

ficient' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965."

2010—Par. (3)(A)(i). Pub. L. 111-256, §2(b)(2)(A), substituted "with intellectual disabilities" for "with mental retardation".

Par. (30)(C). Pub. L. 111-256, §2(b)(2)(B), substituted "of intellectual disabilities" for "of mental retardation".

2008—Par. (17)(B). Pub. L. 110-315 substituted "college or university" for "community college" and "the Tribally Controlled Colleges and Universities Assistance Act of 1978" for "the Tribally Controlled College or University Assistance Act of 1978".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

##### EFFECTIVE DATE

Section effective July 1, 2005, see section 302(a) of Pub. L. 108-446, set out as a note under section 1400 of this title.

##### DEFINITIONS

For meaning of references to an intellectual disability and to individuals with intellectual disabilities in provisions amended by section 2 of Pub. L. 111-256, see section 2(k) of Pub. L. 111-256, set out as a note under section 1400 of this title.

### § 1402. Office of Special Education Programs

#### (a) Establishment

There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in the Department for administering and carrying out this chapter and other programs and activities concerning the education of children with disabilities.

#### (b) Director

The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

#### (c) Voluntary and uncompensated services

Notwithstanding section 1342 of title 31, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this chapter.

(Pub. L. 91-230, title VI, §603, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2659.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1402, Pub. L. 91-230, title VI, §603, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 46, related to the Office of Special Education Programs, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1402, Pub. L. 91-230, title VI, §603, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93-380, title VI, §612(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 98-199, §3(a), Dec. 2, 1983, 97 Stat. 1357; Pub. L. 101-476, title IX, §901(b)(21), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102-119,

§25(b), Oct. 7, 1991, 105 Stat. 607, related to the Office of Special Education Programs, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

### § 1403. Abrogation of State sovereign immunity

#### (a) In general

A State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this chapter.

#### (b) Remedies

In a suit against a State for a violation of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

#### (c) Effective date

Subsections (a) and (b) apply with respect to violations that occur in whole or part after October 30, 1990.

(Pub. L. 91-230, title VI, §604, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2659.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1403, Pub. L. 91-230, title VI, §604, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 47, related to abrogation of State sovereign immunity, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1403, Pub. L. 91-230, title VI, §604, as added Pub. L. 101-476, title I, §103, Oct. 30, 1990, 104 Stat. 1106, related to abrogation of State sovereign immunity, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

Another prior section 1403, Pub. L. 91-230, title VI, §604, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93-380, title VI, §613, Aug. 21, 1974, 88 Stat. 580; Pub. L. 94-273, §§3(14), 13(2), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 98-199, §4, Dec. 2, 1983, 97 Stat. 1358, established the National Advisory Committee on the Education of Handicapped Children and Youth, prior to repeal by Pub. L. 99-457, title IV, §407, Oct. 8, 1986, 100 Stat. 1177.

### § 1404. Acquisition of equipment; construction or alteration of facilities

#### (a) In general

If the Secretary determines that a program authorized under this chapter will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

#### (b) Compliance with certain regulations

Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the "Americans with Disabilities Accessibility Guidelines for Buildings and Facilities"); or

(2) appendix A of subpart 101-19.6 of title 41, Code of Federal Regulations (commonly known as the "Uniform Federal Accessibility Standards").

(Pub. L. 91-230, title VI, §605, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2659.)