

under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1875.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 6712, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1021, related to adjustments of local government allocations, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6713. Suspension and termination of payments in discrimination proceedings

(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

(1) IN GENERAL.—The Secretary shall suspend payment under this chapter to a unit of general local government—

(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711(a) and (b);

(B) if the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711(a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

(C) if required under section 6712(c).

(2) EFFECTIVENESS.—A suspension already ordered under paragraph (1)(A) continues in effect if the administrative law judge makes a decision under paragraph (1)(B).

(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of general local government of payments suspended by the Secretary only—

(1) as of the time of, and under the conditions stated in—

(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

(B) a compliance agreement entered into by the Secretary under section 6714(a)(2);

(2) if the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

(3) if a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6712(d)(1)), that the government has complied with sections<sup>1</sup> 6711(a) and (b); or

(4) if a suspension is discontinued under subsection (b).

(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For purposes of subsection (c)(2), compliance by a government may consist of the payment of restitution to a person injured because the government did not comply with section 6711(a) or (b).

(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a unit of general local government of payments terminated under section 6712(d)(2)(A) only if the decision resulting in the termination is reversed by an appellate court.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1876.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 6713, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1022; Pub. L. 98-185, §§5, 9(e), Nov. 30, 1983, 97 Stat. 1309, 1312, related to information used in allocation formulas, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6714. Compliance agreements

(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

(1) approved by the Secretary, between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of general local government that has not complied with section 6711(a) or (b); or

(2) between the Secretary and the chief executive officer.

(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

(1) shall state the conditions the unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections<sup>1</sup> 6711(a) and (b);

(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711(a) or (b); and

(3) may be a series of agreements that dispose of those matters.

(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of a compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711(a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1877.)

<sup>1</sup> So in original. Probably should be “section”.

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**Editorial Notes****PRIOR PROVISIONS**

A prior section 6714, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1023; Pub. L. 98-185, §6, Nov. 30, 1983, 97 Stat. 1310, related to public hearings, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

**§ 6715. Enforcement by the Attorney General of prohibitions on discrimination**

The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711(a) or (b). The court may grant—

- (1) a temporary restraining order;
- (2) an injunction; or

(3) an appropriate order to ensure enjoyment of rights under section 6711(a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1877.)

**Editorial Notes****PRIOR PROVISIONS**

A prior section 6715, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1024, related to prohibition on using payments to influence legislation, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

**§ 6716. Civil action by a person adversely affected**

(a) **AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.**—If a unit of general local government, or an officer or employee of a unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

(b) **ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.**—A person adversely affected shall file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted by the person after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

- (1) issues a decision that the government has not failed to comply with this chapter; or
- (2) does not issue a decision on the complaint.

(c) **AUTHORITY OF COURT.**—In an action under this section, the court—

- (1) may grant—

(A) a temporary restraining order;

(B) an injunction; or

(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

(2) to enforce compliance with section 6711(a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

(d) **INTERVENTION BY ATTORNEY GENERAL.**—In an action under this section to enforce compliance with section 6711(a) or (b), the Attorney General may intervene in the action if the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1878.)

**Editorial Notes****PRIOR PROVISIONS**

A prior section 6716, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1024; Pub. L. 98-185, §9(f), (g), Nov. 30, 1983, 97 Stat. 1312; Pub. L. 98-216, §1(8), Feb. 14, 1984, 98 Stat. 4, related to prohibition of discrimination, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

**§ 6717. Judicial review**

(a) **APPEALS IN FEDERAL COURT OF APPEALS.**—A unit of general local government which receives notice from the Secretary about withholding payments under section 6703(f), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition shall be filed by the 60th day after the date the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary.

(b) **FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.**—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

(c) **COURT ACTION.**—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. If a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. Upon such a remand, the Secretary may make new or modified findings and shall certify additional proceedings to the court.

(d) **REVIEW ONLY BY SUPREME COURT.**—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.