment of this Act [Oct. 20, 1994], except that section 236 [enacting section 1228a of this title] (equity for students, teachers, and other program beneficiaries) of such title shall be effective—

''(A) July 1, 1995 for noncompetitive programs in which funds are allocated on the basis of a formula; and

''(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 505(b) of Pub. L. 93–380 provided that: ''The amendments made by subsection (a) [amending this section and section 1221g of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974].''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–297, title III, § 3401, Apr. 28, 1988, 102 Stat. 344, provided that: ''This part [part C (§§ 3401–3403) of title III of Pub. L. 100–297, amending sections 1221e and 1221e–1 of this title and enacting provisions set out as a note under section 1221e–1 of this title] may be cited as the 'National Assessment of Educational Progress Improvement Act'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–561, title XII, § 1211, Nov. 1, 1978, 92 Stat. 2338, provided that: ''This part [enacting sections 1221–3 and 1231g of this title and amending section 1221e–1 of this title] may be cited as the 'Control of Paperwork Amendments of 1978'.''

SHORT TITLE OF 1974 AMENDMENT

Section 513(b)(2) of Pub. L. 93–380 provided that: ''This section [enacting section 1232g of this title and provisions set out as a note under section 1232g of this title] may be cited as the 'Family Educational Rights and Privacy Act of 1974'.''

EXECUTIVE ORDER NO. 11761

Ex. Ord. No. 11761, Jan. 17, 1974, 39 F.R. 2345, which provided for coordination of Federal educational programs and which continued Federal Interagency Committee on Education, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 12687

Ex. Ord. No. 12687, Aug. 15, 1989, 54 F.R. 34127, as amended by Ex. Ord. No. 12741, Dec. 31, 1990, 56 F.R. 475; Ex. Ord. No. 12785, Dec. 26, 1991, 56 F.R. 67451, which established the President's Education Policy Advisory Committee to advise the President with respect to objectives and conduct of overall education policy of the United States, was revoked by Ex. Ord. No. 12869, § 4(e), Sept. 30, 1993, 58 F.R. 51751, formerly set out under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1228a, 3601, 3603 of this title.

§ 1221–1. National policy with respect to equal educational opportunity

Recognizing that the Nation's economic, political, and social security require a well-educated citizenry, the Congress (1) reaffirms, as a matter of high priority, the Nation's goal of equal educational opportunity, and (2) declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers.

(Pub. L. 93–380, title VIII, § 801, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section 2(c) of Pub. L. 93–380 provided that:

''(1) Unless otherwise specified, each provision of this Act [see Tables for classification] and each amendment made by this Act shall be effective on and after the sixtieth day after the enactment of this Act [Aug. 21, 1974].

''(2) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1973, or on July 1, 1973, such amendment shall be deemed to have been enacted on June 30, 1973.''

STUDY OF CIVILIAN AVIATION TRAINING PROGRAMS

Pub. L. 102–325, title XIV, § 1410, July 23, 1992, 106 Stat. 821, directed Secretary of Education to enter into appropriate arrangements with National Academy of Sciences Commission on Behavioral and Social Sciences and Education to study civilian aviation training programs needed to satisfy workforce requirements of commercial aviation industry in year 2000 and beyond, directed Secretary to request that National Academy of Sciences Commission on Behavioral and Social Sciences and Education submit an interim report to Secretary and Congress within 1 year after July 23, 1992,

and directed that the study be completed within 2 years of July 23, 1992.

NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION

Pub. L. 102–325, title XIV, part B, July 23, 1992, 106 Stat. 824, as amended by Pub. L. 103–208, § 2(k)(11), Dec. 20, 1993, 107 Stat. 2486, provided for establishment, membership, etc., of National Commission on Independent Higher Education, which Commission was to develop factual base for understanding status of independent colleges and universities, their contributions to public priorities, and effects of national higher education policies on independent nonprofit sector, to review issuance of Federal regulations regarding independent colleges and universities, and suggest means by which independent colleges and universities can be held accountable for use of public resources without inappropriate intrusion into institutional autonomy, and to address the relationship between Federal and State policies in independent colleges and universities, particularly with respect to student access and choice, finance, institutional subsidies, and institutional accountability, and directed that the Commission terminate 3 years after July 23, 1992.

NATIONAL COMMISSION ON COST OF HIGHER EDUCATION

Pub. L. 102–325, title XIV, part C, July 23, 1992, 106 Stat. 827, as amended by Pub. L. 103–208, § 2(k)(12), Dec. 20, 1993, 107 Stat. 2486, provided for establishment, membership, etc., of National Commission on the Cost of Higher Education, which Commission was to make findings and specific recommendations regarding the increase in tuition costs compared with other commodities and services as well as methods of reducing increased tuition costs, administrative costs of colleges and universities and methods of reducing such costs, the extent to which Federal, State, and local regulations contribute to increased tuition costs and the increase in the cost of higher education, and extent to which the lack of student financial assistance programs contribute to increased tuition costs, and directed that the Commission cease to exist on the date that is 90 days after the Commission submits its final report, which report was to be submitted to the President and Congress not later than Sept. 1, 1994.

EDUCATION COUNCIL ACT OF 1991

Pub. L. 102–62, June 27, 1991, 105 Stat. 305, as amended by Pub. L. 102–359, § 1, Aug. 26, 1992, 106 Stat. 962; Pub. L. 103–290, § 1, Aug. 1, 1994, 108 Stat. 1456; Pub. L. 103–382, title III, § 362, Oct. 20, 1994, 108 Stat. 3975, provided for establishment, membership, etc., of National Education Commission on Time and Learning, which Commission was to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, the extent and role of homework, how time is being used for academic subjects, year-round professional opportunities for teachers, and use of school facilities for extended learning programs, report to Congress and the Secretary on the results of the study not later than 2 years after the Commission concludes its first meeting, and terminate Sept. 30, 1994, and provided for establishment, membership, etc., of National Council on Education Standards and Testing, which Council was to advise the American people whether suitable specific education standards should be established for the knowledge and skills that students should possess and that schools should impart in order that American student leave grades 4, 8, and 12 demonstrating competency in challenging subject matters and whether an appropriate system of voluntary national tests or examinations should be established to provide prompt and accurate information on the progress made towards specific education standards by individual students, schools, school systems, States, and the Nation as a whole, submit a final report, as soon as possible, but not later than Dec. 31, 1991, to Congress, Secretary of Education, and National Education Goals Panel, and cease to exist 90 days after submitting its final report.

NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

Pub. L. 99–498, title XIII, § 1321, Oct. 17, 1986, 100 Stat. 1584, as amended by Pub. L. 101–324, July 6, 1990, 104 Stat. 300; Pub. L. 102–170, title III, § 306, Nov. 26, 1991, 105 Stat. 1136, established as an independent agency in executive branch a commission to be known as National Commission on Responsibilities for Financing Postsecondary Education, directed Commission to study and investigate extent to which (1) there is a consistent and coherent Federal policy regarding the appropriate family role in financing costs of postsecondary education for family members, (2) current Federal laws and regulations promote stated Federal policy, and (3) extent to which State laws which remove parental responsibilities for children over 18 years of age conflict with Federal policy in this area, directed Commission to (A) summarize appropriate findings of National Commission on Student Financial Assistance, (B) recommend to Congress a comprehensive analysis on extent to which consensus exists regarding appropriate role of family in financing postsecondary education, and (C) recommend changes in current law required to achieve desired Federal policy, and provided that Commission would terminate 2 years after first meeting of its members.

STUDY OF CLASSROOM USE OF VOLUNTEERS

Pub. L. 99–498, title XIII, § 1341, Oct. 17, 1986, 100 Stat. 1587, as amended by Pub. L. 100–50, § 23(7), June 3, 1987, 101 Stat. 362, directed National Academy of Sciences to conduct a thorough study of how volunteers could best be used in the classroom with the study to (1) feasibility of using recipients of student loans as part of repayment of such loans, (2) use of older Americans as such volunteers, (3) use of business persons and other professionals as volunteers, and (4) place of incentives to encourage volunteerism, and with National Academy of Sciences to prepare and submit to Congress a report, together with a description of programs on use of volunteers and with such recommendations as deemed appropriate not later than one year after entering into a contract to conduct the study.

NATIVE HAWAIIAN EDUCATION STUDY

Pub. L. 96–374, title XIII, § 1331, Oct. 3, 1980, 94 Stat. 1499, established an Advisory Council on Native Hawaiian Education consisting of seven members appointed by Secretary of Education, after consultation with Governor of Hawaii, from among individuals who were professionals in various fields relating to human development, and who were familiar with educational problems of Native Hawaiians, to conduct a study to (A) evaluate effectiveness of State and federally assisted educational programs in serving Native Hawaiian children and extent to which such programs achieve their purposes with respect to such children, and (B) take into account special health, social, and psychological needs of Native Hawaiian children, and to submit a report to Secretary and to Congress not later than Jan. 31, 1983, containing findings and recommendations of the Council, with the Council to terminate 60 days after submission of its report.

APPROPRIATIONS NOT AUTHORIZED FOR NATIVE HAWAIIAN EDUCATION STUDY FOR FISCAL YEAR 1982, 1983, OR 1984

Pub. L. 97–35, title V, § 512(a), Aug. 13, 1981, 95 Stat. 444, provided that: ''No funds are authorized to be appropriated to carry out part D of title XIII of the Education Amendments of 1980 [section 1331 of Pub. L.

96–374, set out as a note above] for fiscal year 1982, 1983, or 1984.''

FINANCING OF ELEMENTARY AND SECONDARY EDUCATION; STUDIES AND SURVEYS; ADVISORY PANEL; REPORTS

Pub. L. 95–561, title XII, § 1203, Nov. 1, 1978, 92 Stat. 2335, as amended by Pub. L. 96–46, § 2(a)(4), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, § 301(a)(2), (b)(1), title V, § 501(a), 507, Oct. 17, 1979, 93 Stat. 677, 678, 689, 692, established a 15-member Advisory Panel on Financing Elementary and Secondary Education within Department of Education to provide for (1) availability of reliable and comparative data on status and trends in financing elementary and secondary education, (2) conduct of studies necessary to understand and analyze the trends and problems affecting financing of elementary and secondary education, both public and non-public, including prospects for adequate financing during the next ten years, and development of recommendations for Federal policies to assist in improving equity and efficiency of Federal and State systems for raising and distributing revenues to support elementary and secondary education, with views and recommendations of the Panel to be presented to 1980 White House Conference on Education.

WHITE HOUSE CONFERENCE ON EDUCATION: REPORT OF FINDINGS AND RECOMMENDATIONS; NATIONAL CONFERENCE COMMITTEE: ESTABLISHMENT, MEMBERSHIP, REPORT TO PRESIDENT AND CONGRESS, TRAVEL EXPENSES; APPORTIONMENT OF FUNDS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–380, title VIII, § 804, Aug. 21, 1974, 88 Stat. 597, as amended by Pub. L. 95–272, title III, § 301, May 3, 1978, 92 Stat. 227; Pub. L. 95–561, title XII, § 1203(c)(8), Nov. 1, 1978, 92 Stat. 2335, directed President to call and conduct a White House Conference on Education in 1980, established a National Conference Committee to provide guidance and planning and to make a final report to President and Congress not later than Dec. 1, 1980, authorized making of grants to States to assist in meeting cost of that State's participation, and authorized appropriations.

§ 1221–2. National policy with respect to museums as educational institutions

The Congress, recognizing—

(1) that museums serve as sources for schools in providing education for children,

(2) that museums provide educational services of various kinds for educational agencies and institutions and institutions of higher education, and

(3) that the expense of the educational services provided by museums is seldom borne by the educational agencies and institutions taking advantage of the museums' resources,

declares that it is the sense of the Congress that museums be considered educational institutions and that the cost of their educational services be more frequently borne by educational agencies and institutions benefiting from those services.

(Pub. L. 93–380, title VIII, § 803, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

§ 1221–3. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 400A, as added Pub. L. 95–561, title XII, § 1212(b), Nov. 1, 1978, 92 Stat. 2338; amended Pub. L. 96–46, § 4(a), Aug. 6, 1979, 93 Stat. 342; Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 96–511, § 4(a), Dec. 11, 1980, 94 Stat. 2826, related to control of excessive paperwork.

SUBCHAPTER I—FUNCTIONS OF DEPARTMENT OF EDUCATION

AMENDMENTS

1994—Pub. L. 103–382, title II, § 221, Oct. 20, 1994, 108 Stat. 3913, amended subchapter heading generally.

§§ 1221a to 1221c. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1221a, Pub. L. 90–247, title IV, § 401, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, § 504(a), Aug. 21, 1974, 88 Stat. 561, established Education Division of the Department of Health, Education, and Welfare.

Section 1221b, Pub. L. 90–247, title IV, § 402, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 93–380, title V, § 502(a)(2)(A), Aug. 21, 1974, 88 Stat. 560, established position of and provided for appointment and compensation of Assistant Secretary for Education in the Department of Health, Education, and Welfare.

Section 1221c, Pub. L. 90–247, title IV, § 403, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 93–380, title V, § 503(a), Aug. 21, 1974, 88 Stat. 560; Pub. L. 94–482, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2233; Pub. L. 95–561, title XII, § 1241, Nov. 1, 1978, 92 Stat. 2351; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692; Pub. L. 96–470, title I, § 106(d), Oct. 19, 1980, 94 Stat. 2238, related to nonpublic education.

§ 1221d. Repealed. Pub. L. 96–374, title X, § 1001(c), Oct. 3, 1980, 94 Stat. 1491

Section, Pub. L. 90–247, title IV. § 404, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 94–482, title IV, § 402, Oct. 12, 1976, 90 Stat. 2226; Pub. L. 96–49, § 13, Aug. 13, 1979, 93 Stat. 354, related to grants and contracts for improvement of post-secondary education.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1221e. Repealed. Pub. L. 103–227, title IX, § 911(a), Mar. 31, 1994, 108 Stat. 213

Section, Pub. L. 90–247, title IV, § 405, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 328; amended Pub. L. 93–380, title V, § 502(a)(2)(B), Aug. 21, 1974, 88 Stat. 560; Pub. L. 94–482, title IV, § 403, Oct. 12, 1976, 90 Stat. 2227; Pub. L. 95–561, title XII, § 1242, Nov. 1, 1978, 92 Stat. 2352; Pub. L. 96–49, § 14, Aug. 13, 1979, 93 Stat. 354; Pub. L. 96–374, title XIII, §§ 1311–1314, Oct. 3, 1980, 94 Stat. 1498, 1499; Pub. L. 98–511, title VII, §§ 702(a), 703, 704(a), Oct. 19, 1984, 98 Stat. 2405, 2406; Pub. L. 99–498, title XIV, § 1401(a), Oct. 17, 1986, 100 Stat. 1589; Pub. L. 100–50, § 24(a), June 3, 1987, 101 Stat. 362; Pub. L. 100–297, title III, §§ 3001(p)(2), 3002, 3403(b), (c), Apr. 28, 1988, 102 Stat. 337, 349; Pub. L. 103–33, § 1(b), May 25, 1993, 107 Stat. 94, related to Office of Educational Research and Improvement.

SAVINGS PROVISION

Section 914 of title IX of Pub. L. 103–227 provided that: ''Notwithstanding any other provision of law,

contracts for the regional educational laboratories, Educational Resources Information Center Clearinghouses and research and development centers and regional educational laboratories assisted under section 405 of the General Education Provisions Act [20 U.S.C. 1221e], as such section was in effect on the day before the date of the enactment of this title [Mar. 31, 1994], shall remain in effect until the termination date of such contracts.''

EXISTING GRANTS AND CONTRACTS

Section 915 of title IX of Pub. L. 103–227 provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, grants and contracts for the research and development centers assisted under section 405 of the General Education Provisions Act [20 U.S.C. 1221e], as such section was in effect on the day before the date of enactment of this Act [Mar. 31, 1994], shall remain in effect until the termination date of such grants or contracts, as the case may be, except that such grants and contracts may be extended to implement the provisions of this title [see section 6001 of this title].

''(b) USE OF FUNDS.—In carrying out subsection (a), the Secretary shall use funds appropriated pursuant to section 912(m)(1) [20 U.S.C. 6011(m)(1)].''

§ 1221e–1 to 1221e–1c. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1221e–1, Pub. L. 90–247, title IV, § 406, as added Pub. L. 93–380, title V, § 501(a), Aug. 21, 1974, 88 Stat. 556; amended Pub. L. 94–273, § 12(1), Apr. 21, 1976, 90 Stat. 378; Pub. L. 94–482, title IV, §§ 401, 406, title V, § 501(q), Oct. 12, 1976, 90 Stat. 2226, 2231, 2238; Sen. Res. 4, Feb. 4, 1977; Pub. L. 95–561, title XII, §§ 1201, 1212(a), (c), 1243(a), Nov. 1, 1978, 92 Stat. 2333, 2338, 2341, 2353; S. Res. 30, Mar. 7, 1979; Pub. L. 98–511, title VII, §§ 702(b), 704(b), Oct. 19, 1984, 98 Stat. 2406; Pub. L. 99–498, title XIV, § 1402, Oct. 17, 1986, 100 Stat. 1597; Pub. L. 100–50, § 24(b), June 3, 1987, 101 Stat. 363; Pub. L. 100–297, title III, § 3001(a), (b)(1), (c)–(p)(1), (q), 3403(a), Apr. 28, 1988, 102 Stat. 331–337, 344; Pub. L. 101–589, title II, § 252, Nov. 16, 1990, 104 Stat. 2894; Pub. L. 102–325, title XV, § 1552, July 23, 1992, 106 Stat. 838; Pub. L. 103–33, § 1(a), May 25, 1993, 107 Stat. 93; Pub. L. 103–227, title VII, § 707, Mar. 31, 1994, 108 Stat. 209; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to National Center for Education Statistics. See section 9001 et seq. of this title.

Section 1221e–1a, Pub. L. 90–247, title IV, § 406A, formerly § 437, as added Pub. L. 93–380, title V, § 512(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 94–273, § 17, Apr. 21, 1976, 90 Stat. 379; Pub. L. 94–482, title V, § 501(f)(2), (3), Oct. 12, 1976, 90 Stat. 2237; S. Res. 4, Feb. 4, 1977; renumbered § 406A, Pub. L. 95–561, title XII, § 1231(a)(2), Nov. 1, 1978, 92 Stat. 2342; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, § 18(b), Dec. 8, 1983, 97 Stat. 1417; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to responsibility of State to furnish information on uses of Federal funds in State. See section 1226b(a) and (f) of this title.

Section 1221e–1b, Pub. L. 90–247, title IV, § 406B, formerly § 406A, as added Pub. L. 96–374, title XIII, § 1303, Oct. 3, 1980, 94 Stat. 1497; renumbered § 406B, Pub. L. 99–159, title IV, § 401(1), Nov. 22, 1985, 99 Stat. 903, authorized appropriations for fiscal year 1981 for Pre-College Science Teacher Training Program and Minority Institutions Science Improvement program.

Section 1221e–1c, Pub. L. 90–247, title IV, § 406C, as added Pub. L. 99–159, title IV, § 401(2), Nov. 22, 1985, 99 Stat. 903, authorized appropriations for fiscal years 1985 and 1986 for Minority Institutions Science Improvement Program.

§ 1221e–1d. Use of Council staff and facilities

The National Advisory Council on Educational Research and Improvement, the Advisory Council on Education Statistics, and members of such councils may not use any staff, facilities, equipment, supplies, or franking privileges of the councils for activities unrelated to the purposes of the councils.

(Pub. L. 99–498, title XIV, § 1403, Oct. 17, 1986, 100 Stat. 1599.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1986, and not as part of the General Education Provisions Act which comprises this chapter.

§ 1221e–2. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 407, as added Pub. L. 93–380, title V, § 502(a)(1), Aug. 21, 1974, 88 Stat. 559; amended Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692, related to education officers of United States.

§ 1221e–3. General authority of Secretary

The Secretary, in order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department.

(Pub. L. 90–247, title IV, § 410, formerly § 408, as added Pub. L. 93–380, title V, § 502(a)(1), Aug. 21, 1974, 88 Stat. 559; amended Pub. L. 95–561, title XII, §§ 1243(b), 1244, Nov. 1, 1978, 92 Stat. 2353; renumbered § 410 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 222, Oct. 20, 1994, 108 Stat. 3913, 3914.)

AMENDMENTS

1994—Pub. L. 103–382, § 222, amended section generally, substituting single par. relating to general authority of Secretary for former subsecs. (a) to (d) relating to general authority of administrative heads of education agencies.

1978—Subsec. (a). Pub. L. 95–561, § 1243(b), inserted ''or by delegation of authority pursuant to law'' after ''vested in him by law'' in provisions preceding par. (1) and, in par. (1), inserted '', and governing the applicable programs administered by'' after ''the manner of operation of''.

Subsecs. (b) to (d). Pub. L. 95–561, § 1244, added subsec. (b), redesignated former subsecs. (b) and (c) as (c) and (d), and in subsec. (d) as so redesignated substituted ''For the purposes of this chapter'' for ''For the purposes of this section''.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1530 of Pub. L. 95–561, as amended by Pub. L. 96–46, § 2(a)(10), Aug. 6, 1979, 93 Stat. 340, provided that:

''(a) Except as otherwise specifically provided in this Act, the provisions of this Act and the amendments and repeals made by this Act [see Tables for classification] shall take effect October 1, 1978.

''(b) The provisions of section 412(b)(2) [now 421(b)(2)] of the General Education Provisions Act [section 1225(b)(2) of this title], as added by section 1245 of this Act, shall not take effect with respect to the use of funds under section 421 of the Elementary and Secondary Education Act of 1965 [former section 3101 of this title] until October 1, 1980, except at the option of local educational agencies.''

EFFECTIVE DATE

Section 502(b) of Pub. L. 93–380 provided that: ''The amendments made by this section [enacting this sec-

tion and section 1221e–2 and amending sections 1221b and 1221e of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974].''

§ 1221e–4. Educational impact statement

Notwithstanding any other provision of law, no regulation affecting any institution of higher education in the United States, promulgated on or after October 3, 1980, shall become effective unless such agency causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States. Notwithstanding the exception provided under section 553(b) of title 5, such statement shall be based upon the record established under the provisions of section 553 of title 5, compiled during the rulemaking proceeding regarding such regulation.

(Pub. L. 90–247, title IV, § 411, formerly § 409, as added Pub. L. 96–374, title XIII, § 1306, Oct. 3, 1980, 94 Stat. 1498; renumbered § 411, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

CODIFICATION

October 3, 1980, referred to in text, was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 96–374, which enacted this section, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 411 of Pub. L. 90–247 was renumbered section 420, and is classified to section 1223 of this title.

Another prior section 411 of Pub. L. 90–247 was classified to section 1222 of this title prior to repeal by Pub. L. 93–380.

Another prior section 411 of Pub. L. 90–247 was renumbered section 430, and is classified to section 1231 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§§ 1221f to 1221h. Repealed. Pub. L. 100–297, title V, § 5352(4), Apr. 28, 1988, 102 Stat. 414

Section 1221f, Pub. L. 92–318, title IV, § 441, June 23, 1972, 86 Stat. 343, established Office of Indian Education. See section 2641 of Title 25, Indians.

Section 1221g, Pub. L. 92–318, title IV, § 442, June 23, 1972, 86 Stat. 343; Pub. L. 93–380, title V, § 505(a)(2), title VIII, § 845(d), Aug. 21, 1974, 88 Stat. 562, 612; Pub. L. 94–273, §§ 3(11), 13(1), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 95–561, title XI, § 1141(c)(3), Nov. 1, 1978, 92 Stat. 2329; Pub. L. 98–511, title V, § 513(b)(5), Oct. 19, 1984, 98 Stat. 2400, established National Advisory Council on Indian Education. See section 2642 of Title 25.

Section 1221h, Pub. L. 92–318, title IV, § 453, June 23, 1972, 86 Stat. 345; Pub. L. 95–561, title XI, §§ 1147, 1148, 1151, Nov. 1, 1978, 92 Stat. 2330, 2331, 2333; Pub. L. 96–46, § 7, Aug. 6, 1979, 93 Stat. 343, defined ''Indian'' for purposes of the Indian Education Act. See section 2651 of Title 25.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 1221i. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, Pub. L. 93–380, title V, § 519, Aug. 21, 1974, 88 Stat. 576; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to Office of Libraries and Learning Resources.

§ 1221j. Television program assistance

(a) Granting and contracting authority

The Secretary of Education is authorized to make grants to and contracts with public and private agencies for the production, development, or distribution (or any combination thereof) of programs designed for television systems, whether broadcast or nonbroadcast.

(b) Administration and studies

The Secretary of Education shall be responsible for the administration of this section and shall also conduct surveys, research, and evaluation studies which may assist in decisions to support pilot programs for full scale production.

(Pub. L. 95–561, title XV, § 1527, Nov. 1, 1978, 92 Stat. 2379; Pub. L. 96–88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95–561, set out as an Effective Date of 1974 Amendment note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Secretary'' in subsec. (a) and ''Assistant Secretary for Education'' in subsec. (b), pursuant to sections 301 and 507 of Pub. L. 96–88, which are classified to sections 3441 and 3507 of this title and which transferred functions (relating to education) of Secretary of Health, Education, and Welfare, and functions of Assistant Secretary for Education, to Secretary of Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3489 of this title.

SUBCHAPTER II—APPROPRIATIONS AND EVALUATIONS

AMENDMENTS

1972—Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, redesignated subchapter I as II. Former subchapter II redesignated III.

1970—Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166, added subchapter II heading.

PART 1—APPROPRIATIONS

AMENDMENTS

1974—Pub. L. 93–380, title V, § 506(a)(1)(A), Aug. 21, 1974, 88 Stat. 562, added part 1 heading.

§ 1222. Repealed. Pub. L. 93–380, title V, § 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562

Section, Pub. L. 90–247, title IV, § 411, formerly § 402, Jan. 2, 1968, 81 Stat. 814; amended Pub. L. 91–230, title IV, § 401(a)(3), Apr. 13, 1970, 84 Stat. 165; renumbered § 411, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, provided for program planning and evaluation and report to Congressional committees.

EFFECTIVE DATE OF REPEAL

Section repealed effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as an Effective Date of 1974 Amendment note under section 1225 of this title.

§ 1223. Forward funding

(a) To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing education activities and projects, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

(b) In order to effect a transition to the timing of appropriation action authorized by subsection (a) of this section, the application of this section may result in the enactment, in a fiscal year, of separate appropriations for an applicable program (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

(Pub. L. 90–247, title IV, § 420, formerly § 403, Jan. 2, 1968, 81 Stat. 814; Pub. L. 91–230, title IV, § 401(a)(4), Apr. 13, 1970, 84 Stat. 165; renumbered § 412, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 411, Pub. L. 93–380, title V, § 506(a)(1)(C), Aug. 21, 1974, 88 Stat. 562; renumbered § 420 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 231, Oct. 20, 1994, 108 Stat. 3913, 3914.)

PRIOR PROVISIONS

A prior section 420 of Pub. L. 90–247 was renumbered section 426, and is classified to section 1228 of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 231, amended section generally. Prior to amendment, section read as follows: "To the end of affording the responsible State, local, and Federal officers concerned adequate notice of available Federal financial assistance for education, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application under such program will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year."

1970—Pub. L. 91–230 substituted "applicable program" and "under such program" for "Act referred to in section 1221 of this title" and "under any such Act", respectively.

NATIONAL POLICY WITH RESPECT TO ADVANCE FUNDING OF EDUCATION PROGRAMS

Section 802 of Pub. L. 93–380 provided that: "The Congress declares it to be the policy of the United States to implement immediately and continually section 411 [now 420] of the General Education Provisions Act [this section], relating to advance funding for education programs, so as to afford responsible State, local, and Federal officers adequate notice of available Federal financial assistance for education authorized under this [Act, Pub. L. 93–380, see Short Title of 1974 Amendment note set out under section 6301 of this title] and other Acts of Congress."

Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as an Effective Date note under section 1221–1 of this title.

§ 1224. Repealed. Pub. L. 93–380, title V, § 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562

Section, Pub. L. 90–247, title IV, § 413, formerly § 404, Jan. 2, 1968, 81 Stat. 814; amended Pub. L. 91–230, title IV, § 401(a)(5), (6), Apr. 13, 1970, 84 Stat. 165; renumbered § 413, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, provided for annual evaluation reports to Congressional committees, penultimate fiscal year reports, and contingent extension of expiring appropriation authority.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as an Effective Date of 1974 Amendment note under section 1225 of this title.

§ 1225. Availability of appropriations on academic or school-year basis; additional period for obligation of funds

(a) Academic or differing fiscal year

Appropriations for any fiscal year for grants, loans, contracts, or other payments under any applicable program may, in accordance with regulations of the Secretary, be made available for obligation by the recipient on the basis of an academic or school year differing from such fiscal year.

(b) Succeeding fiscal year

(1) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this chapter is applicable during any fiscal year, which are not obligated and expended by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

(2) Any funds under any applicable program which, pursuant to paragraph (1), are available for obligation and expenditure in the year succeeding the fiscal year for which they were appropriated shall be obligated and expended in accordance with—

(A) the Federal statutory and regulatory provisions relating to such program which are in effect for such succeeding fiscal year, and

(B) any program plan or application submitted by such educational agencies or institutions for such program for such succeeding fiscal year.

(c) Institution of judicial proceedings

If any funds appropriated to carry out any applicable program are not obligated pursuant to a spending plan submitted in accordance with section 1341(a) of title 31 and become available for obligation after the institution of a judicial proceeding seeking the release of such funds, then such funds shall be available for obligation and expenditure until the end of the fiscal year which begins after the termination of such judicial proceeding.

(Pub. L. 90–247, title IV, § 421, formerly § 405, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title IV, § 401(a)(5), (7), (8), Apr. 13, 1970, 84 Stat. 165; re-

numbered § 414, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 412, and amended Pub. L. 93–380, title V, § 506(a)(1)(D), (E), Aug. 21, 1974, 88 Stat. 562; Pub. L. 94–273, § 3(12), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, § 5, Sept. 24, 1977, 91 Stat. 912; Pub. L. 95–561, title XII, § 1245, Nov. 1, 1978, 92 Stat. 2354; renumbered § 421 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 232, Oct. 20, 1994, 108 Stat. 3913, 3914.)

PRIOR PROVISIONS

A prior section 421 of Pub. L. 90–247 was classified to section 1230 of this title prior to repeal by Pub. L. 103–382.

Another prior section 421 of Pub. L. 90–247 was renumbered section 430, and is classified to section 1231 of this title.

Another prior section 421 of Pub. L. 90–247 was renumbered section 437, and is classified to section 1232 of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 232(a), amended section catchline generally.

Subsec. (a). Pub. L. 103–382, § 232(b)(1), struck out ''to educational agencies or institutions'' after ''other payments'' and substituted ''obligation'' for ''expenditure'' and ''recipient'' for ''agency or institution concerned''.

Subsec. (b). Pub. L. 103–382, § 232(b)(2), which directed the substitution in the original of ''(b)(1) Notwithstanding'' for ''(b) Notwithstanding'', could not be executed because the original already reads ''(b)(1) Notwithstanding''.

Subsec. (c). Pub. L. 103–382, § 232(b)(3), substituted reference to section 1341(a) of title 31 for reference to section 3679(d)(2) of the Revised Statutes.

1978—Subsec. (b). Pub. L. 95–561 struck out ''ending prior to October 1, 1979,'' after ''applicable during any fiscal year,'' in existing provisions, designated existing provisions as thus amended as par. (1), and added par. (2).

1977—Subsec. (b). Pub. L. 95–112 substituted ''October 1, 1979'' for ''October 1, 1978''.

1976—Subsec. (b). Pub. L. 94–273 substituted ''October'' for ''July''.

1974—Subsec. (b). Pub. L. 93–380, § 506(a)(1)(E), substituted ''1978'' for ''1973'' and inserted ''by educational agencies or institutions'' and ''by such agencies and institutions'' after ''obligated and expended'' and ''obligation and expenditure'', respectively.

Subsec. (c). Pub. L. 93–380, § 506(a)(1)(E), added subsec. (c).

1970—Pub. L. 91–230 substituted ''applicable program'' for ''Act referred to in section 1221 of this title'', inserted ''loans,'' after ''grants,'' designated existing provisions as thus amended as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, but the provisions of subsec. (b)(2) of this section not to take effect with respect to the use of funds under former section 3101 of this title until Oct. 1, 1980, except at the option of local educational agencies, see section 1530 of Pub. L. 95–561, as amended, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 506(b) of Pub. L. 93–380 provided that: ''The amendments made by subsection (a) of this section [enacting sections 1226a to 1226d of this title, amending this section and section 1227 of this title, and repealing sections 1222 and 1224 of this title] shall become effective on the date of enactment of this Act [Aug. 21, 1974].''

INDOCHINESE REFUGEE CHILDREN EDUCATION ASSISTANCE PROGRAMS; APPLICABILITY OF CONTINGENT EXTENSION PROVISIONS

Pub. L. 94–482, title III, § 327, Oct. 12, 1976, 90 Stat. 2220, provided that: ''The provisions of section 414 [now 422] of the General Education Provisions Act [section 1226a of this title], relating to the contingent extension of applicable programs, shall not apply to the Indochina Refugee Children Assistance Act of 1976 [former section 1211b of this title], or to any program of financial assistance for educational purposes for Indochinese refugee children.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6338 of this title.

§ 1226. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 413, formerly § 406, as added Pub. L. 90–576, title III, § 301(b), Oct. 16, 1968, 82 Stat. 1094; amended Pub. L. 91–230, title IV, § 401(a)(9), Apr. 13, 1970, 84 Stat. 166; renumbered § 415, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 413, Pub. L. 93–380, title V, § 506(a)(2)(A), Aug. 21, 1974, 88 Stat. 563, related to availability of appropriations.

§ 1226a. Contingent extension of programs

(a) Automatic extension

The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for one additional fiscal year unless Congress, in the regular session that ends prior to the beginning of the terminal fiscal year of such authorization or duration, has passed legislation that becomes law and extends or repeals the authorization or duration of such program.

(b) Amount of appropriation

The amount authorized to be appropriated for the period of automatic extension under subsection (a) of this section of an applicable program shall be the amount authorized to be appropriated for such program for the terminal fiscal year of the applicable program.

(c) Acts and determinations necessary for program continuation

If the Secretary is required, in the terminal fiscal year of an applicable program, to carry out certain acts or make certain determinations that are necessary for the continuation of such program, such acts or determinations shall be required to be carried out or made during the period of automatic extension under subsection (a) of this section.

(d) Application to commissions, councils, and committees required by law to terminate

This section shall not apply to the authorization of appropriations for a commission, council, or committee which is required by an applicable statute to terminate on a date certain.

(Pub. L. 90–247, title IV, § 422, formerly § 414, as added Pub. L. 93–380, title V, § 506(a)(2)(B), Aug. 21, 1974, 88 Stat. 563; amended Pub. L. 96–374, title XIII, § 1301, Oct. 3, 1980, 94 Stat. 1496; renumbered § 422 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 233, Oct. 20, 1994, 108 Stat. 3913, 3915.)

PRIOR PROVISIONS

A prior section 422 of Pub. L. 90–247 was renumbered section 431, and is classified to section 1231a of this title.

Another prior section 422 of Pub. L. 90–247 was renumbered section 438, and is classified to section 1232a of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 233, amended section generally, revising and restating former subsecs. (a) and (b) as subsecs. (a) to (c) and adding subsec. (d).

1980—Subsec. (a). Pub. L. 96–374 inserted provisions for the automatic extension of an authorization or duration of two additional fiscal years for any applicable program authorized to be included in the Appropriation Act for the fiscal year preceding the fiscal year for which appropriations are available for obligation.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

INDOCHINESE REFUGEE CHILDREN EDUCATION ASSISTANCE PROGRAMS; APPLICABILITY OF CONTINGENT EXTENSION PROVISIONS

Applicability of contingent extension provisions to any program of financial assistance for educational purposes for Indochinese refugee children, see section 327 of Pub. L. 94–482, set out as a note under section 1225 of this title.

LIMITATION ON EXTENSION OF PROGRAMS

Pub. L. 94–328, § 2(d), June 30, 1976, 90 Stat. 727, provided that: ''The amendments made by this section [amending sections 1070a, 1074, 1078 and 1078a of this title and enacting provisions set out as a note under section 2756 of Title 42, The Public Health and Welfare] shall not be deemed to authorize the automatic extension of the programs so amended, under section 414 [now 422] of the General Education Provisions Act [this section], beyond the date specified in such amendments.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2502, 3611 of this title; title 42 section 12641.

§ 1226a–1. Payments; installments, advances or reimbursement, and adjustments

Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(Pub. L. 90–247, title IV, § 423, formerly § 425, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered § 435, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 415, Pub. L. 95–561, title XII, § 1231(a)(1), Nov. 1, 1978, 92 Stat. 2342; renumbered § 423 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(a), Oct. 20, 1994, 108 Stat. 3913, 3927.)

CODIFICATION

Section was formerly classified to section 1232d of this title prior to its renumbering by Pub. L. 95–561.

PRIOR PROVISIONS

A prior section 423 of Pub. L. 90–247 was classified to section 1231b of this title prior to repeal by Pub. L. 103–382.

Another prior section 423 of Pub. L. 90–247 was renumbered section 439, and is classified to section 1232b of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 261(a), substituted ''Secretary'' for ''Commissioner''.

PART 2—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

AMENDMENTS

1974—Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563, added part 2 heading.

§ 1226b. Responsibility of States to furnish information

(a) Biennial reports; contents

Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include—

(1) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

(2) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

(b) Additional contents

Each report submitted under subsection (a) of this section shall—

(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

(2) analyze the information included in the report by local educational agency and by program;

(3) include the total amount of funds available to the State under each such program for each fiscal year concerned; and

(4) be made readily available by the State to local educational agencies and institutions within the State and to the public.

(c) Delinquent or incomplete reports

If the Secretary does not receive a report by the date required under subsection (a) of this section, or receives an incomplete report, the Secretary, not later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.

(d) Availability of information

When the Secretary receives a report required under subsection (a) of this section, the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available, at a reasonable cost, to any individual who requests such information.

(e) Congressional telecommunications network

The Secretary shall consult with the Speaker and Minority Leader of the House of Representa-

tives and the Majority and Minority Leaders of the Senate regarding the costs and feasibility of making the information described in subsection (a) of this section available as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.

(f) Reports by Secretary

On or before August 15 of each year in which reports are submitted under subsection (a) of this section, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

(1) an analysis of the content and data quality of such reports;

(2) a compilation of statistical data derived from such reports; and

(3) information obtained by the Secretary with respect to—

(A) direct grants made to local educational agencies by the Federal Government; and

(B) contracts entered into between such agencies and the Federal Government.

(Pub. L. 90–247, title IV, § 424, as added Pub. L. 103–382, title II, § 234, Oct. 20, 1994, 108 Stat. 3915.)

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a), (b), and (f) of this section were contained in section 1221e–1a of this title prior to repeal by Pub. L. 103–382.

A prior section 1226b, Pub. L. 90–247, title IV, § 416, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563, related to program planning and evaluation, prior to repeal by Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913.

A prior section 424 of Pub. L. 90–247 was classified to section 1231b–1 of this title prior to repeal by Pub. L. 103–382.

Another prior section 424 of Pub. L. 90–247 was renumbered section 433, and is classified to section 1231c of this title.

Another prior section 424 of Pub. L. 90–247 was renumbered section 434, and was classified to section 1232c of this title prior to repeal by Pub. L. 95–561.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

§ 1226c. Biennial evaluation report

Not later than March 31, 1995, and every two years after such date, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate an evaluation report on the effectiveness of applicable programs in achieving such programs' legislated intent and purposes during the two preceding fiscal years. Such report shall—

(1) contain program profiles that include legislative citations, multiyear funding histories, and legislated purposes;

(2) contain recent information on the progress being made toward the achievement of program objectives, including listings of program performance indicators, data from performance measurement based on the indicators, and information on the costs and benefits of the applicable programs being evaluated;

(3) address significant program activities, such as initiatives for program improvement, regulations, and program monitoring and evaluation;

(4) list the principal analyses and studies supporting the major conclusions in such report;

(5) be prepared in concise summary form with necessary detailed data and appendixes, including available data to indicate the effectiveness of the programs and projects by the race, sex, disability and age of beneficiaries of such programs and projects; and

(6) include the results of the program evaluations conducted in accordance with section 8941 of this title.

(Pub. L. 90–247, title IV, § 425, formerly § 417, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564; amended Pub. L. 95–561, title XII, § 1246(a), (b), Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96–46, § 4(b), Aug. 6, 1979, 93 Stat. 342; Pub. L. 96–374, title XIII, § 1305, Oct. 3, 1980, 94 Stat. 1497; Pub. L. 98–511, title VII, § 705, Oct. 19, 1984, 98 Stat. 2406; renumbered § 425 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 235, Oct. 20, 1994, 108 Stat. 3913, 3916; Pub. L. 103–437, § 7(a)(2), Nov. 2, 1994, 108 Stat. 4587.)

PRIOR PROVISIONS

A prior section 425 of Pub. L. 90–247 was renumbered section 432, and is classified to section 1231b–2 of this title.

Another prior section 425 of Pub. L. 90–247 was renumbered section 434, and is classified to section 1231d of this title.

Another prior section 425 of Pub. L. 90–247 was renumbered section 423, and is classified to section 1226a–1 of this title.

AMENDMENTS

1994—Pub. L. 103–437, which directed that section 417(a) of Pub. L. 90–247 be amended by substituting ''Labor and Human Resources'' for ''Human Resources'', could not be executed because this section, which was section 417 of Pub. L. 90–247, was renumbered section 425 and amended generally by Pub. L. 103–382.

Pub. L. 103–382, § 235, amended section generally, substituting single undesignated par. relating to biennial evaluation reports for former subsecs. (a) and (b) relating to annual evaluation reports and including requirement for information on contracts and grants for evaluations of programs.

1984—Subsec. (a). Pub. L. 98–511 substituted ''December 31'' for ''November 1''.

1980—Subsec. (a)(F). Pub. L. 96–374 inserted '', including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age of its beneficiaries'' after ''detailed data and appendices''.

1979—Subsec. (a). Pub. L. 96–46 substituted ''(a) Not later than'' for ''(a)(1) Not later than'' and struck out par. (2) which provided that, in the case of programs and projects assisted under title I of the Elementary and Secondary Education Act of 1965, the report include a survey of how many children counted under section 103(c) of such Act do or do not participate in such programs and projects and how many disadvantaged children do or do not participate in such programs and projects.

1978—Subsec. (a)(1). Pub. L. 95–561 inserted ''(including compliance with provisions of law requiring the maintenance of non-Federal expenditures for the purposes of such applicable programs)'' after ''effectiveness of applicable programs'' and substituted ''Committee on Human Resources'' for ''Committee on Labor and Public Welfare'' in provisions preceding subpar. (A).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 711 of Pub. L. 98–511 provided that:

''(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Oct. 19, 1984] or October 1, 1984, whichever occurs later.

''(b) The amendments made by title I of this Act [see Tables for classification] shall take effect on July 1, 1985.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–46 effective Oct. 1, 1978, see section 8 of Pub. L. 96–46, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

§ 1226c–1. Availability of education reports, etc., to Congressional committees

Any evaluation report or data or information collected in preparation of such report, which is paid for with appropriated funds, shall be made available, upon request, within 4 days to the chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and of the Committee on Labor and Human Resources of the Senate.

(Pub. L. 95–561, title XV, § 1523, Nov. 1, 1978, 92 Stat. 2378; Pub. L. 103–437, § 7(b), Nov. 2, 1994, 108 Stat. 4587.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Labor and Human Resources'' for ''Human Resources''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3489 of this title.

§ 1226d. Repealed. Pub. L. 96–470, title I, § 106(a), Oct. 19, 1980, 94 Stat. 2238

Section, Pub. L. 90–247, title IV, § 418, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564; amended S. Res. 4, Feb. 4, 1977; Pub. L. 95–561, title XII, § 1246(c), Nov. 1, 1978, 92 Stat. 2354; S. Res. 30, Mar. 7, 1979, directed Assistant Secretary to submit to Committee on Education and Labor of the House of Representatives and Committee on Labor and Human Resources of the Senate comprehensive renewal evaluation reports for applicable programs.

§ 1227. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 419, formerly § 417, as added Pub. L. 92–318, title III, § 304, June 23, 1972, 86 Stat. 333; renumbered § 419 and amended Pub. L. 93–380, title V, § 506(a)(3)(A), (B), Aug. 21, 1974, 88 Stat. 563, related to education program evaluations by Comptroller General.

§ 1228. Prohibition against use of appropriated funds for busing

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title VIII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], but not including any portion of such funds as are attributable to children counted under subsections (d) and (g) of section 8003 of such Act [20 U.S.C. 7703(d), (g)] or residing on property described in section 8013(10) of such Act [20 U.S.C. 7713(10)].

(Pub. L. 90–247, title IV, § 426, formerly § 420, as added Pub. L. 93–380, title II, § 252, Aug. 21, 1974, 88 Stat. 519; renumbered § 426 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(b), Oct. 20, 1994, 108 Stat. 3913, 3927.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Title VIII of the Act is classified generally to subchapter VIII (§ 7701 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 426 of Pub. L. 90–247 was renumbered section 433, and is classified to section 1231c of this title.

Another prior section 426 of Pub. L. 90–247 was renumbered section 435, and is classified to section 1231e of this title.

Another prior section 426 of Pub. L. 90–247 was renumbered section 436, and was classified to section 1232e of this title prior to repeal by Pub. L. 95–561.

AMENDMENTS

1994—Pub. L. 103–382, § 261(b), substituted ''title VIII of the Elementary and Secondary Education Act of 1965'' for ''subchapter I of chapter 13 of this title'' and ''subsections (d) and (g) of section 8003 of such Act or residing on property described in section 8013(10) of such Act'' for ''subparagraph (C) of section 238(d)(2) of this title or section 244(1)(C) of this title''.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

§ 1228a. Equity for students, teachers, and other program beneficiaries

(a) Purpose

The purpose of this section is to assist the Department in implementing the Department's mission to ensure equal access to education and to promote educational excellence throughout the Nation, by—

(1) ensuring equal opportunities to participate for all eligible students, teachers, and other program beneficiaries in any project or activity carried out under an applicable program; and

(2) promoting the ability of such students, teachers, and beneficiaries to meet high standards.

(b) Requirement to develop steps to ensure equity

The Secretary shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.

(c) Establishment of criteria

The Secretary may establish criteria and provide technical assistance for meeting the requirements of this section.

(d) Effect on other laws

Nothing in this section shall be construed to alter in any way the rights or responsibilities established under the laws cited in section 1221(d) of this title.

(Pub. L. 90–247, title IV, § 427, as added Pub. L. 103–382, title II, § 236, Oct. 20, 1994, 108 Stat. 3917.)

PRIOR PROVISIONS

A prior section 427 of Pub. L. 90–247 was renumbered section 434, and is classified to section 1231d of this title.

Another prior section 427 of Pub. L. 90–247 was renumbered section 429, and was classified to section 1231f of this title prior to repeal by Pub. L. 103–382.

EFFECTIVE DATE

Section effective July 1, 1995, for noncompetitive programs in which funds are allocated on the basis of a formula and for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years, see section 3(a)(2) of Pub. L. 103–382, set out as an Effective Date of 1994 Amendment note under section 1221 of this title.

§ 1228b. Coordination

The National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, and any other board established to analyze, address, or approve education content or student performance standards and assessments shall coordinate and interact with one another in order to ensure that each such entity does not duplicate activities to assist the States in reforming their educational systems.

(Pub. L. 90–247, title IV, § 428, as added Pub. L. 103–382, title II, § 237, Oct. 20, 1994, 108 Stat. 3917; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(c)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

PRIOR PROVISIONS

A prior section 428 of Pub. L. 90–247 was renumbered section 435, and is classified to section 1231e of this title.

AMENDMENTS

1996—Pub. L. 104–134 struck out ''the National Education Standards and Improvement Council,'' before ''and any other board''.

§ 1228c. Disclosure requirements

(a) In general

Each educational organization, prior to enrolling a minor and prior to accepting funds for the cost of a minor's participation in an educational program operated by such organization, shall disclose the following information in written form to the minor or the minor's parent.

(1) Method of solicitation and selection

The method of solicitation and selection of participants in the educational program, including—

(A) the origin of any mailing list used for such solicitation and selection;

(B) any recruitment through a local school official, teacher, or school personnel, including any compensation or other benefit offered to such official, teacher, or personnel for the recommendation of a minor for participation in the educational program;

(C) any open enrollment activity, including the method of outreach; and

(D) any cooperation with, or sponsorship by, a membership organization, including a description of the cooperation or sponsorship and the name of each such organization.

(2) Cost and fees

Information regarding the cost of the educational program and information regarding the distribution of any enrollment fee, including—

(A) the amount paid for, and the percentage of the total educational program cost of, each feature of the educational program, including—

(i) food;

(ii) lodging;

(iii) transportation;

(iv) program staffing;

(v) textbooks, syllabi, or other scholastic educational program materials;

(vi) speaker fees; and

(vii) administrative expenses, including expenses related to—

(I) the preparation of nonscholastic educational program materials;

(II) the provision of financial assistance;

(III) mailing list rental or other recruitment activity; and

(IV) administrative salaries and consulting fees;

(B) the identity of the organization or business providing each of the features described in clauses (i) through (vii) of subparagraph (A); and

(C) the nature of any relationship of any board member, officer, or employee of the educational organization to any organization or business described in subparagraph (B), including the salary or other compensation paid by such organization or business to such board member, officer, or employee.

(b) Nondiscriminatory enrollment and service policy

(1) In general

Each educational organization shall include a verifiable statement in all enrollment or recruitment material that the educational organization does not—

(A) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment; or

(B) exclude any student from participation in an educational program, discriminate against any student in providing the benefits associated with such program (including any scholarship or financial assistance, and use of any facility), or subject the student to discrimination under such program, on the basis of race, disability, or residence in a low-income area.

(2) Construction

Nothing in this subsection shall be construed to entitle a student to—

(A) participation in an educational program or any benefit associated with such program; or

(B) a waiver of any fee charged for such participation or benefit.

(c) Enforcement

The Secretary shall—

(1)(A) widely disseminate information about the requirements of this section to State and local school officials and parents; and

(B) require educational organizations to submit appropriate information or assurances regarding such organizations' compliance with this section; and

(2) take whatever other steps the Secretary determines are appropriate to enforce this section, including—

(A) promulgating regulations;

(B) establishing a complaint process;

(C) referring complaints to the relevant Federal, State, or local authorities for appropriate action;

(D) alerting educational agencies, schools, and parents to the practices of educational organizations that violate the provisions of this section; and

(E) imposing civil fines (not to exceed $1,000 per violation) on educational organizations that knowingly violate this section.

(d) Definitions

As used in this section:

(1) Disability

The term ''disability'' has the same meaning given to such term by section 12102(2) of title 42.

(2) Educational organization

(A) Except as provided in subparagraphs (B) and (C), the term ''educational organization'' means any organization or entity that—

(i) provides an educational program for a fee; and

(ii) recruits students through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers or staff, or current or former participants in an educational program offered by such organization or entity.

(B) The definition in subparagraph (A) shall not include—

(i) a local educational agency, State educational agency, a State department of education, or an elementary or secondary school as defined by the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(ii) an institution of higher education as defined by section 1141(a) of this title; or

(iii) a local organization sponsored by an elementary or secondary school, a recreational organization, an entertainment organization, a local sports activity group, or a social club.

(C) For the purpose of subsection (a) of this section only, such term does not include an organization or entity that provides an educational program if such organization or entity—

(i) recruits, for participation in such program, solely through a local school official; and

(ii) does not offer a local school official, teacher, or other school personnel compensation (other than compensation for actual expenses incurred in performing chaperon activities or for participating in separate, professionally-staffed teacher training and technical assistance seminars and workshops related to such program) or any other benefit for such recruitment.

(3) Educational program

(A) Except as provided in subparagraph (B), the term ''educational program'' means a spe-

cial honors program, seminar, citizenship experience, government study program, educational vacation, student exchange program, or other educational experience or honor—

(i) that is generally directed toward minors or secondary school students;

(ii) for which a tuition or enrollment fee is charged;

(iii) that is offered away from a student's regular place of school attendance;

(iv) that includes not less than one supervised night away from home; and

(v) that is intended to enhance a student's regular course of study.

(B) Such term does not include a recreational program,[1] or a social or religious activity.

(4) Local school official

The term ''local school official'' means the highest administrative official serving a school district, or such individual's designee.

(5) Minor

The term ''minor'' means an individual who has not attained the age of 18 years.

(6) Membership organization

The term ''membership organization'' includes any organization that maintains a membership list or collects dues or membership fees from its members.

(7) Recreational organization

The term ''recreational organization'' includes any organization or entity that has as its primary function pleasure, amusement, or sports activities.

(8) Recreational program

The term ''recreational program'' includes any activity or service that is intended as an entertainment pastime.

(Pub. L. 90–247, title IV, § 429, as added Pub. L. 103–382, title II, § 238, Oct. 20, 1994, 108 Stat. 3918.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(2)(B)(i), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 429 of Pub. L. 90–247 was classified to section 1231f of this title prior to repeal by Pub. L. 103–382.

SUBCHAPTER III—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF SECRETARY

AMENDMENTS

1994—Pub. L. 103–382, title II, § 261(c), Oct. 20, 1994, 108 Stat. 3927, substituted ''SECRETARY'' for ''COMMISSIONER OF EDUCATION''.

1972—Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, redesignated former subchapter II as III. Former subchapter III redesignated IV.

§ 1230. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 421, as added Pub. L. 93–380, title V, § 507(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 94–482, title IV, § 404(a), Oct. 12, 1976, 90 Stat. 2230; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, specified programs subject to provisions of this subchapter.

PART 1—GENERAL AUTHORITY

§ 1231. Joint funding of programs

(a) Joint projects; transfers of appropriations; contracts or grants; criteria

(1) The Secretary is authorized to enter into arrangements with other Federal agencies to jointly carry out projects of common interest, to transfer to such agencies funds appropriated under any applicable program, and to receive and use funds from such agencies, for projects of common interest.

(2) Funds transferred or received pursuant to paragraph (1) shall be used only in accordance with the statutes authorizing the appropriation of such funds, and shall be made available by contract or grant only to recipients eligible to receive such funds under such statutes.

(3) If the Secretary enters into an agreement under this subsection for the administration of a project, the agency administering the project shall use such agency's procedures to award contracts or grants and to administer such awards, unless the parties to the agreement specify the use of procedures of another agency that is a party to the agreement.

(4) If the Secretary has entered into an agreement authorized under this subsection and the Secretary and the heads of the other agencies participating in the agreement determine that joint funding is necessary to address a special need consistent with the purposes and authorized activities of each program that provides funding under the joint project, the Secretary and the heads of the other participating agencies may develop a single set of criteria for the jointly funded project and require each applicant for such project to submit a single application for review by the participating agencies.

(b) Joint applications

The Secretary may develop the criteria for, and require the submission of, joint applications under two or more applicable programs under which funds are awarded on a competitive basis, and may jointly review and approve such applications separately from other applications under such programs, when the Secretary determines that such joint awards are necessary to address a special need consistent with the purposes and authorized activities of each such program. Any applicant for such a joint award shall meet the eligibility requirements of each such program.

(c) Limitations on joint funding

The Secretary may not construe the provisions of this section to take precedence over a limitation on joint funding contained in an applicable statute.

[1] So in original. The comma probably should not appear.

(d) Congressional notice

(1) The Secretary shall provide notice to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate of each joint funding agreement made with other Federal agencies not later than 60 days after the making of such agreements.

(2) Such notice shall include—

(A) a description of the purpose and objectives of the joint funding arrangement;

(B) the amounts and sources, by program, of the funds dedicated to such arrangement; and

(C) the criteria developed to govern the award of contracts and grants.

(Pub. L. 90–247, title IV, § 430, formerly § 411, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166; renumbered § 421 and amended Pub. L. 92–318, title III, §§ 301(a)(1), 302(a), June 23, 1972, 86 Stat. 326, 332; renumbered § 421A, Pub. L. 93–380, title V, § 507(a), Aug. 21, 1974, 88 Stat. 565; renumbered § 430 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 241, Oct. 20, 1994, 108 Stat. 3913, 3921.)

PRIOR PROVISIONS

A prior section 430 of Pub. L. 90–247 was renumbered section 436, and is classified to section 1231g of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 241, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to administration of education programs, delegations of authority, utilization of services and facilities of other agencies, and consolidation of programs.

1972—Subsec. (c). Pub. L. 92–318, § 302(a), added subsec. (c).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1972 AMENDMENT; INCONSISTENT PROVISIONS INEFFECTIVE

Section 302(c) of Pub. L. 92–318 provided that: ''The provisions of section 421(c) [now 430(c)] of the General Education Provisions Act [subsec. (c) of this section] shall be effective upon the date of enactment of this Act [June 23, 1972]. No provision of any law which is inconsistent with such section 421(c) shall be effective nor shall any such provision control to the extent of such inconsistency, unless such a law is enacted after the date of enactment of this Act.''

§ 1231a. Collection and dissemination of information

The Secretary shall—

(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs, and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

(2) inform the public regarding federally supported education programs; and

(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving the intended purposes of such programs.

(Pub. L. 90–247, title IV, § 431, formerly § 412, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166; renumbered § 422 and amended Pub. L. 92–318, title III, § 301(a)(1), (b)(2)(B), June 23, 1972, 86 Stat. 326, 332; Pub. L. 94–482, title IV, § 409(b), Oct. 12, 1976, 90 Stat. 2233; renumbered § 431, renumbered § 422, and amended Pub. L. 103–382, title II, §§ 212(b)(1), 242, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 431 of Pub. L. 90–247 was renumbered section 437, and is classified to section 1232 of this title.

Another prior section 431 of Pub. L. 90–247 was renumbered section 441, and was classified to section 1233 of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, § 242, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to duty to collect and disseminate information about applicable programs and to submit an annual report to Congress and authorizing use of contract to carry out this section.

1976—Subsec. (b). Pub. L. 94–482 substituted ''June 30'' for ''March 31''.

1972—Subsec. (a)(4). Pub. L. 92–318, § 301(b)(2)(B), substituted ''(as set forth in section 1221c(a) of this title)'' for ''(as set forth in section 1 of this title)''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(b)(2)(B) of Pub. L. 92–318 provided that the amendment made by Pub. L. 92–318 is effective July 1, 1972.

EVALUATION PRACTICES AND PROCEDURES AT NATIONAL, STATE, AND LOCAL LEVELS FOR FEDERALLY FUNDED ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS; REPORT TO CONGRESS

Pub. L. 95–561, title XV, § 1526, Nov. 1, 1978, 92 Stat. 2379, as amended by Pub. L. 96–46, § 2(a)(9), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, directed Secretary of Education to conduct a study of evaluation practices and procedures at the national, State, and local levels with respect to federally funded elementary and secondary educational programs and include in the first annual report to Congress submitted more than eighteen months after Nov. 1, 1978, proposals and recommendations for the revision or modification of any part or all of such practices and procedures.

§§ 1231b, 1231b–1. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1231b, Pub. L. 90–247, title IV, § 423, formerly § 413, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered § 423, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17,

1979, 93 Stat. 677, 692, related to catalog of Federal education assistance programs.

Section 1231b–1, Pub. L. 90–247, title IV, § 424, as added Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to compilation of assisted innovative projects.

§ 1231b–2. Review of applications

(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions

In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Secretary, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law, rules, regulations, or guidelines governing the applicable program, in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, (3) ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or (4) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing, the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines governing such applicable program, it shall rescind such final action.

(b) Appeals to Secretary; persons aggrieved; notice; orders prescribing appropriate agency actions; finality of agency fact findings; interim orders pending appeal or review

Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its final action after a review under subsection (a) of this section may appeal such action to the Secretary. An appeal under this subsection may be taken only if notice of such appeal is filed with the Secretary within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a) of this section. If, on such appeal, the Secretary determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Secretary may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Records; availability

Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) Termination of assistance for noncompliance with provisions or orders

If any State educational agency fails or refuses to comply with any provision of this section, or with any order of the Secretary under subsection (b) of this section, the Secretary shall forthwith terminate all assistance to the State educational agency under the applicable program affected or issue such other orders as the Secretary may deem appropriate to achieve such compliance.

(Pub. L. 90–247, title IV, § 432, formerly § 425, as added Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 566; amended Pub. L. 95–561, title XII, § 1247, Nov. 1, 1978, 92 Stat. 2354; renumbered § 432 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 243, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 432 of Pub. L. 90–247 was renumbered section 438, and is classified to section 1232a of this title.

Another prior section 432 of Pub. L. 90–247 was renumbered section 442, and was classified to section 1233a of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 243(1)(C), (D), inserted comma after ''the hearing'' in third sentence and substituted ''guidelines governing such applicable program, it'' for ''guidelines, governing such applicable program it'' in fourth sentence.

Pub. L. 103–382, § 243(1)(A), (B), substituted ''Secretary, any applicant'' for ''Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant''.

Subsec. (b). Pub. L. 103–382, § 243(2), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (d). Pub. L. 103–382, § 243(3), substituted ''Secretary under'' for ''Commissioner under'' and ''Secretary shall'' for ''Commissioner shall'' and inserted before period at end ''or issue such other orders as the Secretary may deem appropriate to achieve such compliance''.

1978—Subsec. (a). Pub. L. 95–561 added cl. (3) relating to the ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, and redesignated former cl. (3) as (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE

Section 508(b) of Pub. L. 93–380 provided that: ''The amendments made by subsection (a) [enacting this section and section 1231b–1 of this title] shall be effective on the date of enactment of this Act [Aug. 21, 1974].''

§ 1231c. Advice, counsel, and technical assistance

(a) State educational agencies, institutions of higher education

For the purpose of carrying out more effectively Federal education programs, the Secretary is authorized, upon request, to provide

advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

(1) in determining benefits available to them under Federal law;

(2) in preparing applications for, and meeting requirements of, applicable programs;

(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

(b) Cost allocation, collection, etc., by local educational agencies

The Secretary shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

(c) Dissemination

In awarding contracts and grants for the development of curricula or instructional materials, the Secretary and the Director of the National Institute of Education shall—

(1) encourage applicants to assure that such curricula or instructional materials will be developed in a manner conducive to dissemination through continuing consultations with publishers, personnel of State and local educational agencies, teachers, administrators, community representatives, and other individuals experienced in such dissemination;

(2) permit applicants to include provision for reasonable consultation fees or planning costs; and

(3) insure that grants to public agencies and nonprofit private organizations and contracts with public agencies and private organizations for publication and dissemination of curricula or instructional materials, or both, are awarded competitively to such agencies and organizations which provide assurances that the curricula and instructional materials will reach the target populations for which they were developed.

(d) Annual report by Secretary

The Secretary's annual report shall contain a statement of the Secretary's activities under this section.

(Pub. L. 90–247, title IV, § 433, formerly § 414, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered § 424, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 426, Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 95–561, title XII, § 1248, Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered § 433, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 433 of Pub. L. 90–247 was renumbered section 439, and is classified to section 1232b of this title.

Another prior section 433 of Pub. L. 90–247 was renumbered section 443, and was classified to section 1233b of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1978—Subsecs. (c), (d). Pub. L. 95–561 added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

''Secretary'' and ''Secretary's'', meaning the Secretary of Education, substituted for ''Commissioner'' and ''Commissioner's'', respectively, in subsecs. (a) to (d) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

NATIONAL INSTITUTE OF EDUCATION

The National Institute of Education consisting of a National Council on Educational Research and a Director of the Institute was established by section 1221e of this title which, as amended generally by Pub. L. 99–498, title XIV, § 1401(a), Oct. 17, 1986, 100 Stat. 1589, provided objectives and duties for the Office of Educational Research and Improvement and established the National Advisory Council on Educational Research and Improvement, and section 1401(b) of Pub. L. 99–498 transferred the property and records of the National Institute of Education to the Office of Educational Research and Improvement.

§ 1231c–1. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 426A, as added Pub. L. 95–561, title XII, § 1202, Nov. 1, 1978, 92 Stat. 2334; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to equalization assistance.

§ 1231d. Parental involvement and dissemination

In the case of any applicable program in which the Secretary determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, the Secretary shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination is made provides for payments to local educational agencies, applications for such payments shall—

(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by such programs and projects;

(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

(Pub. L. 90–247, title IV, §434, formerly §415, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered §425, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §427, Pub. L. 93–380, title V, §508(a), Aug. 21, 1974, 88 Stat. 565; renumbered §434 and amended Pub. L. 103–382, title II, §§212(b)(1), 244, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 434 of Pub. L. 90–247 was renumbered section 440, and is classified to section 1232c of this title.

Another prior section 434 of Pub. L. 90–247 was renumbered section 444, and was classified to section 1233c of this title prior to repeal by Pub. L. 103–382.

Another prior section 434 of Pub. L. 90–247 was classified to section 1232c of this title prior to repeal by Pub. L. 95–561.

AMENDMENTS

1994—Pub. L. 103–382, §244, substituted ''Secretary determines'' for ''Commissioner determines'' and ''the Secretary shall'' for ''he shall'' and inserted ''is made'' after ''such determination''.

§1231e. Use of funds withheld

(a) At any time that the Secretary makes an allotment or reallotment to any State under any applicable program, the Secretary shall reduce such allotment or reallotment by such amount as the Secretary determines such allotment or reallotment would have been reduced, had the data on which such allotment or reallotment is based excluded all data relating to local educational agencies of the State that, on the date of the Secretary's action, are ineligible to receive the Federal financial assistance involved because of failure to comply with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 794 of title 29, or the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.].

(b) The Secretary may use any funds withheld under subsection (a) of this section—

(1) to increase the allotments or reallotments of local educational agencies within the State that are not described in subsection (a) of this section, or the allotments or reallotment of all States, in accordance with the Federal law governing the program; or

(2) for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964 [42 U.S.C. 2000c–4], or for any other program administered by the Department that is designed to enhance equity in education or redress discrimination on the basis of race, color, national origin, sex, age, or disability.

(Pub. L. 90–247, title IV, §435, formerly §416, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered §426, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §428, Pub. L. 93–380, title V, §508(a), Aug. 21, 1974, 88 Stat. 565; renumbered §435 and amended Pub. L. 103–382, title II, §§212(b)(1), 245, Oct. 20, 1994, 108 Stat. 3913, 3922.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in subsec. (a), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this Title 42 and Tables.

PRIOR PROVISIONS

A prior section 435 of Pub. L. 90–247 was renumbered section 441, and is classified to section 1232d of this title.

Another prior section 435 of Pub. L. 90–247 was renumbered section 423, and is classified to section 1226a–1 of this title.

Another prior section 435 of Pub. L. 90–247 was renumbered section 445, and is classified to section 1233d of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, §245, amended section generally. Prior to amendment, section consisted of single par. relating to use of funds withheld for failure to comply with title VI of the Civil Rights Act of 1964.

§1231f. Repealed. Pub. L. 103–382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, §429, formerly §417, as added Pub. L. 91–230, title IV §401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered §427, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §429 and amended Pub. L. 93–380, title V, §§501(b)(2), 508(a), Aug. 21, 1974, 88 Stat. 558, 565; Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, authorized transfer of information.

PART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

§1231g. Applications

(a) Submission and amendments of applications

Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, the Secretary is authorized to provide for the submission of applications for assistance effective for more than one fiscal year under any applicable program with whatever amendments to such applications being required as the Secretary determines essential.

(b) Uniform dates

The Secretary shall, insofar as is practicable, establish uniform dates during the year for the submission of applications under all applicable programs and for the approval of such applications.

(c) Development of common applications

The Secretary shall, insofar as is practicable, develop and require the use of—

(1) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies pursuant to some objective formula, and such application shall be used as the single application for as many of these programs as is practicable;

(2) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies on a competitive or discretionary basis, and such application shall be used as the single application for as many of such programs as is practicable; and

(3) a common application for grants to local educational agencies in applicable programs which are directly administered by the Secretary, and such application shall be used as the single application for as many of these programs as is practicable.

(Pub. L. 90–247, title IV, § 436, formerly § 430, as added Pub. L. 95–561, title XII, § 1213, Nov. 1, 1978, 92 Stat. 2342; renumbered § 436 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 246, Oct. 20, 1994, 108 Stat. 3913, 3923.)

PRIOR PROVISIONS

A prior section 436 of Pub. L. 90–247 was renumbered section 442, and is classified to section 1232e of this title.

Another prior section 436 of Pub. L. 90–247 was classified to section 1232e of this title prior to repeal by Pub. L. 95–561.

Another prior section 436 of Pub. L. 90–247 was renumbered section 446, and was classified to section 1233e of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, § 246(2), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (a). Pub. L. 103–382, § 246(1), substituted ''for more than one fiscal year'' for ''for three fiscal years''.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§ 1232. Regulations

(a) "Regulation" defined

For the purpose of this section, the term ''regulation'' means any generally applicable rule, regulation, guideline, interpretation, or other requirement that—

(1) is prescribed by the Secretary or the Department; and

(2) has legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program.

(b) Citation of authority

Regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority on which such provision is based.

(c) Uniform application

All regulations shall be uniformly applied and enforced throughout the 50 States.

(d) Application of exemption

The exemption for public property, loans, grants and benefits in section 553(a)(2) of title 5 shall apply only to regulations—

(1) that govern the first grant competition under a new or substantially revised program authority as determined by the Secretary; or

(2) where the Secretary determines that the requirements of this subsection will cause extreme hardship to the intended beneficiaries of the program affected by such regulations.

(e) Schedule for promulgation of final regulations

Not later than 60 days after the date of enactment of any Act, or any portion of any Act, affecting the administration of any applicable program, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Secretary plans to promulgate final regulations that the Secretary determines are necessary to implement such Act or portion of such Act. Such schedule shall provide that all such final regulations shall be promulgated within 360 days after the date of enactment of such Act or portion of such Act.

(f) Transmittal of final regulations

Concurrently with the publication of any final regulations, the Secretary shall transmit a copy of such final regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(Pub. L. 90–247, title IV, § 437, formerly § 421, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 431, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, § 509(a), Aug. 21, 1974, 88 Stat. 566; Pub. L. 94–142, § 7, Nov. 29, 1975, 89 Stat. 796; Pub. L. 94–482, title IV, § 405, Oct. 12, 1976, 90 Stat. 2231; Pub. L. 96–374, title XIII, § 1302, Oct. 3, 1980, 94 Stat. 1497; Pub. L. 97–35, title V, § 533(a)(3), Aug. 13, 1981, 95 Stat. 453; renumbered § 437 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 247, Oct. 20, 1994, 108 Stat. 3913, 3923; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587.)

PRIOR PROVISIONS

A prior section 437 of Pub. L. 90–247 was renumbered section 443, and is classified to section 1232f of this title.

Another prior section 437 of Pub. L. 90–247 was renumbered section 406A, and was classified to section 1221e–1a of this title prior to repeal by Pub. L. 103–382.

Another prior section 437 of Pub. L. 90–247 was renumbered section 447, and was classified to section 1233f of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–437, which directed that section 431(b)(2)(B), (d)(2), and (g) of Pub. L. 90–247 be amended by substituting ''Labor and Human Resources'' for ''Labor and Public Welfare'', could not be executed because this section, which was section 431 of Pub. L. 90–247, was renumbered section 437 and amended generally by Pub. L. 103–382.

Pub. L. 103–382, § 247, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (g) relating to promulgation of regulations by Secretary, and their publication, application, disapproval

by Congress, and modification subsequent to disapproval.

1981—Subsec. (d)(1). Pub. L. 97–35 substituted ''final regulation (except expected family contribution schedules and any amendments thereto promulgated pursuant to sections 1078(a)(2)(D) and (E) and 1089(a)(1) of this title) as required'' for ''final regulation as required''.

1980—Subsec. (d)(1). Pub. L. 96–374 inserted '', in whole or in part'' after ''disapprove such final regulation''.

1976—Subsec. (a). Pub. L. 94–482, § 405(a), added par. (1), designated existing provisions which constituted entire subsec. (a) as par. (2) and, as so redesignated, struck out applicability to rules, guidelines, interpretations, or orders.

Subsec. (b)(1). Pub. L. 94–482, § 405(b)(1), substituted ''proposed regulation'' for ''standard, rule, regulation, or requirement of general applicability''.

Subsec. (b)(2)(A). Pub. L. 94–482, § 405(b)(2), substituted ''regulation'' for ''standard, rule, regulation, or general requirement'' in two places.

Subsec. (c). Pub. L. 94–482, § 405(c), struck out applicability to rules, guidelines, interpretations, or orders.

Subsec. (d)(1). Pub. L. 94–482, § 405(d)(1), (2), struck out applicability to standards, rules, requirements, or requirements of general applicability.

Subsec. (d)(2). Pub. L. 94–482, § 405(d)(3), substituted ''regulation'' for ''standard, rule, regulation, or requirement'' wherever appearing.

Subsec. (e). Pub. L. 94–482, § 405(e), substituted ''regulation'' for ''standard, rule, regulation, or requirement'' wherever appearing and ''final regulation'' for ''proposed standard, rule, regulation, or requirement of general applicability''.

Subsec. (g). Pub. L. 94–482, § 405(f), substituted ''final regulations'' for ''rules, regulations, and guidelines'' wherever appearing.

1975—Subsec. (d)(1). Pub. L. 94–142, § 7(a)(1), (b), inserted ''final'' before ''standard'' wherever appearing in existing provisions and inserted provisions covering the effect of the failure of Congress to adopt the concurrent resolution with respect to any final standard, rule, regulation, or requirement.

Subsec. (d)(2). Pub. L. 94–142, § 7(a)(2), (3), substituted ''objection to the final standard'' for ''objection to the proposed standard'', ''effective date of the final standard'' for ''effective date of the standard'', and ''In no event shall the final standard'' for ''In no event shall the standard''.

1974—Subsec. (b). Pub. L. 93–380, § 509(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d) to (g). Pub. L. 93–380, § 509(a)(2), added subsecs. (d) to (g).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 540(a) of Pub. L. 97–35 provided that the amendment made by Pub. L. 97–35 is effective Oct. 1, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 8 of Pub. L. 94–142 provided that:

''(a) Notwithstanding any other provision of law, the amendments made by sections 2(a), 2(b), and 2(c) [amending sections 1411 and 1412 of this title as in effect through Sept. 30, 1977, and amending provisions set out as notes under sections 1411 to 1413 of this title] shall take effect on July 1, 1975.

''(b) The amendments made by sections 2(d), 2(e), 3, 6, and 7 [enacting sections 1405 and 1406 of this title, amending this section and sections 1412 and 1453 of this title, enacting provisions set out as a note under section 1411 of this title, and amending provisions set out as a note under section 1401 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

''(c) The amendments made by sections 4 and 5(a) [enacting sections 1415 to 1420 of this title and amending sections 1401, 1411, 1412, 1413, and 1414 of this title] shall take effect on October 1, 1977, except that the provisions of clauses (A), (C), (D), and (E) of paragraph (2) of section 612 of the Act [section 1412 of this title], as amended by this Act, section 617(a)(1)(D) of the Act [section 1417(a)(1)(D) of this title], as amended by this Act, section 617(b) of the Act [section 1417(b) of this title], as amended by this Act, and section 618(a) of the Act [section 1418(a) of this title], as amended by this Act, shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

''(d) The provisions of section 5(b) [amending section 1411 of this title and enacting provisions set out as notes under section 1411 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975].''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 509(b) of Pub. L. 93–380 provided that: ''The amendment made by paragraph (2) of subsection (a) [amending this section] shall be effective on the date of enactment of this [Aug. 21, 1974] and shall be effective with respect to the provisions of this Act [see Short Title note set out under section 821 of this title].''

STUDY AND REPORT ON RULES AND REGULATIONS

Pub. L. 92–318, title V, § 503, June 23, 1972, 86 Stat. 346, provided for a study by the Commissioner of all rules, regulations, etc., in connection with the administration of any program to which the General Education Provisions Act [this chapter] applies, with a report to be submitted to Congress not later than one year after June 23, 1972. Such section further mandated the publication of all rules, regulations, etc., in the Federal Register not later than 60 days after submission of such report, followed by a public hearing on such matters within the 60 day period following such publication. Such section then required a subsequent report to the relevant Congressional Committees on such hearings, and a republication of all rules and regulations in the Federal Register, such republished rules, etc., to supercede all preceding rules and regulations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 927, 1078, 1087*g*, 1098a, 2466a of this title; title 25 section 2019.

§ 1232–1. Repealed. Pub. L. 98–511, title I, § 109(b), Oct. 19, 1984, 98 Stat. 2369

Section, Pub. L. 90–247, title IV, § 431A, as added Pub. L. 94–482, title III, § 323(b), Oct. 12, 1976, 90 Stat. 2218; amended Pub. L. 95–561, title XII, § 1249, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, provided for mainte-

nance of effort determinations, providing in subsection: (a) for promulgation of regulations and determination of amount expended, (b) for waiver of requirements, (c) for objective criteria in carrying out waiver authority, and (d) for duration of effectiveness of requirements.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1985, see section 711(b) of Pub. L. 98–511, set out as an Effective Date of 1984 Amendment note under section 1226c of this title.

§ 1232a. Prohibition against Federal control of education

No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 90–247, title IV, § 438, formerly § 422, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 432 and amended Pub. L. 92–318, title III, § 301(a)(1), title VII, § 717(b), June 23, 1972, 86 Stat. 326, 369; Pub. L. 94–482, title IV, § 404(b), Oct. 12, 1976, 90 Stat. 2230; renumbered § 438, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 438 of Pub. L. 90–247 was renumbered section 444, and is classified to section 1232g of this title.

Another prior section 438 of Pub. L. 90–247 was renumbered section 448, and was classified to section 1233g of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1976—Pub. L. 94–482 substituted provisions prohibiting any applicable program from exercising Federal control of education, for provisions prohibiting such specific Federal laws as the Act of Sept. 30, 1950, National Defense Education Act of 1958, Act of Sept. 23, 1950, Higher Education Facilities Act of 1963, Elementary and Secondary Education Act of 1965, Higher Education Act of 1965, International Education Act of 1966, Emergency School Aid Act, and the Vocational Education Act of 1963 from exercising such Federal control.

1972—Pub. L. 92–318, § 717(b), inserted ''the Emergency School Aid Act;'' after ''the International Education Act of 1966;''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

CROSS REFERENCES

Job training partnership provisions, prohibition of Federal control of education, see section 1555 of Title 29, Labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3921 of this title.

§ 1232b. Labor standards

All laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.]. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(Pub. L. 90–247, title IV, § 439, formerly § 423, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 433, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 439 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(d), Oct. 20, 1994, 108 Stat. 3913, 3927.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to section 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 439 of Pub. L. 90–247 was renumbered section 445, and is classified to section 1232h of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 261(d), substituted ''All laborers'' for ''Except for emergency relief under section 241–1 of this title, all laborers''.

PART 3—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

§ 1232c. State agency monitoring and enforcement

(a) State plan

In the case of any applicable program in which Federal funds are made available to local agencies in a State through or under the supervision of a State board or agency, the Secretary may require the State to submit a plan for monitoring compliance by local agencies with Federal requirements under such program and for enforcement by the State of such requirements. The Secretary may require such plan to provide—

(1) for periodic visits by State personnel of programs administered by local agencies to determine whether such programs are being conducted in accordance with such requirements;

(2) for periodic audits of expenditures under such programs by auditors of the State or other auditors not under the control, direction, or supervision of the local educational agency; and

(3) that the State investigate and resolve all complaints received by the State, or referred to the State by the Secretary, relating to the administration of such programs.

(b) State enforcement of Federal requirements

In order to enforce the Federal requirements under any applicable program the State may—

(1) withhold approval, in whole or in part, of the application of a local agency for funds under the program until the State is satisfied that such requirements will be met; except that the State shall not finally disapprove such an application unless the State provides the local agency an opportunity for a hearing before an impartial hearing officer and such officer determines that there has been a substantial failure by the local agency to comply with any of such requirements;

(2) suspend payments to any local agency, in whole or in part, under the program if the State has reason to believe that the local agency has failed substantially to comply with any of such requirements, except that (A) the State shall not suspend such payments until fifteen days after the State provides the local agency an opportunity to show cause why such action should not be taken and (B) no such suspension shall continue in effect longer than sixty days unless the State within such period provides the notice for a hearing required under paragraph (3) of this subsection;

(3) withhold payments, in whole or in part, under any such program if the State finds, after reasonable notice and opportunity for a hearing before an impartial hearing officer, that the local agency has failed substantially to comply with any of such requirements.

(c) Withholding of payments

Any withholding of payments under subsection (b)(3) of this subsection[1] shall continue until the State is satisfied that there is no longer a failure to comply substantially with any of such requirements.

(Pub. L. 90–247, title IV, § 440, formerly § 434, as added Pub. L. 95–561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2342; renumbered § 440 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(e), Oct. 20, 1994, 108 Stat. 3913, 3927.)

PRIOR PROVISIONS

A prior section 1232c, Pub. L. 90–247, title IV, § 434, formerly § 424, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 434 and amended Pub. L. 92–318, title III, § 301(a)(1), title V, § 501, June 23, 1972, 86 Stat. 326, 345; Pub. L. 93–380, title V, §§ 510, 511(a), Aug. 21, 1974, 88 Stat. 568, 569; Pub. L. 94–482, title V, § 501(f)(1), Oct. 12, 1976, 90 Stat. 2237, related to administration of education programs and projects, prior to repeal by section 1231(a)(3) of Pub. L. 95–561.

A prior section 440 of Pub. L. 90–247 was renumbered section 446, and is classified to section 1232i of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 261(e)(1), struck out ''educational'' after ''State'' in section catchline.

Subsec. (a). Pub. L. 103–382, § 261(e)(2)(A), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsecs. (b), (c). Pub. L. 103–382, § 261(e)(2)(B), (C), redesignated provision following par. (3) of subsec. (b) as subsec. (c) and substituted ''subsection (b)(3)'' for ''paragraph (3)''.

EFFECTIVE DATE

Section 1261 of Pub. L. 95–561 provided that: ''The amendments made by section 1231 [enacting this section and sections 1232d, 1232e, and 1232f of this title and amending section 1088f–1 of this title] shall take effect with respect to appropriations for fiscal year 1980 and subsequent fiscal years. The amendments made by section 1232 [enacting sections 1234, 1234a, 1234b, 1234c, 1234d, and 1234e of this title] shall take effect 120 days after the enactment of this Act [Nov. 1, 1978].''

APPLICABILITY OF ADMINISTRATIVE PROCEDURE TO OFFICE OF EDUCATION OR ACTIONS BY COMMISSIONER UNAFFECTED BY SUBSECTIONS (b) TO (e)

Pub. L. 93–380, title V, § 511(b)(2), Aug. 21, 1974, 88 Stat. 571, provided that nothing in the amendment made by subsec. (a) of section 511 of Pub. L. 93–380, which enacted prior subsecs. (b) to (e) and deleted former subsec. (b) of this section, would be construed to affect the applicability of chapter 5 of Title 5, Government Organization and Employees, to the Office of Education or actions by the Commissioner.

§ 1232d. Single State application

(a) Submission of general application; approval by State supervisory authority

In the case of any State which applies, contracts, or submits a plan for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of, the State educational agency of that State, such State shall submit (subject to the provisions of part C of title V of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7261 et seq.])[1] to the Secretary a general application containing the assurances set forth in subsection (b) of this section. Such application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

(b) Assurances

An application submitted under subsection (a) of this section shall set forth assurances, satisfactory to the Secretary—

(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to such entities, and that the public agency or nonprofit private agency, institution, or organization will administer such funds and property;

(3) that the State will adopt and use proper methods of administering each applicable program, including—

[1] So in original. Probably should be ''section''.

[1] See 1994 Amendment note below.

(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

(B) providing technical assistance, where necessary, to such agencies, institutions, and organizations,

(C) encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations,

(D) the dissemination throughout the State of information on program requirements and successful practices, and

(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Secretary may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

(5) that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

(6) that the State will make reports to the Secretary (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Secretary to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 1232f of this title, and afford access to the records as the Secretary may find necessary to carry out his duties;

(7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

(A) the State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Secretary or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

(C) the State will hold public hearings on the proposed plans if required by the Secretary by regulation; and

(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations; and

(8) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

(c) Effective term of general application

Each general application submitted under this section shall remain in effect for the duration of any program it covers. The Secretary shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant changes in the circumstances affecting an assurance in that application.

(Pub. L. 90–247, title IV, § 441, formerly § 435, as added Pub. L. 95–561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2343; amended Pub. L. 98–511, title VII, § 706(a), Oct. 19, 1984, 98 Stat. 2406; Pub. L. 100–297, title III, § 3501(c), Apr. 28, 1988, 102 Stat. 357; renumbered § 441 and amended Pub. L. 103–382, title II, §§ 212(b)(1), (3)(A), 261(f), Oct. 20, 1994, 108 Stat. 3913, 3928.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Part C of title V of the Act is classified generally to part C (§ 7261 et seq.) of subchapter V of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

A prior section 1232d was renumbered by Pub. L. 95–561, § 1231(a)(1), and was transferred to section 1226a–1 of this title.

PRIOR PROVISIONS

Another prior section 441 of Pub. L. 90–247 was classified to section 1233 of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, § 261(f)(1), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (a). Pub. L. 103–382, § 261(f)(2), struck out the comma after ''submits a plan'', struck out '', in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965,'' after ''(subject'', and directed the substitution of ''part C of title V of the Elementary and Secondary Education Act of 1965'' for ''title V of such Act'' which was executed as if the amendment by Pub. L. 100–297 had not struck out '', to the provisions of title V of such Act'', to reflect the probable intent of Congress.

Subsec. (b)(6). Pub. L. 103–382, § 212(b)(3), made technical amendment to reference to section 1232f of this title to reflect renumbering of corresponding section of original act.

1988—Subsec. (a). Pub. L. 100–297 substituted ''chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)'' for ''titles I and IV of the Elementary and Secondary Education Act of 1965, to the provisions of title V of such Act)''.

1984—Subsec. (b)(8). Pub. L. 98–511 added par. (8).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving

written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1206, 1234d, 1234g, 8853 of this title.

§ 1232e. Single local educational agency application

(a) General application to State agency or board

Each local educational agency which participates in an applicable program under which Federal funds are made available to such agency through a State agency or board shall submit to such agency or board a general application containing the assurances set forth in subsection (b) of this section. That application shall cover the participation by that local educational agency in all such programs.

(b) Assurances

The general application submitted by a local educational agency under subsection (a) of this section shall set forth assurances—

(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided to the local educational agency under each program, and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

(4) that the local educational agency will make reports to the State agency or board and to the Secretary as may reasonably be necessary to enable the State agency or board and the Secretary to perform their duties and that the local educational agency will maintain such records, including the records required under section 1232f of this title, and provide access to those records, as the State agency or board or the Secretary deem necessary to perform their duties;

(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) that in the case of any project involving construction—

(A) the project is not inconsistent with overall State plans for the construction of school facilities, and

(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities;

(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and

(9) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

(c) Effective term of general application

A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the submission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.

(Pub. L. 90–247, title IV, § 442, formerly § 436, as added Pub. L. 95–561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2345; amended Pub. L. 98–511, title VII, § 706(b), Oct. 19, 1984, 98 Stat. 2407; renumbered § 442 and amended Pub. L. 103–382, title II, §§ 212(b)(1), (3)(B), 261(g), Oct. 20, 1994, 108 Stat. 3913, 3928.)

PRIOR PROVISIONS

A prior section 1232e, Pub. L. 90–247, title IV, § 436, formerly § 426, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered § 436, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, related to authority of Commissioner to vest title in equipment, prior to repeal by section 1231(a)(3) of Pub. L. 95–561.

A prior section 442 of Pub. L. 90–247 was classified to section 1233a of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 261(g)(1), substituted ''that local educational agency'' for ''that local education agency''.

Subsec. (b)(2). Pub. L. 103–382, § 261(g)(2)(A), inserted comma after ''program''.

Subsec. (b)(4). Pub. L. 103–382, § 261(g)(2)(B), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Pub. L. 103–382, § 212(b)(3)(B), made technical amendment to reference to section 1232f of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(7)(B). Pub. L. 103–382, § 261(g)(2)(C), substituted ''individuals with disabilities'' for ''handicapped individuals''.

1984—Subsec. (b)(9). Pub. L. 98–511 added par. (9).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8856 of this title.

PART 4—RECORDS; PRIVACY; LIMITATION ON WITHHOLDING FEDERAL FUNDS

§ 1232f. Records

(a) Records kept by recipient; full disclosure; five-year maintenance period

Each recipient of Federal funds under any applicable program through any grant, subgrant, cooperative agreement, loan, or other arrangement shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective financial or programmatic audit. The recipient shall maintain such records for three years after the completion of the activity for which the funds are used.

(b) Audit examination

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit examination, to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements to which reference is made in subsection (a) of this section, or which may relate to the compliance of the recipient with any requirement of an applicable program.

(Pub. L. 90–247, title IV, § 443, formerly § 437, as added Pub. L. 95–561, title XII, § 1231(c), Nov. 1, 1978, 92 Stat. 2346; renumbered § 443 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 248, Oct. 20, 1994, 108 Stat. 3913, 3924.)

PRIOR PROVISIONS

A prior section 443 of Pub. L. 90–247 was classified to section 1233b of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 248(1), substituted ''grant, subgrant, cooperative agreement, loan, or other arrangement'' for ''grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency)'', inserted ''financial or programmatic'' before ''audit.'', and substituted ''three years'' for ''five years''.

Subsec. (b). Pub. L. 103–382, § 248(2), substituted ''to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements'' for ''to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements''.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232d, 1232e of this title.

§ 1232g. Family educational and privacy rights

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

(C) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection

in accordance with subparagraph (D), confidential recommendations—

(I) respecting admission to any educational agency or institution,

(II) respecting an application for employment, and

(III) respecting the receipt of an honor or honorary recognition.

(D) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (C), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term ''educational agency or institution'' means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term ''education records'' means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

(B) The term ''education records'' does not include—

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term ''directory information'' relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term ''student'' includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

(B) officials of other schools or school systems in which the student seeks or intends to

enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, or (iii) State educational authorities, under the conditions set forth in paragraph (3) of this subsection;

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted—

(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

(ii) after November 19, 1974, if—

(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.[1]

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of title 26;

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons; and

(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.

Nothing in clause (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless—

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) except as provided in paragraph (1)(J), such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, or (C) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: *Provided*, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations au-

[1] So in original. The period probably should be a semicolon.

thorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.

(5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).

(6) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18), the results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.

(c) Surveys or data-gathering activities; regulations

Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) Students' rather than parents' permission or consent

For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) Informing parents or students of rights under this section

No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution effectively informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) Enforcement; termination of assistance

The Secretary shall take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with this section, and he has determined that compliance cannot be secured by voluntary means.

(g) Office and review board; creation; functions

The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

(h) Disciplinary records; disclosure

Nothing in this section shall prohibit an educational agency or institution from—

(1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

(2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

(Pub. L. 90–247, title IV, §444, formerly §438, as added Pub. L. 93–380, title V, §513(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 93–568, §2(a), Dec. 31, 1974, 88 Stat. 1858; Pub. L. 96–46, §4(c), Aug. 6, 1979, 93 Stat. 342; Pub. L. 101–542, title II, §203, Nov. 8, 1990, 104 Stat. 2385; Pub. L. 102–325, title XV, §1555(a), July 23, 1992, 106 Stat. 840; renumbered §444 and amended Pub. L. 103–382, title II, §§212(b)(1), 249, 261(h), Oct. 20, 1994, 108 Stat. 3913, 3924, 3928.)

PRIOR PROVISIONS

A prior section 444 of Pub. L. 90–247 was classified to section 1233c of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a)(1)(B). Pub. L. 103–382, §249(1)(A)(ii), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (a)(1)(C). Pub. L. 103–382, §249(1)(A)(i), (iii), redesignated subpar. (B) as (C) and substituted ''subparagraph (D)'' for ''subparagraph (C)'' in cl. (iii). Former subpar. (C) redesignated (D).

Subsec. (a)(1)(D). Pub. L. 103–382, §249(1)(A)(i), (iv), redesignated subpar. (C) as (D) and substituted ''subparagraph (C)'' for ''subparagraph (B)''.

Subsec. (a)(2). Pub. L. 103–382, §249(1)(B), substituted ''privacy rights'' for ''privacy or other rights''.

Subsec. (a)(4)(B)(ii). Pub. L. 103–382, §261(h)(1), substituted semicolon for period at end.

Subsec. (b)(1)(A). Pub. L. 103–382, §249(2)(A)(i), inserted before semicolon '', including the educational interests of the child for whom consent would otherwise be required''.

Subsec. (b)(1)(C). Pub. L. 103–382, § 261(h)(2)(A), substituted ''or (iii)'' for ''(iii) an administrative head of an education agency (as defined in section 1221e–3(c) of this title), or (iv)''.

Subsec. (b)(1)(E). Pub. L. 103–382, § 249(2)(A)(ii), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;''.

Subsec. (b)(1)(H). Pub. L. 103–382, § 261(h)(2)(B), substituted ''the Internal Revenue Code of 1986'' for ''the Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (b)(1)(J). Pub. L. 103–382, § 249(2)(A)(iii)–(v), added subpar. (J).

Subsec. (b)(2). Pub. L. 103–382, § 249(2)(B)(i), which directed amendment of matter preceding subpar. (A) by substituting '', unless—'' for the period, was executed by substituting a comma for the period before ''unless—'' to reflect the probable intent of Congress.

Subsec. (b)(2)(B). Pub. L. 103–382, § 249(2)(B)(ii), inserted ''except as provided in paragraph (1)(J),'' before ''such information''.

Subsec. (b)(3). Pub. L. 103–382, § 261(h)(2)(C), substituted ''or (C)'' for ''(C) an administrative head of an education agency or (D)'' and ''education programs'' for ''education program''.

Subsec. (b)(4). Pub. L. 103–382, § 249(2)(C), inserted at end ''If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.''

Subsec. (c). Pub. L. 103–382, § 249(3), substituted ''Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which'' for ''The Secretary shall adopt appropriate regulations to''.

Subsec. (d). Pub. L. 103–382, § 261(h)(3), inserted a comma after ''education''.

Subsec. (e). Pub. L. 103–382, § 249(4), inserted ''effectively'' before ''informs''.

Subsec. (f). Pub. L. 103–382, § 261(h)(4), struck out '', or an administrative head of an education agency,'' after ''The Secretary'' and substituted ''enforce this section'' for ''enforce provisions of this section'', ''in accordance with'' for ''according to the provisions of'', and ''comply with this section'' for ''comply with the provisions of this section''.

Subsec. (g). Pub. L. 103–382, § 261(h)(5), struck out ''of Health, Education, and Welfare'' after ''the Department'' and ''the provisions of'' after ''adjudicating violations of''.

Subsec. (h). Pub. L. 103–382, § 249(5), added subsec. (h).

1992—Subsec. (a)(4)(B)(ii). Pub. L. 102–325 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1) of this section, the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;''.

1990—Subsec. (b)(6). Pub. L. 101–542 added par. (6).

1979—Subsec. (b)(5). Pub. L. 96–46 added par. (5).

1974—Subsec. (a)(1). Pub. L. 93–568, § 2(a)(1)(A)–(C), (2)(A)–(C), (3), designated existing par. (1) as subpar. (A), substituted reference to educational agencies and institutions for reference to state or local educational agencies, institutions of higher education, community colleges, schools, agencies offering preschool programs, and other educational institutions, substituted the generic term education records for the enumeration of such records, and extended the right to inspect and review such records to parents of children who have been in attendance, and added subpars. (B) and (C).

Subsec. (a)(2). Pub. L. 93–568, § 2(a)(4), substituted provisions making the availability of funds to educational agencies and institutions conditional on the granting of an opportunity for a hearing to parents of students who are or have been in attendance at such institution or agency to challenge the contents of the student's education records for provisions granting the parents an opportunity for such hearing, and inserted provisions authorizing insertion into the records a written explanation of the parents respecting the content of such records.

Subsec. (a)(3) to (6). Pub. L. 93–568, § 2(a)(1)(G), (2)(F), (5), added pars. (3) to (6).

Subsec. (b)(1). Pub. L. 93–568, § 2(a)(1)(D), (2)(D), (6), (8)(A)–(C), (10)(A), in provisions preceding subpar. (A), substituted ''educational agency or institution which has a policy of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section)'' for ''state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of permitting the release of personally identifiable records or files (or personal information contained therein)'', in subpar. (A), substituted ''educational agency, who have been determined by such agency or institution to have'' for ''educational agency who have'', in subpar. (B), substituted ''the student seeks or intends to'' for ''the student intends to'', in subpar. (C), substituted reference to ''section 408(c)'' for reference to ''section 409 of this Act'' which for purposes of codification has been translated as ''section 1221e–3(c) of this title'', and added subpars. (E) to (I).

Subsec. (b)(2). Pub. L. 93–568, § 2(a)(1)(E), (2)(E), substituted ''educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection'' for ''state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b)(1) of this section''.

Subsec. (b)(3). Pub. L. 93–568, § 2(a)(8)(D), substituted ''information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements'' for ''data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected''.

Subsec. (b)(4). Pub. L. 93–568, § 2(a)(9), substituted provisions that each educational agency or institution maintain a record, kept with the education records of each student, indicating individuals, agencies, or organizations who obtained access to the student's record and the legitimate interest in obtaining such information, that such record of access shall be available only to parents, school officials, and their assistants having responsibility for the custody of such records, and as a means of auditing the operation of the system, for provisions that with respect to subsecs. (c)(1), (c)(2), and (c)(3) of this section, all persons, agencies, or organizations desiring access to the records of a student shall be required to sign forms to be kept with the records of

the student, but only for inspection by the parents or the student, indicating specifically the legitimate educational or other interest of the person seeking such information, and that the form shall be available to parents and school officials having responsibility for record maintenance as a means of auditing the operation of the system.

Subsec. (e). Pub. L. 93–568, § 2(a)(1)(F), substituted ''to any educational agency or institution unless such agency or institution'' for ''unless the recipient of such funds''.

Subsec. (g). Pub. L. 93–568, § 2(a)(7), (10)(B), struck out reference to sections 1232c and 1232f of this title and inserted provisions that except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1555(b) of Pub. L. 102–325 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of enactment of this Act [July 23, 1992].''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–46 effective Oct. 1, 1978, see section 8 of Pub. L. 96–46, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2(b) of Pub. L. 93–568 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective, and retroactive to, November 19, 1974.''

EFFECTIVE DATE

Section 513(b)(1) of Pub. L. 93–380 provided that: ''The provisions of this section [enacting this section and provisions set out as a note under section 1221 of this title] shall become effective ninety days after the date of enactment [Aug. 21, 1974] of section 438 [now 444] of the General Education Provisions Act [this section].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232i, 1417, 5917 of this title; title 8 section 1372; title 25 section 3205; title 42 section 11432.

§ 1232h. Protection of pupil rights

(a) Inspection of instructional materials by parents or guardians

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

(b) Limits on survey, analysis, or evaluations

No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning—

(1) political affiliations;

(2) mental and psychological problems potentially embarrassing to the student or his family;

(3) sex behavior and attitudes;

(4) illegal, anti-social, self-incriminating and demeaning behavior;

(5) critical appraisals of other individuals with whom respondents have close family relationships;

(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or

(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent.

(c) Notice

Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

(d) Enforcement

The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that—

(1) there has been a failure to comply with such section; and

(2) compliance with such section cannot be secured by voluntary means.

(e) Office and review board

The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.

(Pub. L. 90–247, title IV, § 445, formerly § 439, as added Pub. L. 93–380, title V, § 514(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 95–561, title XII, § 1250, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 103–227, title X, § 1017, Mar. 31, 1994, 108 Stat. 268; renumbered § 445, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 445 of Pub. L. 90–247 was classified to section 1233d of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–227 amended section generally, substituting in subsec. (a), provisions relating to inspection of instructional materials by parents or guardians for similar provisions, in subsec. (b), provisions relating to limits on survey, analysis, or evaluations for provisions relating to psychiatric or psychological examinations, testing, or treatment, and adding subsecs. (c) to (e).

1978—Pub. L. 95–561 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE

Section 514(b) of Pub. L. 93–380 provided that: ''The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974].''

§ 1232i. Limitations on withholding of Federal assistance

(a) Refusal to supply personal data on students or families

Except as provided in section 1232g(b)(1)(D) of this title, the refusal of a State or local edu-

cational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

(b) Noncompliance with nondiscrimination provisions of Federal law

The extension of Federal financial assistance to a local educational agency may not be limited, deferred, or terminated by the Secretary on the ground of noncompliance with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] or any other nondiscrimination provision of Federal law unless such agency is accorded the right of due process of law, which shall include—

(1) at least 30 days prior written notice of deferral to the agency, setting forth the particular program or programs which the Secretary finds to be operated in noncompliance with a specific provision of Federal law;

(2) the opportunity for a hearing on the record before a duly appointed administrative law judge within a 60-day period (unless such period is extended by mutual consent of the Secretary and such agency) from the commencement of any deferral;

(3) the conclusion of such hearing and the rendering of a decision on the merits by the administrative law judge within a period not to exceed 90 days from the commencement of such hearing, unless the judge finds by a decision that such hearing cannot be concluded or such decision cannot be rendered within such period, in which case such judge may extend such period for not to exceed 60 additional days;

(4) the limitation of any deferral of Federal financial assistance which may be imposed by the Secretary to a period not to exceed 15 days after the rendering of such decision unless there has been an express finding on such record that such agency has failed to comply with any such nondiscrimination provision of Federal law; and

(5) procedures, which shall be established by the Secretary, to ensure the availability of sufficient funds, without regard to any fiscal year limitations, to comply with the decision of such judge.

(c) Failure to comply with imposition of quotas

It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas (or any other numerical requirements which have the effect of imposing quotas) on the student admission practices of an institution of higher education or community college receiving Federal financial assistance.

(Pub. L. 90–247, title IV, § 446, formerly § 440, as added Pub. L. 93–380, title V, § 515(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 94–482, title IV, §§ 407, 408, Oct. 12, 1976, 90 Stat. 2232, 2233; renumbered § 446 and amended Pub. L. 103–382, title II, § 212(b)(1), (3)(C), Oct. 20, 1994, 108 Stat. 3913.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

PRIOR PROVISIONS

A prior section 446 of Pub. L. 90–247 was classified to section 1233e of this title prior to repeal by Pub. L. 103–382.

Prior sections 1233 to 1233h comprising a former subchapter IV of this chapter were repealed by Pub. L. 103–382, title II, § 212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

Section 1233, Pub. L. 90–247, title IV, § 441, formerly § 431, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered § 441, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms for purposes of former subchapter IV of this chapter.

Section 1233a, Pub. L. 90–247, title IV, § 442, formerly § 432, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered § 442, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, authorized Secretary to establish necessary advisory councils.

Section 1233b, Pub. L. 90–247, title IV, § 443, formerly § 433, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered § 443, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, § 516(a), Aug. 21, 1974, 88 Stat. 575; Pub. L. 94–482, title IV, § 411, title V, § 501(a)(10), Oct. 12, 1976, 90 Stat. 2234, 2235; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to statutory advisory councils.

Section 1233c, Pub. L. 90–247, title IV, § 444, formerly § 434, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered § 444, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to compensation and travel expenses of members of advisory councils.

Section 1233d, Pub. L. 90–247, title IV, § 445, formerly § 435, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered § 445, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, § 517(a), Aug. 21, 1974, 88 Stat. 575; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to professional, technical, and clerical staff of advisory councils.

Section 1233e, Pub. L. 90–247, title IV, § 446, formerly § 436, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered § 446, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to advisory council meetings.

Section 1233f, Pub. L. 90–247, title IV, § 447, formerly § 437, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered § 447, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, § 517(b), Aug. 21, 1974, 88 Stat. 575; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to auditing and review of advisory council activities.

Section 1233g, Pub. L. 90–247, title IV, § 448, formerly § 438, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered § 448, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, § 1(d), June 15, 1977, 91 Stat. 219; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to reports by Secretary.

Section 1233h, Pub. L. 90–247, title IV, § 449, as added Pub. L. 93–380, title V, § 518(a), Aug. 21, 1974, 88 Stat. 575, related to application of other laws to advisory councils under former subchapter IV of this chapter.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 212(b)(3)(C), made technical amendment to reference to section 1232g(b)(1)(D) of this title to reflect renumbering of corresponding section of original act.

1976—Pub. L. 94–482 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section 515(b) of Pub. L. 93–380 provided that: ''The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974].''

SUBCHAPTER IV—ENFORCEMENT

PRIOR PROVISIONS

A prior subchapter IV, consisting of sections 1233 to 1233h, was repealed by Pub. L. 103–382, title II, § 212(a)(2), Oct. 20, 1994, 108 Stat. 3913. See note set out under section 1232i of this title.

AMENDMENTS

1994—Pub. L. 103–382, title II, § 212(b)(2), Oct. 20, 1994, 108 Stat. 3913, redesignated subchapter V of this chapter as this subchapter.

§ 1234. Office of Administrative Law Judges

(a) Establishment; duties

The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this subchapter referred to as the ''Office'') which shall conduct—

(1) recovery of funds hearings pursuant to section 1234a of this title,

(2) withholding hearings pursuant to section 1234d of this title,

(3) cease and desist hearings pursuant to section 1234e of this title, and

(4) other proceedings designated by the Secretary.

(b) Appointment

The administrative law judges (hereinafter ''judges'') of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5.

(c) Employment requirements; chief judge

The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local educational agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

(d) Assignment of judges

For the purposes of conducting hearings described in subsection (a) of this section, the chief judge shall assign a judge to each case or class of cases. A judge shall be disqualified in any case in which the judge has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or the party's attorney as to make it improper for the judge to be assigned to the case.

(e) Review and evidentiary functions

The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 1234a of this title.

(f) Conduct of proceedings; costs and fees of parties

(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, sections 554, 556, and 557.

(2) The provisions of title 5, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

(g) Discovery; scope, time, etc.; issue and enforcement of subpoenas

(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

(A) produce relevant documents;

(B) answer written interrogatories that inquire into relevant matters; and

(C) have depositions taken.

The judge shall set a time limit of 90 days on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

(2) In order to carry out the provisions of subsections (f)(1) and (g)(1) of this section, the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

(h) Mediation of disputes

The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute. In the

mediation of disputes the Secretary shall consider mitigating circumstances and proportion of harm pursuant to section 1234b of this title. In accordance with rule 408 of the Federal Rules of Evidence, evidence of conduct or statements made in compromise negotiations shall not be admissible in proceedings before the Office. Mediation shall be limited to 120 days, except that the mediator may grant extensions of such period.

(i) Professional personnel; employment, assignment, or transfer

The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

(Pub. L. 90–247, title IV, § 451, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2346; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 349.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (h), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to Office of Administrative Law Judges for provisions relating to Education Appeal Board.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 3501(b) of Pub. L. 100–297 provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [enacting sections 1234f to 1234i of this title and amending this section and sections 1232d and 1234a to 1234e of this title] shall be effective 180 days after the date of enactment of this Act [Apr. 28, 1988].

''(2) The amendments made by this part [part D (§ 3501) of title III of Pub. L. 100–297, enacting sections 1234f to 1234i of this title and amending this section and sections 1232d and 1234a to 1234e of this title] shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department.''

EFFECTIVE DATE

Subchapter effective 120 days after Nov. 1, 1978, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1234d of this title.

§ 1234a. Recovery of funds

(a) Preliminary departmental decision; grounds of determination; notice requirements; prima facie case; amount of funds recoverable

(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

(2) In a preliminary departmental decision, the Secretary shall have the burden of establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 1234b of this title.

(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

(b) Review of preliminary departmental decision; form and contents of application for review; inadequate preliminary decisions; duties of recipient to subrecipients after preliminary decision; burden of proof

(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 60 days after receipt of notice of the preliminary departmental decision. The application shall be in the form and contain the information specified by the Office. As expeditiously as possible, the Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which the Office determines does not meet the requirements of subsection (a)(2) of this section.

(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within 10 days of the date that the State recipient in a State administered program received such written notice; and

(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a) of this section.

(c) Time for hearing

A hearing shall be set 90 days after receipt of a request for review of a preliminary departmental decision by the Office, except that such 90-day requirement may be waived at the discretion of the judge for good cause.

(d) Review of findings of fact in preliminary decision; conclusiveness; remand; new or modified findings

(1) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(2) During the conduct of such review, there shall not be any ex parte contact between the Secretary and individuals representing the Department or the recipient.

(e) Time for filing petition for review of preliminary decision

Parties to the proceeding shall have 30 days to file a petition for review of a decision of the administrative law judges with the Office of the Secretary.

(f) Stay of collection or other adverse action by Secretary against recipient

(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (g) of this section.

(2) If a recipient files a timely petition for judicial review under section 1234g of this title, the Secretary shall take no collection action until judicial review is completed.

(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this subchapter against the recipient.

(g) Preliminary decision as final agency action

A decision of the Office regarding the review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

(2) remands the decision to the Office.

(h) Publication of decisions as final agency actions

The Secretary shall publish decisions that have become final agency action under subsection (g) of this section in the Federal Register or in another appropriate publication within 60 days.

(i) Collection amounts and procedures

The amount of a preliminary departmental decision under subsection (a) of this section for which review has not been requested in accordance with subsection (b) of this section, and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (g) of this section, may be collected by the Secretary in accordance with chapter 37 of title 31.

(j) Compromise of preliminary departmental decisions; preconditions; notice requirements

(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

(k) Limitation period respecting return of funds

No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.

(*l*) Foregoing of interest during period of administrative review

No interest shall be charged arising from a claim during the administrative review of the preliminary departmental decision.

(Pub. L. 90–247, title IV, § 452, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2347; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 350; Pub. L. 103–382, title II, § 250(a), Oct. 20, 1994, 108 Stat. 3926.)

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103–382, § 250(a)(1), substituted "establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest." for "stating a prima facie case for the recovery of funds."

Subsec. (b)(1). Pub. L. 103–382, § 250(a)(2), substituted "60 days" for "30 days".

Subsec. (d). Pub. L. 103–382, § 250(a)(3), designated existing provisions as par. (1) and added par. (2).

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to recovery of funds for provisions relating to audit determinations.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1234c, 1234g, 1234h of this title.

§ 1234b. Measure of recovery

(a) Amount returned proportionate to extent of harm violation caused to an identifiable Federal interest; reduction; determination of identifiable Federal interest

(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award. Such amount shall be reduced in whole or in part by an amount that is proportionate to the extent the mitigating circumstances caused the violation.

(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

(b) Reduction or waiver of amount based on mitigating circumstances; burden of proof; determination of mitigating circumstances; weight, etc., of written request for guidance

(1) When a State or local educational agency is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (2), the judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

(B) made an expenditure or engaged in a practice after—

(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

(C) actually and reasonably relied upon a judicial decree issued to the recipient.

(3) A written request for guidance as described in paragraph (2) sent by certified mail (return receipt requested) shall be conclusive proof of receipt by the Department.

(4) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

(5) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was permissible under then applicable State and Federal law.

(6) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (5), that reflect significant interpretations of applicable law or policy.

(c) Review of written requests for guidance on periodic basis

The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

(Pub. L. 90–247, title IV, § 453, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2349; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 353.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to measure of recovery for provisions relating to withholdings. See section 1234d of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1234a of this title.

§ 1234c. Remedies for existing violations

(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

(1) withhold further payments under that program, as authorized by section 1234d of this title;

(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 1234e of this title;

(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 1234f of this title; or

(4) take any other action authorized by law with respect to the recipient.

(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 1234a of this title.

(Pub. L. 90–247, title IV, § 454, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2349; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 354.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to remedies for existing violations for provisions relating to cease and desist orders. See section 1234e of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234d, 1234e, 1234f of this title.

§ 1234d. Withholding

(a) Discretionary authority over further payments under applicable program

In accordance with section 1234c of this title, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

(b) Notice requirements

Before withholding payments, the Secretary shall notify the recipient, in writing, of—

(1) the intent to withhold payments;

(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

(c) Hearing

The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 1234 of this title.

(d) Suspension of payments, authorities, etc.

Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

(e) Findings of fact

Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(f) Final agency action

The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

(2) remands the decision of the Office.

(Pub. L. 90–247, title IV, § 455, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2350; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 354.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to withholding for provisions relating to judicial review. See section 1234g of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1234c, 1234g of this title.

§ 1234e. Cease and desist orders

(a) Issuance and contents of complaint

In accordance with section 1234c of this title, the Secretary may issue to a recipient under an applicable program a complaint which—

(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

(b) Appearance contesting order

The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

(c) Report; issuance of cease and desist order

The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

(1) make a report in writing stating its findings of fact; and

(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

(d) Report and order as final agency action

The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

(e) Enforcement of final order

The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

(Pub. L. 90–247, title IV, § 456, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2351; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 355.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to cease and desist orders for provisions relating to use of recovered funds. See section 1234h of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1234c, 1234g of this title.

§ 1234f. Compliance agreements

(a) Discretionary authority; purposes of agreement

In accordance with section 1234c of this title, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

(b) Procedures applicable

(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

(c) Contents

A compliance agreement under this section shall contain—

(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2) of this section, by which the recipient shall be in full compliance with the applicable requirements of law, and

(2) those terms and conditions with which the recipient must comply until it is in full compliance.

(d) Failure of recipient to comply with terms and conditions

If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

(Pub. L. 90–247, title IV, § 457, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 355.)

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1234c of this title.

§ 1234g. Judicial review

(a) Recipients entitled to review; stay of action by Secretary

Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 1234a, 1234d, or 1234e of this title, and any State entitled to receive funds under a program described in section 1232d(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

(b) Petition for review; filing of record

A recipient that desires judicial review of an action described in subsection (a) of this section shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28.

(c) Findings of fact

The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(d) Scope of review; review by Supreme Court

The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 90–247, title IV, § 458, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103–382, title II, § 212(b)(3)(D), Oct. 20, 1994, 108 Stat. 3913.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382 made technical amendment to reference to section 1232d(a) of this title to reflect renumbering of corresponding section of original act.

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234a, 1234h of this title.

§ 1234h. Use of recovered funds

(a) Repayment to recipient; factors considered

Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program, provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance;

(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

(b) Terms and conditions of repayment

Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

(1) the submission of periodic reports on the use of funds provided under this section; and

(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

(c) Availability of funds

Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the later of—

(1) the fiscal year in which final agency action under section 1234a(e) of this title is taken; or

(2) if such recipient files a petition for judicial review, the fiscal year in which final judicial action under section 1234g of this title is taken.

(d) Publication in Federal Register of notice of intent to enter into repayment arrangement

At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

(Pub. L. 90–247, title IV, § 459, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103–382, title II, § 250(b), Oct. 20, 1994, 108 Stat. 3927.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–382, § 250(b)(1), inserted before semicolon ‘‘, provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance’’.

Subsec. (c). Pub. L. 103–382, § 250(b)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ‘‘Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 1234a(e) of this title is taken.’’

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

§ 1234i. Definitions

For purposes of this subchapter:

(1) The term ‘‘recipient’’ means a recipient of a grant or cooperative agreement under an applicable program.

(2) The term ‘‘applicable program’’ excludes programs authorized by the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] and assistance programs provided under the Act of September 30, 1950[1] (Public Law 874, 81st Congress), and the Act of September 23, 1950[1] (Public Law 815, 81st Congress).

(Pub. L. 90–247, title IV, § 460, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 357.)

[1] See References in Text note below.

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in par. (2), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in par. (2), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Act of September 23, 1950 (Public Law 815, 81st Congress), referred to in par. (2), is act Sept. 23, 1950, ch. 995, as amended generally by act Aug. 12, 1958, Pub. L. 85–620, title I, 72 Stat. 548, which was classified generally to chapter 19 (§ 631 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

SUBCHAPTER V—READY TO LEARN TELEVISION

CODIFICATION

This subchapter was classified to part G (§ 3161 et seq.) of subchapter IV of chapter 47 of this title prior to its renumbering by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649.

PRIOR PROVISIONS

A prior subchapter V, consisting of sections 1234 to 1234i, was renumbered subchapter IV by Pub. L. 103–382, title II, § 212(b)(2), Oct. 20, 1994, 108 Stat. 3913.

CROSS REFERENCE

For similar provisions related to ready-to-learn television, see section 6921 et seq. of this title.

§ 1235. Ready to learn

(a) In general

The Secretary of Education (hereafter referred to in this subchapter as the ''Secretary'') is authorized to enter into contracts, cooperative agreements, or grants with entities described in section 1235a(b) of this title to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the national education goals.

(b) Availability

In making such contracts, cooperative agreements, or grants, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

(Pub. L. 90–247, title IV, § 471, formerly Pub. L. 89–10, title IV, § 4701, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3586; renumbered § 471 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (2)(A), May 18, 1994, 108 Stat. 649.)

CODIFICATION

Section was formerly classified to section 3161 of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–252, § 121(a)(2)(A), substituted ''Secretary of Education (hereafter referred to in this subchapter as the 'Secretary')'' for ''Secretary'' and ''1235a(b)'' for ''3161a(b)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

CONGRESSIONAL STATEMENT OF PURPOSE

Section 2 of Pub. L. 102–545 provided that: ''It is the purpose of this Act [enacting this subchapter] to—

''(1) expand the availability of educational and instructional video programming and supporting educational resources for preschool and elementary school children and their parents as a tool to improve school readiness and literacy; and

''(2) to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1235c, 1235d of this title.

§ 1235a. Educational programming

(a) Awards

The Secretary shall award contracts, cooperative agreements, or grants to eligible entities to—

(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

(2) contract with entities (such as public broadcasting entities and those funded under the Star Schools Assistance Act) in order that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

(b) Eligible entities

To be eligible to receive a contract, cooperative agreement, or grant under subsection (a) of this section, an entity shall be—

(1) a nonprofit entity (including public telecommunications entities) able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

(c) Cultural experiences

Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

(Pub. L. 90–247, title IV, § 472, formerly Pub. L. 89–10, title IV, § 4702, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3586; renumbered § 472 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (b), May 18, 1994, 108 Stat. 649.)

REFERENCES IN TEXT

The Star Schools Assistance Act, referred to in subsec. (a)(2), probably means the Star Schools Program Assistance Act, title IX of Pub. L. 98–377, as added by Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320, which was classified generally to subchapter IX (§ 4081 et seq.) of chapter 52 of this title prior to repeal by Pub. L. 103–382, title III, § 364, Oct. 20, 1994, 108 Stat. 3975. See section 6891 et seq. of this title.

CODIFICATION

Section was formerly classified to section 3161a of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–252, § 121(b), substituted ''entity (including public telecommunications entities)'' for '', nongovernmental entity''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1235, 1235d, 1235e, 1235f of this title.

§ 1235b. Duties of Secretary

The Secretary is authorized—

(1) to establish and administer a Special Projects of National Significance program to award contracts, cooperative agreements, or grants to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this subchapter to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this subchapter; and

(3) to develop and disseminate training materials, including—

(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

(4) coordinate activities with the Secretary of Health and Human Services in order to—

(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

(B) provide information to grantees of Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 [42 U.S.C. 9858 et seq.] regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

(Pub. L. 90–247, title IV, § 473, formerly Pub. L. 89–10, title IV, § 4703, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3587; renumbered § 473 of Pub. L. 90–247, Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649.)

REFERENCES IN TEXT

The Child Care and Development Block Grant Act of 1990, referred to in par. (4)(B), is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, which is classified generally to subchapter II–B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 3161b of this title prior to renumbering by Pub. L. 103–252.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1235c, 1235d, 1235e of this title.

§ 1235c. Applications

Each eligible entity desiring a contract, cooperative agreement, or grant under section 1235

or 1235b of this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(Pub. L. 90–247, title IV, § 474, formerly Pub. L. 89–10, title IV, § 4704, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3588; renumbered § 474 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (2)(B), May 18, 1994, 108 Stat. 649.)

CODIFICATION

Section was formerly classified to section 3161c of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Pub. L. 103–252, § 121(a)(2)(B), substituted ''1235 or 1235b'' for ''3161 or 3161b''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

§ 1235d. Reports and evaluation

(a) Annual report to Secretary

An entity receiving funds under section 1235 of this title shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

(b) Report to Congress

The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

(1) a summary of the information made available under section 1235a(a) of this title;

(2) a description of the training materials made available under section 1235b(3) of this title, the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

(Pub. L. 90–247, title IV, § 475, formerly Pub. L. 89–10, title IV, § 4705, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3588; renumbered § 475 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (2)(C), May 18, 1994, 108 Stat. 649.)

CODIFICATION

Section was formerly classified to section 3161d of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–252, § 121(a)(2)(C)(i), substituted ''1235'' for ''3161''.

Subsec. (b)(1). Pub. L. 103–252, § 121(a)(2)(C)(ii)(I), substituted ''1235a(a)'' for ''3161a(a)''.

Subsec. (b)(2). Pub. L. 103–252, § 121(a)(2)(C)(ii)(II), which directed the substitution of ''1235b(3)'' for ''3161b(3)'' in par. (1), was executed by making the substitution in par. (2) to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

§ 1235e. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subchapter, $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 and 1998. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 1235a[1] of this title.

(b) Special projects

Of the amount appropriated under subsection (1)[2] for each fiscal year, at least 10 percent of such amount shall be utilized in each such fiscal year for activities under section 1235b(1)(C) of this title.

(Pub. L. 90–247, title IV, § 476, formerly Pub. L. 89–10, title IV, § 4706, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3589; renumbered § 476 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, § 121(a)(1), (2)(D), (c), May 18, 1994, 108 Stat. 649.)

REFERENCES IN TEXT

Section 1235a of this title, referred to in subsec. (a), was in the original a reference to section 4702, meaning section 4702 of the Elementary and Secondary Education Act of 1965. Section 4702 of that Act was renumbered section 472 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, and was transferred to section 1235a of this title.

CODIFICATION

Section was formerly classified to section 3161e of this title prior to renumbering by Pub. L. 103–252.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–252, § 121(c), substituted ''$30,000,000 for fiscal year 1995'' for ''$25,000,000 for fiscal year 1993'' and ''for each of fiscal years 1996 and 1998'' for ''for fiscal year 1994''.

Subsec. (b). Pub. L. 103–252, § 121(a)(2)(D), substituted ''1235b(1)(C)'' for ''3161b(1)(C)''.

[1] See References in Text note below.

[2] So in original. Probably should be subsection ''(a)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103–252, set out as a note under section 9832 of Title 42, The Public Health and Welfare.

§ 1235f. Administrative costs

With respect to the implementation of section 1235a[1] of this title, entities receiving a contract, cooperative agreement, or grant from the Secretary may use up to 5 percent of the amounts received under such section for the normal and customary expenses of administering the contract, cooperative agreement, or grant.

(Pub. L. 90–247, title IV, § 477, formerly Pub. L. 89–10, title IV, § 4707, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3589; renumbered § 477 of Pub. L. 90–247, Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649.)

REFERENCES IN TEXT

Section 1235a of this title, referred to in text, was in the original a reference to section 4702, meaning section 4702 of the Elementary and Secondary Education Act of 1965. Section 4702 of that Act was renumbered section 472 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, and was transferred to section 1235a of this title.

CODIFICATION

Section was formerly classified to section 3161f of this title prior to renumbering by Pub. L. 103–252.

§ 1235g. "Distance learning" defined

For the purposes of this subchapter, the term ''distance learning'' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

(Pub. L. 90–247, title IV, § 478, formerly Pub. L. 89–10, title IV, § 4708, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3589; renumbered § 478 of Pub. L. 90–247, Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649.)

CODIFICATION

Section was formerly classified to section 3161g of this title prior to renumbering by Pub. L. 103–252.

CHAPTER 32—VOCATIONAL EDUCATION

CODIFICATION

The Vocational Education Act of 1963, Pub. L. 88–210, title I, as added Pub. L. 90–576, title I, Oct. 16, 1968, 82 Stat. 1064, formerly classified to this chapter, was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94–482, title II, § 202(a), Oct. 12, 1976, 90 Stat. 2169, and was classified to section 2301 et seq. of this title. For subsequent revision of Pub. L. 88–210 and redesignation as the Carl D. Perkins Vocational and Applied Technology Education Act, see note set out preceding section 2301 of this title.

§§ 1241 to 1244. Omitted

CODIFICATION

Section 1241, Pub. L. 88–210, title I, § 101, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1064, set forth Congressional declaration of purpose for vocational education assistance by Federal government.

Section 1242, Pub. L. 88–210, title I, § 102, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1064; amended Pub. L. 91–230, title VII, § 701, Apr. 13, 1970, 84 Stat. 188; Pub. L. 92–318, title II, § 201, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, § 841(a)(1), Aug. 21, 1974, 88 Stat. 606; Pub. L. 94–482, title II, § 201(a)–(c), Oct. 12, 1976, 90 Stat. 2168, authorized appropriations for vocational education assistance programs, etc.

Section 1243, Pub. L. 88–210, title I, § 103, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1065; amended Pub. L. 91–230, title VII, § 702, Apr. 13, 1970, 84 Stat. 189; Pub. L. 94–273, § 9(3), Apr. 21, 1976, 90 Stat. 378; Pub. L. 94–482, title II, § 201(d), Oct. 12, 1976, 90 Stat. 2168, set forth provisions relating to allotments among States of vocational education assistance.

Section 1244, Pub. L. 88–210, title I, § 104, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1066; amended Pub. L. 91–230, title IV, § 401(h)(6), title VII, § 703, Apr. 13, 1970, 84 Stat. 174, 189; Pub. L. 92–318, title II, § 209, title V, § 509(b), June 23, 1972, 86 Stat. 326, 353; Pub. L. 93–380, title VIII, §§ 841(a)(1)–(3), 845(g), Aug. 21, 1974, 88 Stat. 606, 607, 612; Pub. L. 93–567, title I, § 108, Dec. 31, 1974, 88 Stat. 1849; Pub. L. 94–273, § 3(13), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title II, § 201(e), (f), Oct. 12, 1976, 90 Stat. 2168, authorized establishment of National and State Advisory Councils on Vocational Education and set forth provisions relating to membership, functions, etc., of such councils.

§§ 1245, 1246. Repealed. Pub. L. 91–230, title IV, § 401(f)(8), (g)(6), Apr. 13, 1970, 84 Stat. 174

Sections 1245, 1246, Pub. L. 88–210, title I, §§ 105, 106, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1069, prohibited Federal control of education (curriculum, program of instruction, administration, or personnel of any educational institution or school system), and related to labor standards requirement (prevailing wage rates), and were superseded by sections 1232a and 1232b of this title, respectively.

§§ 1247 to 1393f. Omitted

CODIFICATION

Section 1247, Pub. L. 88–210, title I, § 107, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1069, set forth limitations on payments for vocational education assistance.

Section 1248, Pub. L. 88–210, title I, § 108, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1069; amended Pub. L. 92–318, title II, § 202, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, § 841(a)(4), Aug. 21, 1974, 88 Stat. 607, defined ''vocational education'', ''area vocational education school'', ''school facilities'', ''construction''. ''Commissioner'', ''handicapped'', ''State'', ''State board'', ''local educational agency'', ''high school'', ''private vocational training institution'', ''Vocational Education Act of 1946'', ''supplementary vocational education Acts'', ''vocational training'', and ''postsecondary educational institution''.

Section 1261, Pub. L. 88–210, title I, § 121, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1072, authorized grants for State vocational education programs.

Section 1262, Pub. L. 88–210, title I, § 122, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1072; amended Pub. L. 93–380, title VIII, § 841(a)(1), (5), Aug. 21, 1974, 88 Stat. 606, 607, set forth authorized purposes for use of Federal grants for State vocational education programs.

Section 1263, Pub. L. 88–210, title I, § 123, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1073, set forth requirements for and procedures applicable to State plans.

Section 1264, Pub. L. 88–210, title I, § 124, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1078, set forth procedures applicable to payments to States for covered State vocational education programs.

Section 1281, Pub. L. 88–210, title I, § 131, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 82 Stat. 1078,

[1] See References in Text note below.