

(B) In the case of the program established in section 300x-21 of this title, a condition referred to in this paragraph is the condition established in section 300x-26 of this title and the condition established in section 300x-30 of this title.

(e) Opportunity for hearing

Before taking action against a State under any of subsections (a) through (c) of this section (or under a section referred to in subsection (d)(2) of this section, as the case may be), the Secretary shall provide to the State involved adequate notice and an opportunity for a hearing.

(f) Requirement of hearing in certain circumstances

(1) In general

If the Secretary receives a complaint that a State has failed to maintain material compliance with the agreements or other conditions required for receiving a grant under the program involved (including any condition referred to for purposes of subsection (d) of this section), and there appears to be reasonable evidence to support the complaint, the Secretary shall promptly conduct a hearing with respect to the complaint.

(2) Finding of material noncompliance

If in a hearing under paragraph (1) the Secretary finds that the State involved has failed to maintain material compliance with the agreement or other condition involved, the Secretary shall take such action under this section as may be appropriate to ensure that material compliance is so maintained, or such action as may be required in a section referred to in subsection (d)(2) of this section, as the case may be.

(g) Certain investigations

(1) Requirement regarding Secretary

The Secretary shall in fiscal year 1994 and each subsequent fiscal year conduct in not less than 10 States investigations of the expenditure of grants received by the States under section 300x or 300x-21 of this title in order to evaluate compliance with the agreements required under the program involved.

(2) Provision of records, etc., upon request

Each State receiving a grant under section 300x or 300x-21 of this title, and each entity receiving funds from the grant, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(3) Limitations on authority

The Secretary may not institute proceedings under subsection (c) of this section unless the Secretary has conducted an investigation concerning whether the State has expended payments under the program involved in accordance with the agreements required under the program. Any such investigation shall be con-

ducted within the State by qualified investigators.

(July 1, 1944, ch. 373, title XIX, § 1945, as added Pub. L. 102-321, title II, § 203(a), July 10, 1992, 106 Stat. 405.)

§ 300x-56. Prohibitions regarding receipt of funds

(a) Establishment

(1) Certain false statements and representations

A person shall not knowingly and willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from a grant made to the State under section 300x or 300x-21 of this title.

(2) Concealing or failing to disclose certain events

A person with knowledge of the occurrence of any event affecting the initial or continued right of the person to receive any payments from a grant made to a State under section 300x or 300x-21 of this title shall not conceal or fail to disclose any such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such amount is due.

(b) Criminal penalty for violation of prohibition

Any person who violates any prohibition established in subsection (a) of this section shall for each violation be fined in accordance with title 18 or imprisoned for not more than 5 years, or both.

(July 1, 1944, ch. 373, title XIX, § 1946, as added Pub. L. 102-321, title II, § 203(a), July 10, 1992, 106 Stat. 406.)

§ 300x-57. Nondiscrimination

(a) In general

(1) Rule of construction regarding certain civil rights laws

For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], on the basis of handicap under section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], on the basis of sex under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], programs and activities funded in whole or in part with funds made available under section 300x or 300x-21 of this title shall be considered to be programs and activities receiving Federal financial assistance.

(2) Prohibition

No person shall on the ground of sex (including, in the case of a woman, on the ground that the woman is pregnant), or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made

available under section 300x or 300x-21 of this title.

(b) Enforcement

(1) Referrals to Attorney General after notice

Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 300x or 300x-21 of this title, has failed to comply with a provision of law referred to in subsection (a)(1) of this section, with subsection (a)(2) of this section, or with an applicable regulation (including one prescribed to carry out subsection (a)(2) of this section), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(B) exercise the powers and functions provided by the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], as may be applicable; or

(C) take such other actions as may be authorized by law.

(2) Authority of Attorney General

When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) of this section or in violation of subsection (a)(2) of this section, the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(July 1, 1944, ch. 373, title XIX, §1947, as added Pub. L. 102-321, title II, §203(a), July 10, 1992, 106 Stat. 407.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsecs. (a)(1) and (b)(1)(B), 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 this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Education Amendments of 1972, referred to in subsecs. (a)(1) and (b)(1)(B), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Civil Rights Act of 1964, referred to in subsecs. (a)(1) and (b)(1)(B), 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 this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

§ 300x-58. Technical assistance and provision of supplies and services in lieu of grant funds

(a) Technical assistance

The Secretary shall, without charge to a State receiving a grant under section 300x or 300x-21 of this title, provide to the State (or to any public or nonprofit private entity within the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance directly, through contract, or through grants.

(b) Provision of supplies and services in lieu of grant funds

(1) In general

Upon the request of a State receiving a grant under section 300x or 300x-21 of this title, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out the program involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) Corresponding reduction in payments

With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(July 1, 1944, ch. 373, title XIX, §1948, as added Pub. L. 102-321, title II, §203(a), July 10, 1992, 106 Stat. 408.)

§ 300x-59. Plans for performance partnerships

(a) Development

The Secretary in conjunction with States and other interested groups shall develop separate plans for the programs authorized under subparts I and II for creating more flexibility for States and accountability based on outcome and other performance measures. The plans shall each include—

(1) a description of the flexibility that would be given to the States under the plan;

(2) the common set of performance measures that would be used for accountability, including measures that would be used for the program under subpart II for pregnant addicts, HIV transmission, tuberculosis, and those with a co-occurring substance abuse and mental disorders, and for programs under subpart I for children with serious emotional disturbance and adults with serious mental illness and for individuals with co-occurring mental health and substance abuse disorders;

(3) the definitions for the data elements to be used under the plan;

(4) the obstacles to implementation of the plan and the manner in which such obstacles would be resolved;