

PART C—MISCELLANEOUS PROVISIONS

§ 1871. State laws and regulations

This chapter is intended to supplement State law, and compliance with this chapter shall not excuse any person from compliance with appropriate State law and regulation.

(Pub. L. 97-470, title V, §521, Jan. 14, 1983, 96 Stat. 2599.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days from Jan. 14, 1983, see section 524 of Pub. L. 97-470, set out as a note under section 1801 of this title.

§ 1872. Transition provision

The Secretary may deny a certificate of registration to any farm labor contractor, as defined in this chapter, who has a judgment outstanding against him under the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.), or is subject to a final order of the Secretary under that Act assessing a civil money penalty which has not been paid. Any findings under the Farm Labor Contractor Registration Act of 1963 may also be applicable to determinations of willful and knowing violations under this chapter.

(Pub. L. 97-470, title V, §522, Jan. 14, 1983, 96 Stat. 2599.)

Editorial Notes

REFERENCES IN TEXT

The Farm Labor Contractor Registration Act of 1963, referred to in text, is Pub. L. 88-582, Sept. 7, 1964, 78 Stat. 920, which was classified generally to chapter 52 (§2041 et seq.) of Title 7, Agriculture, and was repealed by Pub. L. 97-470, title V, §523, Jan. 14, 1983, 96 Stat. 2600. See section 1801 et seq. of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days from Jan. 14, 1983, see section 524 of Pub. L. 97-470, set out as a note under section 1801 of this title.

CHAPTER 21—HELEN KELLER NATIONAL CENTER FOR YOUTHS AND ADULTS WHO ARE DEAF-BLIND

Sec.	
1901.	Congressional findings.
1902.	Continued operation of Center.
1903.	Audit; monitoring and evaluation.
1904.	Authorization of appropriations.
1905.	Definitions.
1906.	Construction; effect on agreements.
1907.	Helen Keller National Center Federal Endowment Fund.
1908.	Registry.

§ 1901. Congressional findings

The Congress finds that—

(1) deaf-blindness is among the most severe of all forms of disabilities, and there is a great and continuing need for services and training to help individuals who are deaf-blind attain the highest possible level of development;

(2) due to the rubella epidemic of the 1960's, the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing, and recent advances in medical technology that have sustained the lives of many severely disabled individuals, including individuals who are deaf-blind, who might not otherwise have survived, the need for services for individuals who are deaf-blind is even more pressing now than in the past;

(3) helping individuals who are deaf-blind to become self-sufficient, independent, and employable by providing the services and training necessary to accomplish that end will benefit the Nation, both economically and socially;

(4) the Helen Keller National Center for Youths and Adults who are Deaf-Blind is a vital national resource for meeting the needs of individuals who are deaf-blind and no State currently has the facilities or personnel to meet such needs;

(5) the Federal Government has made a substantial investment in capital, equipment, and operating funds for such Center since it was established; and

(6) it is in the national interest to continue to provide support for the Center, and it is a proper function of the Federal Government to be the primary source of such support.

(Pub. L. 98-221, title II, §202, Feb. 22, 1984, 98 Stat. 32; Pub. L. 102-569, title IX, §§901, 908(a), (c)(1), Oct. 29, 1992, 106 Stat. 4482, 4485, 4486.)

Editorial Notes

PRIOR PROVISIONS

Provisions for the establishment, operation, and funding of the Helen Keller National Center for Deaf-Blind Youths and Adults, similar to those comprising this chapter, were contained in section 777c of this title prior to the repeal of that section and the enactment of this chapter by Pub. L. 98-221. Prior thereto provisions similar to those comprising this chapter and authorizing appropriations for fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, Sept. 30, 1977, and Sept. 30, 1978, for the establishment of the Helen Keller National Center for Deaf-Blind Youths and Adults were contained in former section 305 of Pub. L. 93-112, title III, Sept. 26, 1973, 87 Stat. 383, as amended by Pub. L. 93-516, title I, §107, Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93-651, title I, §107, Nov. 21, 1974, 89 Stat. 2-4; Pub. L. 94-230, §§7, 11(b)(10), Mar. 15, 1976, 90 Stat. 212, 213; Pub. L. 94-288, §§1, 2, May 21, 1976, 90 Stat. 520, which was classified to section 775 of this title. Section 109(1) of Pub. L. 95-602 redesignated former section 305 as section 313 of Pub. L. 93-112. Section 313 of Pub. L. 93-112, as amended generally by section 116(2) of Pub. L. 95-602, was classified to section 777c of this title.

Prior similar provisions were also contained in former section 42a of this title.

AMENDMENTS

1992—Par. (1). Pub. L. 102-569, §908(a), substituted “individuals who are deaf-blind” for “deaf-blind individuals”.

Par. (2). Pub. L. 102-569, §§901(1), 908(a), inserted “, the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing,” after “1960's” and substituted “individuals who are deaf-blind” for “deaf-blind individuals” in two places.

Par. (3). Pub. L. 102-569, §908(a), substituted “individuals who are deaf-blind” for “deaf-blind individuals”.

Par. (4). Pub. L. 102-569, §908(a), (c)(1), substituted “Youths and Adults who are Deaf-Blind” for “Deaf-Blind Youths and Adults” and “individuals who are deaf-blind” for “deaf-blind individuals”.

Par. (5). Pub. L. 102-569, §901(2), substituted “made a substantial investment” for “invested approximately \$10,000,000”.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 98-221, title II, §201, Feb. 22, 1984, 98 Stat. 32, provided that: “This title [enacting this chapter, amending section 777 of this title, and repealing section 777c of this title] may be cited as the ‘Helen Keller National Center Act’.”

§ 1902. Continued operation of Center

(a) Administration by Secretary of Education

The Secretary of Education shall continue to administer and support the Helen Keller National Center for Youths and Adults who are Deaf-Blind in the same manner as such Center was administered prior to February 22, 1984, to the extent such manner of administration is not inconsistent with any purpose described in subsection (b) or any other requirement of this chapter.

(b) Purposes of Center

The purposes of the Center are to—

(1) provide specialized intensive services, or any other services, at the Center or anywhere else in the United States, which are necessary to encourage the maximum personal development of any individual who is deaf-blind;

(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;

(3) train professionals and allied personnel at the Center or anywhere else in the United States to provide services to individuals who are deaf-blind; and

(4) conduct applied research, development programs, and demonstrations with respect to communication techniques, teaching methods, aids and devices, and delivery of services.

(Pub. L. 98-221, title II, §203, Feb. 22, 1984, 98 Stat. 33; Pub. L. 102-569, title IX, §§902, 908, Oct. 29, 1992, 106 Stat. 4482, 4485.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title II of Pub. L. 98-221, Feb. 22, 1984, 98 Stat. 32, which is classified generally to this chapter (§1901 et seq.). For complete classification of this title to the Code, see Short Title note set out under section 1901 of this title and Tables. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 701 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102-569, §908(c)(2), amended section catchline.

Subsec. (a). Pub. L. 102-569, §§902(1)–(3), 908(c)(1), redesignated subsec. (b) as (a), substituted “Youths and Adults who are Deaf-Blind” for “Deaf-Blind Youths and

Adults”, “prior to February 22, 1984” for “pursuant to section 313 of the Rehabilitation Act of 1973”, and “subsection (b)” for “subsection (c)”, and struck out former subsec. (a) which repealed section 777c of this title.

Subsecs. (b), (c). Pub. L. 102-569, §§902(2), (4), 908(a), (b), redesignated subsec. (c) as (b), substituted “individual who is deaf-blind” for “deaf-blind individual” in par. (1), added par. (2), redesignated former par. (2) as (3) and substituted “individuals who are deaf-blind” for “deaf-blind individuals”, and redesignated former par. (3) as (4). Former subsec. (b) redesignated (a).

§ 1903. Audit; monitoring and evaluation

(a) The books and accounts of the Center shall be audited annually by an independent auditor in the manner prescribed by the Secretary and a report on each such audit shall be submitted by the auditor to the Secretary within 15 days following the completion of the audit and acceptance of the audit by the Center.

(b)(1) The Secretary shall establish procedures for monitoring, on a regular basis, the services performed and the training conducted by the Center.

(2) The Secretary shall, in addition to the regular monitoring required under paragraph (1), conduct an evaluation of the operation of the Center at the end of each fiscal year. A written report of such evaluation shall be submitted to the President, the Clerk of the House of Representatives, and the Secretary of the Senate within one hundred and eighty days after the end of the fiscal year for which such evaluation was conducted. The first such report shall be submitted for fiscal year 1983.

(Pub. L. 98-221, title II, §204, Feb. 22, 1984, 98 Stat. 33; Pub. L. 102-569, title IX, §903, Oct. 29, 1992, 106 Stat. 4482.)

Editorial Notes

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-569 substituted “within 15 days following the completion of the audit and acceptance of the audit by the Center” for “at such time as the Secretary shall prescribe”.

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b)(2) of this section relating to submitting a written report to the Clerk of the House of Representatives and the Secretary of the Senate, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 81 of House Document No. 103-7.

§ 1904. Authorization of appropriations

(a) There are authorized to be appropriated to carry out the provisions of this chapter such sums as may be necessary for each of the fiscal years 1999 through 2003. Such sums shall remain available until expended.

(b) Any appropriation Act containing any appropriation authorized by subsection (a) shall contain a statement of the specific amount being made available to the Center.

(Pub. L. 98-221, title II, §205, Feb. 22, 1984, 98 Stat. 33; Pub. L. 99-506, title IX, §901, Oct. 21, 1986, 100 Stat. 1840; Pub. L. 100-630, title V, §501, Nov. 7, 1988, 102 Stat. 3317; Pub. L. 102-52, §9(a),

June 6, 1991, 105 Stat. 263; Pub. L. 102-569, title IX, §904, Oct. 29, 1992, 106 Stat. 4482; Pub. L. 105-220, title IV, §412(a), Aug. 7, 1998, 112 Stat. 1241.)

Editorial Notes

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-220 substituted “1999 through 2003” for “1993 through 1997”.

1992—Subsec. (a). Pub. L. 102-569 substituted “1993 through 1997” for “1987 through 1992”.

1991—Subsec. (a). Pub. L. 102-52 substituted “1992” for “1991”.

1988—Subsec. (a). Pub. L. 100-630 substituted “1991” for “1990”.

1986—Subsec. (a). Pub. L. 99-506 amended first sentence generally. Prior to amendment, first sentence read as follows: “There are authorized to be appropriated \$4,000,000 for the fiscal year 1984, \$4,200,000 for the fiscal year 1985, and \$4,300,000 for the fiscal year 1986 to carry out the provisions of this chapter.”

§ 1905. Definitions

For purposes of this chapter—

(1) the terms “Helen Keller National Center for Youths and Adults who are Deaf-Blind” and “Center” mean the Helen Keller National Center for Youths and Adults who are Deaf-Blind, and its affiliated network, operated pursuant to this chapter;

(2) the term “individual who is deaf-blind” means any individual—

(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

(C) meets such other requirements as the Secretary may prescribe by regulation; and

(3) the term “Secretary” means the Secretary of Education.

(Pub. L. 98-221, title II, §206, Feb. 22, 1984, 98 Stat. 34; Pub. L. 102-569, title IX, §§905, 908(c)(1), Oct. 29, 1992, 106 Stat. 4482, 4486.)

Editorial Notes

AMENDMENTS

1992—Par. (1). Pub. L. 102-569, §§905(1), 908(c)(1), substituted “Youths and Adults who are Deaf-Blind” for

“Deaf-Blind Youths and Adults” in two places and struck out “section 313 of the Rehabilitation Act of 1973 and continued under” after “operated pursuant to”.

Par. (2). Pub. L. 102-569, §905(2), amended par. (2) generally, substituting present provisions for provisions defining “deaf-blind individual”.

§ 1906. Construction; effect on agreements

This chapter shall not be construed as modifying or affecting any agreement between the Department of Education or any other department or agency of the United States and the Helen Keller Services for the Blind, Incorporated, or any successor to or assignee of such corporation, with respect to the Center.

(Pub. L. 98-221, title II, §207, Feb. 22, 1984, 98 Stat. 34; Pub. L. 102-569, title IX, §906, Oct. 29, 1992, 106 Stat. 4483.)

Editorial Notes

AMENDMENTS

1992—Pub. L. 102-569 substituted “Helen Keller Services for the Blind, Incorporated” for “Industrial Home for the Blind, Incorporated”.

§ 1907. Helen Keller National Center Federal Endowment Fund

(a) Establishment

The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the “Endowment Fund”) in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) Federal payments

(1) In general

The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

(2) Amount of payment

Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

(c) Investments

(1) In general

The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person’s own business affairs.

(2) Limitations

(A) Federally insured investments and other investments

The Endowment Fund corpus and income shall be invested in federally insured bank

savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York.

(B) Real estate

The Endowment Fund corpus and income may not be invested in real estate.

(C) Conflict of interest

The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

(D) Encumbrances

The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

(d) Withdrawals and expenditures

(1) In general

For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

(2) Operational and commercial expenses

(A) In general

The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

(B) Limitation

The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

(3) Limitations and waiver of limitations

(A) In general

Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

(B) Exception

The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

- (i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

- (ii) a life-threatening situation occasioned by a natural disaster or arson; or
- (iii) another unusual occurrence or exigent circumstance.

(e) Reporting requirements

(1) Financial records

The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

(2) Audit and report

(A) Audit

The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 1903(a) of this title.

(B) Report

The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

(3) Annual report

Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

(f) Recovery of payments

After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

(g) Definitions

For the purposes of this section:

(1) Endowment fund

The term “endowment fund” means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

(2) Endowment Fund corpus

The term “Endowment Fund corpus” means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

(3) Endowment Fund income

The term “Endowment Fund income” means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1999 through 2003. Such sums shall remain available until expended.

(Pub. L. 98-221, title II, §208, as added Pub. L. 102-569, title IX, §907, Oct. 29, 1992, 106 Stat. 4483; amended Pub. L. 105-220, title IV, §412(b), Aug. 7, 1998, 112 Stat. 1241.)

Editorial Notes**AMENDMENTS**

1998—Subsec. (h). Pub. L. 105-220 substituted “1999 through 2003” for “1993 through 1997”.

§ 1908. Registry**(a) In general**

To assist the Center in providing services to individuals who are deaf-blind, the Center may establish and maintain registries of such individuals in each of the regional field offices of the network of the Center.

(b) Voluntary provision of information

No individual who is deaf-blind may be required to provide information to the Center for any purpose with respect to a registry established under subsection (a).

(c) Nondisclosure

The Center (including the network of the Center) may not disclose information contained in a registry established under subsection (a) to any individual or organization that is not affiliated with the Center, unless the individual to whom the information relates provides specific written authorization for the Center to disclose the information.

(d) Privacy rights

The requirements of section 552a of title 5 (commonly known as the “Privacy Act of 1974”) shall apply to personally identifiable information contained in the registries established by the Center under subsection (a), in the same manner and to the same extent as such requirements apply to a record of an agency.

(e) Removal of information

On the request of an individual, the Center shall remove all information relating to the individual from any registry established under subsection (a).

(Pub. L. 98-221, title II, §209, as added Pub. L. 105-220, title IV, §412(c), Aug. 7, 1998, 112 Stat. 1241.)

CHAPTER 22—EMPLOYEE POLYGRAPH PROTECTION

Sec.	Definitions.
2001.	Definitions.
2002.	Prohibitions on lie detector use.
2003.	Notice of protection.
2004.	Authority of Secretary.
2005.	Enforcement provisions.
2006.	Exemptions.
2007.	Restrictions on use of exemptions.
2008.	Disclosure of information.
2009.	Effect on other law and agreements.

§ 2001. Definitions

As used in this chapter:

(1) Commerce

The term “commerce” has the meaning provided by section 203(b) of this title.

(2) Employer

The term “employer” includes any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.

(3) Lie detector

The term “lie detector” includes a polygraph, deceptionograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(4) Polygraph

The term “polygraph” means an instrument that—

(A) records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(B) is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(5) Secretary

The term “Secretary” means the Secretary of Labor.

(Pub. L. 100-347, §2, June 27, 1988, 102 Stat. 646.)

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Pub. L. 100-347, §11, June 27, 1988, 102 Stat. 653, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this Act [enacting this chapter] shall become effective 6 months after the date of enactment of this Act [June 27, 1988].

“(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act.”

SHORT TITLE

Pub. L. 100-347, §1, June 27, 1988, 102 Stat. 646, provided that: “This Act [enacting this chapter] may be cited as the ‘Employee Polygraph Protection Act of 1988’.”

§ 2002. Prohibitions on lie detector use

Except as provided in sections 2006 and 2007 of this title, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(1) directly or indirectly, to require, request, suggest, or cause any employee or prospective employee to take or submit to any lie detector test;

(2) to use, accept, refer to, or inquire concerning the results of any lie detector test of any employee or prospective employee;