

or encourage sexual activity, whether homosexual or heterosexual;

(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

(3) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or

(4) to operate a program of contraceptive distribution in schools.

**(b) Local control**

Nothing in this section shall be construed to—

(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or school's instructional content, curriculum, and related activities;

(2) limit the application of the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

(4) create any legally enforceable right.

(Pub. L. 89-10, title IX, §9526, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1982.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (b)(2), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

A prior section 7906, Pub. L. 89-10, title IX, §9206, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3800, authorized grants for a Native Hawaiian higher education program, prior to the general amendment of this subchapter by Pub. L. 107-110.

**§ 7907. Prohibitions on Federal Government and use of Federal funds**

**(a) General prohibition**

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

**(b) Prohibition on endorsement of curriculum**

Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this chapter may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

**(c) Prohibition on requiring Federal approval or certification of standards**

**(1) In general**

Notwithstanding any other provision of Federal law, no State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this chapter.

**(2) Rule of construction**

Nothing in this subsection shall be construed to affect requirements under subchapter I of this chapter or part A of subchapter VI of this chapter.

**(d) Rule of construction on building standards**

Nothing in this chapter shall be construed to mandate national school building standards for a State, local educational agency, or school.

(Pub. L. 89-10, title IX, §9527, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1983.)

PRIOR PROVISIONS

A prior section 7907, Pub. L. 89-10, title IX, §9207, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3801, related to Native Hawaiian gifted and talented program, prior to the general amendment of this subchapter by Pub. L. 107-110.

**§ 7908. Armed Forces recruiter access to students and student recruiting information**

**(a) Policy**

**(1) Access to student recruiting information**

Notwithstanding section 1232g(a)(5)(B) of this title and except as provided in paragraph (2), each local educational agency receiving assistance under this chapter shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students names, addresses, and telephone listings.

**(2) Consent**

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described in paragraph (1) not be released without prior written parental consent, and the local educational agency or private school shall notify parents of the option to make a request and shall comply with any request.

**(3) Same access to students**

Each local educational agency receiving assistance under this chapter shall provide military recruiters the same access to secondary school students as is provided generally to post secondary educational institutions or to prospective employers of those students.

**(b) Notification**

The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after January 8, 2002, notify principals, school administrators, and other educators about the requirements of this section.

**(c) Exception**

The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.

**(d) Special rule**

A local educational agency prohibited by Connecticut State law (either explicitly by statute or through statutory interpretation by the State Supreme Court or State Attorney General) from providing military recruiters with in-

formation or access as required by this section shall have until May 31, 2002, to comply with that requirement.

(Pub. L. 89–10, title IX, §9528, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1983.)

PRIOR PROVISIONS

A prior section 7908, Pub. L. 89–10, title IX, §9208, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3802, related to Native Hawaiian special education programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

**§ 7909. Prohibition on federally sponsored testing**

**(a) General prohibition**

Notwithstanding any other provision of Federal law and except as provided in subsection (b) of this section, no funds provided under this chapter to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

**(b) Exceptions**

Subsection (a) of this section shall not apply to international comparative assessments developed under the authority of section 9543(a)(5) of this title and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 89–10, title IX, §9529, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1984; amended Pub. L. 107–279, title IV, §404(d)(9), Nov. 5, 2002, 116 Stat. 1986.)

PRIOR PROVISIONS

A prior section 7909, Pub. L. 89–10, title IX, §9209, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3803, related to Native Hawaiian curriculum development and teacher training and recruitment programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–279 substituted “section 9543(a)(5) of this title” for “section 9003(a)(6) of this title”.

**§ 7910. Limitations on national testing or certification for teachers**

**(a) Mandatory national testing or certification of teachers**

Notwithstanding any other provision of this chapter or any other provision of law, no funds available to the Department or otherwise available under this chapter may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

**(b) Prohibition on withholding funds**

The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

(Pub. L. 89–10, title IX, §9530, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1984.)

PRIOR PROVISIONS

A prior section 7910, Pub. L. 89–10, title IX, §9210, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3804, related to Native Hawaiian community-based education learning centers, prior to the general amendment of this subchapter by Pub. L. 107–110.

**§ 7911. Prohibition on nationwide database**

Nothing in this chapter (other than section 6398(b) of this title) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this chapter.

(Pub. L. 89–10, title IX, §9531, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1984.)

PRIOR PROVISIONS

A prior section 7911, Pub. L. 89–10, title IX, §9211, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3804, set out administrative provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7516 of this title.

**§ 7912. Unsafe school choice option**

**(a) Unsafe school choice policy**

Each State receiving funds under this chapter shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary school or secondary school within the local educational agency, including a public charter school.

**(b) Certification**

As a condition of receiving funds under this chapter, a State shall certify in writing to the Secretary that the State is in compliance with this section.

(Pub. L. 89–10, title IX, §9532, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1984.)

PRIOR PROVISIONS

A prior section 7912, Pub. L. 89–10, title IX, §9212, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3805, defined terms, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7517 of this title.

**§ 7913. Prohibition on discrimination**

Nothing in this chapter shall be construed to require, authorize, or permit, the Secretary, or a State educational agency, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.

(Pub. L. 89–10, title IX, §9533, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1985.)