

consultation with the appropriate public and private school officials, pay the cost of those services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this chapter.

(d) Prior determination

Any by-pass determination by the Secretary under this chapter as in effect on the day preceding January 8, 2002, shall remain in effect to the extent the Secretary determines that that determination is consistent with the purpose of this section.

(Pub. L. 89–10, title VIII, §8504, formerly title IX, §9504, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1978; renumbered title VIII, §8504, and amended Pub. L. 114–95, title VIII, §§8001(a)(5), (b)(4), 8018, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

Editorial Notes

AMENDMENTS

2015—Subsec. (a)(1)(A). Pub. L. 114–95, §8018, made technical amendment to reference in original act which appears in text as reference to section 7882 of this title.

Subsec. (b). Pub. L. 114–95, §8001(b)(4), made technical amendment to reference in original act which appears in text as reference to section 7881 of this title.

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.

§ 7885. Prohibition against funds for religious worship or instruction

Nothing contained in this chapter shall be construed to authorize the making of any payment under this chapter for religious worship or instruction.

(Pub. L. 89–10, title VIII, §8505, formerly title IX, §9505, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1979; renumbered title VIII, §8505, Pub. L. 114–95, title VIII, §8001(a)(5), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§ 7886. Private, religious, and home schools

(a) Applicability to nonrecipient private schools

Nothing in this chapter shall be construed to affect any private school that does not receive funds or services under this chapter, nor shall any student who attends a private school that does not receive funds or services under this chapter be required to participate in any assessment referenced in this chapter.

(b) Applicability to home schools

Nothing in this chapter shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this chapter.

(c) Rule of construction on prohibition of Federal control over nonpublic schools

Nothing in this chapter shall be construed to permit, allow, encourage, or authorize any Fed-

eral control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this chapter.

(d) Rule of construction on State and local educational agency mandates

Nothing in this chapter shall be construed to require any State educational agency or local educational agency that receives funds under this chapter to mandate, direct, or control the curriculum of a private or home school, regardless or¹ whether or not a home school is treated as a private school under state² law, nor shall any funds under this chapter be used for this purpose.

(Pub. L. 89–10, title VIII, §8506, formerly title IX, §9506, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1979; renumbered title VIII, §8506, Pub. L. 114–95, title VIII, §8001(a)(5), Dec. 10, 2015, 129 Stat. 2088, 2089.)

SUBPART 2—OTHER PROVISIONS

§ 7901. Maintenance of effort

(a) In general

A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year, subject to the requirements of subsection (b).

(b) Reduction in case of failure to meet

(1) In general

The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion by which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the local agency), if such local educational agency has also failed to meet such requirement (as determined using the measure most favorable to the local agency) for 1 or more of the 5 immediately preceding fiscal years.

(2) Special rule

No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

(c) Waiver

The Secretary may waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

(1) exceptional or uncontrollable circumstances, such as a natural disaster or a

¹ So in original. Probably should be “of”.

² So in original. Probably should be capitalized.

change in the organizational structure of the local educational agency; or

(2) a precipitous decline in the financial resources of the local educational agency.

(Pub. L. 89–10, title VIII, § 8521, formerly title IX, § 9521, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, § 8521, and amended Pub. L. 114–95, title VIII, §§ 8001(a)(6), 8019, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7901, Pub. L. 89–10, title IX, § 9201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794, set forth short title of the Native Hawaiian Education Act, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, § 8019(1), inserted “, subject to the requirements of subsection (b)” after “for the second preceding fiscal year”.

Subsec. (b)(1). Pub. L. 114–95, § 8019(2), inserted before period at end “, if such local educational agency has also failed to meet such requirement (as determined using the measure most favorable to the local agency) for 1 or more of the 5 immediately preceding fiscal years”.

Subsec. (c)(1). Pub. L. 114–95, § 8019(3), inserted “or a change in the organizational structure of the local educational agency” after “such as a natural disaster”.

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.

§ 7902. Prohibition regarding State aid

A State shall not take into consideration payments under this chapter (other than under subchapter VII) in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

(Pub. L. 89–10, title VIII, § 8522, formerly title IX, § 9522, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, § 8522, and amended Pub. L. 114–95, title VIII, §§ 8001(a)(6), 8020, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7902, Pub. L. 89–10, title IX, § 9202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794, set forth findings, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, § 8020, substituted “subchapter VII” for “subchapter VIII”.

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 pro-

grams and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§ 7903. Privacy of assessment results

Any results from an individual assessment referred to in this chapter of a student that become part of the education records of the student shall have the protections provided in section 1232g of this title.

(Pub. L. 89–10, title VIII, § 8523, formerly title IX, § 9523, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, § 8523, Pub. L. 114–95, title VIII, § 8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7903, Pub. L. 89–10, title IX, § 9203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3798, set forth purpose of provisions relating to Native Hawaiian educational programs, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

§ 7904. School prayer

(a) Guidance

The Secretary shall provide and revise guidance, not later than September 1, 2002, and of every second year thereafter, to State educational agencies, local educational agencies, and the public on constitutionally protected prayer in public elementary schools and secondary schools, including making the guidance available by electronic means, including by posting the guidance on the Department's website in a clear and easily accessible manner. The guidance shall be reviewed, prior to distribution, by the Office of Legal Counsel of the Department of Justice for verification that the guidance represents the current state of the law concerning constitutionally protected prayer in public elementary schools and secondary schools.

(b) Certification

As a condition of receiving funds under this chapter, a local educational agency shall certify in writing to the State educational agency involved that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools, as detailed in the guidance required under subsection (a). The certification shall be provided by October 1 of each year. The State educational agency shall report to the Secretary by November 1 of each year a list of those local educational agencies that have not filed the certification or against which complaints have been made to the State educational agency that the local educational agencies are not in compliance with this section.

(c) Enforcement

The Secretary is authorized and directed to effectuate subsection (b) by issuing, and securing compliance with, rules or orders with respect to a local educational agency that fails to certify, or is found to have certified in bad faith, that no

policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools.

(Pub. L. 89–10, title VIII, §8524, formerly title IX, §9524, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, §8524, and amended Pub. L. 114–95, title VIII, §§8001(a)(6), 8021, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7904, Pub. L. 89–10, title IX, §9204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3798, established the Native Hawaiian Education Council and island councils, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §8021, substituted “by electronic means, including by posting the guidance on the Department’s website in a clear and easily accessible manner” for “on the Internet”.

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.

§ 7905. Equal access to public school facilities

(a) Short title

This section may be cited as the “Boy Scouts of America Equal Access Act”.

(b) In general

(1) Equal access

Notwithstanding any other provision of law, no public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or a limited public forum and that receives funds made available through the Department shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society), that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 (as a patriotic society).

(2) Voluntary sponsorship

Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society).

(c) Termination of assistance and other action

(1) Departmental action

The Secretary is authorized and directed to effectuate subsection (b) by issuing and secur-

ing compliance with rules or orders with respect to a public elementary school, public secondary school, local educational agency, or State educational agency that receives funds made available through the Department and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (b).

(2) Procedure

The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), through the Office for Civil Rights and in a manner consistent with the procedure used by a Federal department or agency under section 2000d–1 of title 42. If the public school or agency does not comply with the rules or orders, then notwithstanding any other provision of law, no funds made available through the Department shall be provided to a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders.

(3) Judicial review

Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 2000d–2 of title 42. Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 2000d–2 of title 42.

(d) Definition and rule

(1) Definition

In this section, the term “youth group” means any group or organization intended to serve young people under the age of 21.

(2) Rule

For the purpose of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

(Pub. L. 89–10, title VIII, §8525, formerly title IX, §9525, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1981; renumbered title VIII, §8525, Pub. L. 114–95, title VIII, §8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7905, Pub. L. 89–10, title IX, §9205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3800, related to Native Hawaiian Family-Based Education Centers, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

§ 7906. Prohibited uses of funds

No funds under this chapter may be used—

(1) for construction, renovation, or repair of any school facility, except as authorized under this chapter;

(2) for transportation unless otherwise authorized under this chapter;

(3) to develop or distribute materials, or operate programs or courses of instruction di-

rected at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;

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

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

(6) to operate a program of contraceptive distribution in schools; or

(7) for the provision to any person of a dangerous weapon, as defined in section 930(g)(2) of title 18, or training in the use of a dangerous weapon, except that this paragraph shall not apply to the use of funds under this chapter for activities carried out under programs authorized by this chapter that are otherwise permissible under such programs and that provide students with educational instruction or educational enrichment activities, such as archery, hunting, other shooting sports, or culinary arts.

(Pub. L. 89–10, title VIII, § 8526, formerly title IX, § 9526, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1982; renumbered title VIII, § 8526, and amended Pub. L. 114–95, title VIII, § 8001(a)(6), 8022, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112; Pub. L. 117–159, div. A, title III, § 13401, June 25, 2022, 136 Stat. 1338; Pub. L. 118–17, § 2, Oct. 6, 2023, 137 Stat. 102.)

Editorial Notes

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 former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2023—Par. (7). Pub. L. 118–17 inserted before period at end “, except that this paragraph shall not apply to the use of funds under this chapter for activities carried out under programs authorized by this chapter that are otherwise permissible under such programs and that provide students with educational instruction or educational enrichment activities, such as archery, hunting, other shooting sports, or culinary arts”.

2022—Par. (7). Pub. L. 117–159 added par. (7).

2015—Pub. L. 114–95, § 8022, substituted “Prohibited uses of funds” for “General prohibitions” in section catchline, in subsec. (a), struck out “(a) Prohibition” before introductory provisions, substituted “No funds under this chapter may be used” for “None of the funds authorized under this chapter shall be used” in introductory provisions, added pars. (1) and (2) and redesignated former pars. (1) to (4) as (3) to (6), respectively, and struck out subsec. (b). Prior to amendment, text of subsec. (b) read as follows: “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;

“(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.”

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.

§ 7906a. Prohibition against Federal mandates, direction, or control

(a) In general

No officer or employee of the Federal Government shall, through grants, contracts, or other cooperative agreements, mandate, direct, or control a State, local educational agency, or school’s specific instructional content, academic standards and assessments, curricula, or program of instruction developed and implemented to meet the requirements of this chapter (including any requirement, direction, or mandate to adopt the Common Core State Standards developed under the Common Core State Standards Initiative, any other academic standards common to a significant number of States, or any assessment, instructional content, or curriculum aligned to such standards), nor shall anything in this chapter be construed to authorize such officer or employee to do so.

(b) Financial support

No officer or employee of the Federal Government shall condition or incentivize the receipt of any grant, contract, or cooperative agreement, the receipt of any priority or preference under such grant, contract, or cooperative agreement, or the receipt of a waiver under section 7861 of this title upon a State, local educational agency, or school’s adoption or implementation of specific instructional content, academic standards and assessments, curricula, or program of instruction developed and implemented to meet the requirements of this chapter (including any condition, priority, or preference to adopt the Common Core State Standards developed under the Common Core State Standards Initiative, any other academic standards common to a significant number of States, or any assessment, instructional content, or curriculum aligned to such standards).

(Pub. L. 89–10, title VIII, § 8526A, as added Pub. L. 114–95, title VIII, § 8023, Dec. 10, 2015, 129 Stat. 2113.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 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, including through a grant, contract, or cooperative agreement, to mandate, direct, or control a State, local educational agen-

cy, 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 provision of Federal law, no funds provided to the Department under this chapter may be used by the Department, whether through a grant, contract, or cooperative agreement, to endorse, approve, develop, require, or sanction any curriculum, including any curriculum aligned to the Common Core State Standards developed under the Common Core State Standards Initiative or any other academic standards common to a significant number of States, designed to be used in an elementary school or secondary school.

(c) Local control

Nothing in this section shall be construed to—

(1) authorize an officer or employee of the Federal Government, whether through a grant, contract, or cooperative agreement 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.

(d) 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 standards approved or certified by the Federal Government, in order to receive assistance under this chapter.

(2) Rule of construction

Nothing in this chapter shall be construed to prohibit a State, local educational agency, or school from using funds provided under this chapter for the development or implementation of any instructional content, academic standards, academic assessments, curriculum, or program of instruction that a State, local educational agency, or school chooses, as permitted under State and local law, as long as the use of such funds is consistent with the terms of the grant, contract, or cooperative agreement providing such funds.

(3) 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 VIII, § 8527, formerly title IX, § 9527, as added Pub. L. 107-110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1983; renumbered title VIII, § 8527, and amended Pub. L. 114-95, title VIII, § 8001(a)(6), 8024, Dec. 10, 2015, 129 Stat. 2088, 2089, 2113.)

Editorial Notes

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (c)(2), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, 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 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 former subchapter IX of this chapter by Pub. L. 107-110.

AMENDMENTS

2015—Pub. L. 114-95, § 8024, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to prohibitions on Federal Government and use of Federal funds.

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.

§ 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, each local educational agency receiving assistance under this chapter shall provide, upon a request made by a military recruiter or an institution of higher education, access to the name, address, and telephone listing of each secondary school student served by the local educational agency, unless the parent of such student has submitted the prior consent request under paragraph (2).

(2) Consent

(A) Opt-out process

A parent of a secondary school student may submit a written request, to the local educational agency, that the student's name, address, and telephone listing not be released for purposes of paragraph (1) without prior written consent of the parent. Upon receiving such request, the local educational agency may not release the student's name, address, and telephone listing for such purposes without the prior written consent of the parent.

(B) Notification of opt-out process

Each local educational agency shall notify the parents of the students served by the agency of the option to make a request described in subparagraph (A).

(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 to institutions of higher education or to prospective employers of those students.

(4) Rule of construction prohibiting opt-in processes

Nothing in this subsection shall be construed to allow a local educational agency to withhold access to a student's name, address, and telephone listing from a military recruiter or institution of higher education by implementing an opt-in process or any other process other than the written consent request process under paragraph (2)(A).

(5) Parental consent

For purposes of this subsection, whenever a student has attained 18 years of age, the permission or consent required of and the rights accorded to the parents of the student shall only be required of and accorded to the student.

(b) Notification

The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after December 10, 2015, notify school leaders, 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.

(Pub. L. 89–10, title VIII, § 8528, formerly title IX, § 9528, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1983; renumbered title VIII, § 8528, and amended Pub. L. 114–95, title VIII, § 8001(a)(6), 8025, Dec. 10, 2015, 129 Stat. 2088, 2089, 2114.)

Editorial Notes

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 former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, § 8025, added subsecs. (a) to (c) and struck out former subsecs. (a) to (d) which related to policy regarding access to student recruiting information, notification of requirements of this section, exception for a private secondary school that maintains a religious objection to service in the Armed Forces, and special rule regarding Connecticut State law, respectively.

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.

§ 7909. Prohibition on federally sponsored testing

(a) General prohibition

Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided under this chapter to the

Secretary or to the recipient of any award may be used to develop, incentivize, 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, including any assessment or testing materials aligned to the Common Core State Standards developed under the Common Core State Standards Initiative or any other academic standards common to a significant number of States.

(b) Exceptions

Subsection (a) shall not apply to international comparative assessments developed under the authority of section 9543(a)(6) 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 VIII, § 8529, formerly 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; renumbered title VIII, § 8529, and amended Pub. L. 114–95, title VIII, § 8001(a)(6), 8026, Dec. 10, 2015, 129 Stat. 2088, 2089, 2115.)

Editorial Notes

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 former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, § 8026, amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating to general prohibition on federally sponsored testing and exceptions, respectively.

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

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.

§ 7910. Limitations on national testing or certification for teachers, principals, or other school leaders

(a) Mandatory national testing or certification of teachers, principals, or other school leaders

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, principals, other school leaders, or education paraprofessionals, including any planning, development, implementation, or administration of, or incentive regarding, 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 VIII, § 8530, formerly title IX, § 9530, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984; renumbered title VIII, § 8530, and amended Pub. L. 114–95, title VIII, §§ 8001(a)(6), 8027, Dec. 10, 2015, 129 Stat. 2088, 2089, 2116.)

Editorial Notes

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 former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95, § 8027(1), inserted “, principals, or other school leaders” after “teachers” in section catchline.

Subsec. (a). Pub. L. 114–95, § 8027(3), inserted “, principals, other school leaders,” after “teachers” and “, or incentive regarding,” after “administration of”.

Pub. L. 114–95, § 8027(2), which directed amendment of subsection heading by inserting “, principals, or other school leaders” after “teachers”, was executed by making the insertion in the heading of subsec. (a) to reflect the probable intent of Congress.

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.

§ 7910a. Prohibition on requiring State participation

Any State that opts out of receiving funds, or that has not been awarded funds, under one or more programs under this chapter shall not be required to carry out any of the requirements of such program or programs, and nothing in this chapter shall be construed to require a State to participate in any program under this chapter.

(Pub. L. 89–10, title VIII, § 8530A, as added Pub. L. 114–95, title VIII, § 8028, Dec. 10, 2015, 129 Stat. 2116.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 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 VIII, § 8531, formerly title IX, § 9531, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984; renumbered title VIII, § 8531, Pub. L. 114–95, title VIII, § 8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

Editorial Notes

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 former subchapter IX of this chapter by Pub. L. 107–110.

§ 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 VIII, § 8532, formerly title IX, § 9532, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984; renumbered title VIII, § 8532, Pub. L. 114–95, title VIII, § 8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

Editorial Notes

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 former subchapter IX of this chapter by Pub. L. 107–110.

§ 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 VIII, § 8533, formerly title IX, § 9533, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985; renumbered title VIII, § 8533, Pub. L. 114–95, title VIII, § 8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§ 7914. Civil rights

(a) In general

Nothing in this chapter shall be construed to permit discrimination on the basis of race,

color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), national origin, or disability in any program funded under this chapter.

(b) Rule of construction

Nothing in this chapter shall be construed to require the disruption of services to a child or the displacement of a child enrolled in or participating in a program administered by an eligible entity, as defined in section 6311(d) of this title and part C of subchapter IV, at the commencement of the entity's participation in a grant under section 6311(d) of this title or part C of subchapter IV.

(Pub. L. 89–10, title VIII, § 8534, formerly title IX, § 9534, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985; renumbered title VIII, § 8534, and amended Pub. L. 114–95, title VIII, § 8001(a)(6), 8029, Dec. 10, 2015, 129 Stat. 2088, 2089, 2116.)

Editorial Notes

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (a), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. 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 this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–95, § 8029, substituted “as defined in section 6311(d) of this title and part C of subchapter IV” for “as defined in section 6316 of this title and part B of subchapter V” and “grant under section 6311(d) of this title or part C of subchapter IV” for “grant under section 6316 of this title or part B of subchapter V”.

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.

§ 7915. Rulemaking

The Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

(Pub. L. 89–10, title VIII, § 8535, formerly title IX, § 9535, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985; renumbered title VIII, § 8535, Pub. L. 114–95, title VIII, § 8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§ 7916. Severability

If any provision of this chapter is held invalid, the remainder of this chapter shall be unaffected thereby.

(Pub. L. 89–10, title VIII, § 8536, formerly title IX, § 9536, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985; renumbered title VIII,

§ 8536, Pub. L. 114–95, title VIII, § 8001(a)(6), Dec. 10, 2015, 129 Stat. 2088, 2089.)

§ 7917. Transfer of school disciplinary records

(a) Nonapplication of provisions

This section shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level.

(b) Disciplinary records

In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), not later than 2 years after January 8, 2002, each State receiving Federal funds under this chapter shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.

(Pub. L. 89–10, title VIII, § 8537, formerly title IV, § 4155, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765; renumbered title IX, § 9537, renumbered title VIII, § 8537, Pub. L. 114–95, title IV, § 4001(a)(3), title VIII, § 8001(a)(6), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

Editorial Notes

REFERENCES IN TEXT

The Family Educational Rights and Privacy Act of 1974, referred to in subsec. (b), is section 513 of Pub. L. 93–380, title V, Aug. 21, 1974, 88 Stat. 571, which enacted section 1232g of this title and provisions set out as notes under sections 1221 and 1232g of this title. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 1221 of this title and Tables.

CODIFICATION

Section was classified to section 7165 of this title prior to renumbering by Pub. L. 114–95.

§ 7918. Consultation with Indian tribes and tribal organizations

(a) In general

To ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students, an affected local educational agency shall consult with appropriate officials from Indian tribes or tribal organizations approved by the tribes located in the area served by the local educational agency prior to the affected local educational agency's submission of a required plan or application for a covered program under this chapter or for a program under subchapter VI of this chapter. Such consultation shall be done in a manner and in such time that provides the opportunity for such appropriate officials from Indian tribes or tribal organizations to meaningfully and substantively contribute to such plan.

(b) Documentation

Each affected local educational agency shall maintain in the agency's records and provide to

the State educational agency a written affirmation signed by the appropriate officials of the participating tribes or tribal organizations approved by the tribes that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the affected local educational agency shall forward documentation that such consultation has taken place to the State educational agency.

(c) Definitions

In this section:

(1) Affected local educational agency

The term “affected local educational agency” means a local educational agency—

(A) with an enrollment of American Indian or Alaska Native students that is not less than 50 percent of the total enrollment of the local educational agency; or

(B) that—

(i) for fiscal year 2017, received a grant in the previous year under subpart 1 of part A of title VII¹ (as such subpart was in effect on the day before December 10, 2015) that exceeded \$40,000; or

(ii) for any fiscal year following fiscal year 2017, received a grant in the previous fiscal year under subpart 1 of part A of subchapter VI that exceeded \$40,000.

(2) Appropriate officials

The term “appropriate officials” means—

(A) tribal officials who are elected; or

(B) appointed tribal leaders or officials designated in writing by an Indian tribe for the specific consultation purpose under this section.

(d) Rule of construction

Nothing in this section shall be construed—

(1) to require the local educational agency to determine who are the appropriate officials; or

(2) to make the local educational agency liable for consultation with appropriate officials that the tribe determines not to be the correct appropriate officials.

(e) Limitation

Consultation required under this section shall not interfere with the timely submission of the plans or applications required under this chapter.

(Pub. L. 89–10, title VIII, §8538, as added Pub. L. 114–95, title VIII, §8030, Dec. 10, 2015, 129 Stat. 2116.)

Editorial Notes

REFERENCES IN TEXT

Subpart 1 of part A of title VII (as such subpart was in effect on the day before December 10, 2015), referred to in subsec. (c)(1)(B)(i), means subpart 1 of part A of title VII of Pub. L. 89–10, which was classified generally to subpart 1 (§7421 et seq.) of part A of subchapter VII of this chapter prior to being redesignated as subpart 1 of part A of title VI of Pub. L. 89–10 and amended by Pub. L. 114–95, title VI, §§6001(a), 6002(c)–(j), Dec. 10, 2015, 129 Stat. 2046–2049, 2052–2054, and transferred to subpart 1 (§7421 et seq.) of part A of subchapter VI of this chapter.

¹ See References in Text note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7919. Outreach and technical assistance for rural local educational agencies

(a) Outreach

The Secretary shall engage in outreach to rural local educational agencies regarding opportunities to apply for competitive grant programs under this chapter.

(b) Technical assistance

If requested to do so, the Secretary shall provide technical assistance to rural local educational agencies with locale codes 32, 33, 41, 42, or 43, or an educational service agency representing rural local educational agencies with locale codes 32, 33, 41, 42, or 43 on applications or pre-applications for any competitive grant program under this chapter. No rural local educational agency or educational service agency shall be required to request technical assistance or include any technical assistance provided by the Secretary in any application.

(Pub. L. 89–10, title VIII, §8539, as added Pub. L. 114–95, title VIII, §8031, Dec. 10, 2015, 129 Stat. 2117.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7920. Consultation with the Governor

(a) In general

A State educational agency shall consult in a timely and meaningful manner with the Governor, or appropriate officials from the Governor’s office, in the development of State plans under subchapters I and II and section 7842 of this title.

(b) Timing

The consultation described in subsection (a) shall include meetings of officials from the State educational agency and the Governor’s office and shall occur—

(1) during the development of such plan; and

(2) prior to submission of the plan to the Secretary.

(c) Joint signature authority

A Governor shall have 30 days prior to the State educational agency submitting the State plan under subchapter I or II or section 7842 of this title to the Secretary to sign such plan. If the Governor has not signed the plan within 30 days of delivery by the State educational agency to the Governor, the State educational agency shall submit the plan to the Secretary without such signature.

(Pub. L. 89–10, title VIII, §8540, as added Pub. L. 114–95, title VIII, §8032, Dec. 10, 2015, 129 Stat. 2118.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7921. Local governance

(a) Rule of construction

Nothing in this chapter shall be construed to allow the Secretary to—

- (1) exercise any governance or authority over school administration, including the development and expenditure of school budgets, unless otherwise authorized under this chapter;
- (2) issue any regulation without first complying with the rulemaking requirements of section 553 of title 5; or
- (3) issue any nonregulatory guidance without first, to the extent feasible, considering input from stakeholders.

(b) Authority under other law

Nothing in subsection (a) shall be construed to affect any authority the Secretary has under any other Federal law.

(Pub. L. 89–10, title VIII, §8541, as added Pub. L. 114–95, title VIII, §8033, Dec. 10, 2015, 129 Stat. 2118.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7922. Rule of construction regarding travel to and from school

(a) In general

Subject to subsection (b), nothing in this chapter shall authorize the Secretary to, or shall be construed to—

- (1) prohibit a child from traveling to and from school on foot or by car, bus, or bike when the parents of the child have given permission; or
- (2) expose parents to civil or criminal charges for allowing their child to responsibly and safely travel to and from school by a means the parents believe is age appropriate.

(b) No preemption of State or local laws

Notwithstanding subsection (a), nothing in this section shall be construed to preempt State or local laws.

(Pub. L. 89–10, title VIII, §8542, as added Pub. L. 114–95, title VIII, §8034, Dec. 10, 2015, 129 Stat. 2118.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive pro-

grams, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7923. Limitations on school-based health centers

Notwithstanding section 7802 of this title, funds used for activities under this chapter shall be carried out in accordance with the provision of section 280h–5(a)(3)(C) of title 42.

(Pub. L. 89–10, title VIII, §8543, as added Pub. L. 114–95, title VIII, §8035, Dec. 10, 2015, 129 Stat. 2119.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7924. State control over standards

(a) In general

Nothing in this chapter shall be construed to prohibit a State from withdrawing from the Common Core State Standards or from otherwise revising their standards.

(b) Prohibition

No officer or employee of the Federal Government shall, directly or indirectly, through grants, contracts or other cooperative agreements, through waiver granted under section 7861 of this title or through any other authority, take any action against a State that exercises its rights under subsection (a).

(Pub. L. 89–10, title VIII, §8544, as added Pub. L. 114–95, title VIII, §8036, Dec. 10, 2015, 129 Stat. 2119.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7925. Sense of Congress on protecting student privacy

(a) Findings

The Congress finds as follows:

- (1) Students' personally identifiable information is important to protect.
- (2) Students' information should not be shared with individuals other than school officials in charge of educating those students without clear notice to parents.
- (3) With the use of more technology, and more research about student learning, the responsibility to protect students' personally identifiable information is more important than ever.
- (4) Regulations allowing more access to students' personal information could allow that information to be shared or sold by individuals who do not have the best interest of the students in mind.

(5) The Secretary has the responsibility to ensure every entity that receives funding under this chapter holds any personally identifiable information in strict confidence.

(b) Sense of Congress

It is the sense of the Congress that the Secretary should review all regulations addressing issues of student privacy, including those under this chapter, and ensure that students' personally identifiable information is protected.

(Pub. L. 89–10, title VIII, §8545, as added Pub. L. 114–95, title VIII, §8037, Dec. 10, 2015, 129 Stat. 2119.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7926. Prohibition on aiding and abetting sexual abuse

(a) In general

A State, State educational agency, or local educational agency in the case of a local educational agency that receives Federal funds under this chapter shall have laws, regulations, or policies that prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

(b) Exception

The requirements of subsection (a) shall not apply if the information giving rise to probable cause—

(1)(A) has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and

(B) has been properly reported to any other authorities as required by Federal, State, or local law, including title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under part 106 of title 34, Code of Federal Regulations, or any succeeding regulations; and

(2)(A) the matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law;

(B) the school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of the alleged misconduct; or

(C) the case or investigation remains open and there have been no charges filed against,

or indictment of, the school employee, contractor, or agent within 4 years of the date on which the information was reported to a law enforcement agency.

(c) Prohibition

The Secretary shall not have the authority to mandate, direct, or control the specific measures adopted by a State, State educational agency, or local educational agency under this section.

(d) Construction

Nothing in this section shall be construed to prevent a State from adopting, or to override a State law, regulation, or policy that provides, greater or additional protections to prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee who engaged in sexual misconduct regarding a minor or student in violation of the law in obtaining a new job.

(Pub. L. 89–10, title VIII, §8546, as added Pub. L. 114–95, title VIII, §8038, Dec. 10, 2015, 129 Stat. 2120.)

Editorial Notes

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (b)(1)(B), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. 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 this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7927. Sense of Congress on restoration of State sovereignty over public education

It is the Sense of Congress that State and local officials should be consulted and made aware of the requirements that accompany participation in activities authorized under this chapter prior to a State or local educational agency's request to participate in such activities.

(Pub. L. 89–10, title VIII, §8547, as added Pub. L. 114–95, title VIII, §8039, Dec. 10, 2015, 129 Stat. 2121.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7928. Privacy

The Secretary shall require an assurance that each grantee receiving funds under this chapter

understands the importance of privacy protections for students and is aware of the responsibilities of the grantee under section 1232g of this title (commonly known as the “Family Education Rights and Privacy Act of 1974”).

(Pub. L. 89–10, title VIII, §8548, as added Pub. L. 114–95, title VIII, §8040, Dec. 10, 2015, 129 Stat. 2121.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7929. Analysis and periodic review of departmental guidance

The Secretary shall develop procedures for the approval and periodic review of significant guidance documents that include—

- (1) appropriate approval processes within the Department;
- (2) appropriate identification of the agency or office issuing the documents, the activities to which and the persons to whom the documents apply, and the date of issuance;
- (3) a publicly available list to identify those significant guidance documents that were issued, revised, or withdrawn within the past year; and
- (4) an opportunity for the public to request that an agency modify or rescind an existing significant guidance document.

(Pub. L. 89–10, title VIII, §8549, as added Pub. L. 114–95, title VIII, §8041, Dec. 10, 2015, 129 Stat. 2121.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7930. Sense of Congress

(a) Findings

The Congress finds as follows:

- (1) This chapter prohibits the Federal Government from mandating, directing, or controlling a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State and local resources, and from mandating a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

- (2) This chapter prohibits the Federal Government from funding the development, pilot testing, field testing, implementation, administration, or distribution of any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(b) Sense of Congress

It is the sense of the Congress that States and local educational agencies retain the rights and

responsibilities of determining educational curriculum, programs of instruction, and assessments for elementary and secondary education.

(Pub. L. 89–10, title VIII, §8549A, as added Pub. L. 114–95, title VIII, §8041, Dec. 10, 2015, 129 Stat. 2121.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7931. Sense of Congress on early learning and child care

It is the Sense of the Congress that a State retains the right to make decisions, free from Federal intrusion, concerning its system of early learning and child care, and whether or not to use funding under this chapter to offer early childhood education programs. Such systems should continue to include robust choice for parents through a mixed delivery system of services so parents can determine the right early learning and child care option for their children. States, while protecting the rights of early learning and child care providers, retain the right to make decisions that shall include the age at which to set compulsory attendance in school, the content of a State’s early learning guidelines, and how to determine quality in programs.

(Pub. L. 89–10, title VIII, §8549B, as added Pub. L. 114–95, title VIII, §8041, Dec. 10, 2015, 129 Stat. 2122.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7931, Pub. L. 89–10, title IX, §9301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3805, set forth short title of the Alaska Native Educational Equity, Support and Assistance Act, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7932. Technical assistance

If requested by a State or local educational agency, a regional educational laboratory under part D of the Education Sciences Reform Act of 2002 (20 U.S.C. 9561 et seq.) shall provide technical assistance to such State or local educational agency in meeting the requirements of section 7801(21) of this title.

(Pub. L. 89–10, title VIII, §8549C, as added Pub. L. 114–95, title VIII, §8041, Dec. 10, 2015, 129 Stat. 2122.)

Editorial Notes

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in text, is title I of Pub. L. 107-279, Nov. 5, 2002, 116 Stat. 1941. Part D of the Act is classified generally to part D (§9561 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

PRIOR PROVISIONS

A prior section 7932, Pub. L. 89-10, title IX, §9302, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3805, set forth findings, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107-110.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7933. Preventing improper use of taxpayer funds

To address the misuse of taxpayer funds, the Secretary of Education shall—

(1) require that each recipient of a grant or subgrant under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) display, in a public place, the hotline contact information of the Office of Inspector General of the Department of Education so that any individual who observes, detects, or suspects improper use of taxpayer funds can easily report such improper use;

(2) annually notify employees of the Department of Education of their responsibility to report fraud; and

(3) require any applicant—

(A) for a grant under such Act to provide an assurance to the Secretary that any information submitted when applying for such grant and responding to monitoring and compliance reviews is truthful and accurate; and

(B) for a subgrant under such Act to provide the assurance described in subparagraph (A) to the entity awarding the subgrant.

(Pub. L. 114-95, title IX, §9203, Dec. 10, 2015, 129 Stat. 2138.)

Editorial Notes

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965 and such Act, referred to in pars. (1) and (3), are Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Every Student Succeeds Act, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

PRIOR PROVISIONS

A prior section 7933, Pub. L. 89-10, title IX, §9303, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat.

3806, stated purpose of former part C of subchapter IX of this chapter, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107-110.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 7934. Accountability to taxpayers through monitoring and oversight

To improve monitoring and oversight of taxpayer funds authorized for appropriation under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and to deter and prohibit waste, fraud, and abuse with respect to such funds, the Secretary of Education shall—

(1) notify each recipient of a grant under such Act (and, if applicable, require the grantee to inform each subgrantee) of its responsibility to—

(A) comply with all monitoring requirements under the applicable program or programs; and

(B) monitor properly any subgrantee under the applicable program or programs;

(2) review and analyze the results of monitoring and compliance reviews—

(A) to understand trends and identify common issues; and

(B) to issue guidance to help grantees address such issues before the loss or misuse of taxpayer funding occurs;

(3) publicly report the work undertaken by the Secretary to prevent fraud, waste, and abuse with respect to such taxpayer funds; and

(4) work with the Office of Inspector General of the Department of Education, as needed, to help ensure that employees of the Department understand how to adequately monitor grantees and to help grantees adequately monitor any subgrantees.

(Pub. L. 114-95, title IX, §9204, Dec. 10, 2015, 129 Stat. 2138.)

Editorial Notes

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965 and such Act, referred to in text, are Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Every Student Succeeds Act, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

PRIOR PROVISIONS

Prior sections 7934 to 7938 were omitted in the general amendment of former subchapter IX of this chapter by Pub. L. 107-110.

Section 7934, Pub. L. 89-10, title IX, §9304, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3806, related to Alaska Native educational planning, cur-

riculum development, and teacher training and recruitment programs.

Section 7935, Pub. L. 89–10, title IX, §9305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3807, related to Alaska Native home based education for preschool children.

Section 7936, Pub. L. 89–10, title IX, §9306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3808, related to Alaska Native student enrichment programs.

Section 7937, Pub. L. 89–10, title IX, §9307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3809, set forth administrative provisions.

Section 7938, Pub. L. 89–10, title IX, §9308, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3809, defined terms.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBPART 3—TEACHER LIABILITY PROTECTION

Editorial Notes

CODIFICATION

Pub. L. 114–95, title II, §2001(a)(3)(A)–(C), title VIII, §8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089, redesignated subpart 5 (§6731 et seq.) of part C of subchapter II of this chapter as subpart 3 of part F of this subchapter.

§ 7941. Short title

This subpart may be cited as the “Paul D. Coverdell Teacher Protection Act of 2001”.

(Pub. L. 89–10, title VIII, §8551, formerly title II, §2361, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667; renumbered title IX, §9541, renumbered title VIII, §8551, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

Editorial Notes

CODIFICATION

Section was classified to section 6731 of this title prior to renumbering by Pub. L. 114–95.

PRIOR PROVISIONS

A prior section 7941, Pub. L. 89–10, title IX, §9601, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1985, which related to evaluations, was renumbered section 8601 of title VIII of Pub. L. 89–10 by Pub. L. 114–95, title VIII, §8001(a)(10), Dec. 10, 2015, 129 Stat. 2088, 2089, and transferred to section 7981 of this title.

§ 7942. Purpose

The purpose of this subpart is to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

(Pub. L. 89–10, title VIII, §8552, formerly title II, §2362, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667; renumbered title IX, §9542, renumbered title VIII, §8552, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

Editorial Notes

CODIFICATION

Section was classified to section 6732 of this title prior to renumbering by Pub. L. 114–95.

§ 7943. Definitions

For purposes of this subpart:

(1) Economic loss

The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) Harm

The term “harm” includes physical, non-physical, economic, and noneconomic losses.

(3) Noneconomic loss

The term “noneconomic loss” means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society or companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, or any other nonpecuniary loss of any kind or nature.

(4) School

The term “school” means a public or private kindergarten, a public or private elementary school or secondary school, or a home school.

(5) State

The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) Teacher

The term “teacher” means—

(A) a teacher, instructor, principal, or administrator;

(B) another educational professional who works in a school;

(C) a professional or nonprofessional employee who—

(i) works in a school; and

(ii)(I) in the employee’s job, maintains discipline or ensures safety; or

(II) in an emergency, is called on to maintain discipline or ensure safety; or

(D) an individual member of a school board (as distinct from the board).

(Pub. L. 89–10, title VIII, §8553, formerly title II, §2363, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1667; renumbered title IX, §9543, renumbered title VIII, §8553, Pub. L. 114–95, title II, §2001(a)(3)(A), (B), (D), title VIII, §8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

Editorial Notes

CODIFICATION

Section was classified to section 6733 of this title prior to renumbering by Pub. L. 114–95.