

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

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

(C) such other matters as justice may require.

(4) Modification

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

(5) Petition for review

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

(6) Failure to comply

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

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

§ 6084. Preemption

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

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

CHAPTER 69—SCHOOL-TO-WORK OPPORTUNITIES

Sec.	Findings.
6101.	Purposes and Congressional intent.
6102.	(a) Purposes.
	(b) Congressional intent.
6103.	Definitions.
6104.	Federal administration.
	(a) Joint administration.
	(b) Acceptance of gifts.
	(c) Use of voluntary and uncompensated services.

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

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

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

PART A—STATE DEVELOPMENT GRANTS

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

PART B—STATE IMPLEMENTATION GRANTS

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

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

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

SUBCHAPTER III—FEDERAL IMPLEMENTATION GRANTS TO LOCAL PARTNERSHIPS

6171.	Purposes.
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