

### **§ 35.9**

hereunder, shall be final and conclusive on the claimant, his agent or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

### **§ 35.9 Penalties.**

A person who files a false claim or makes a false or fraudulent statement in a claim against the United States may be liable to a fine of not more than \$10,000 or to imprisonment of not more than 5 years, or both (18 U.S.C. 287.1001), and, in addition, to a forfeiture of \$2,000 and a penalty of double the loss or damage sustained by the United States (31 U.S.C. 231).

### **§ 35.10 Limitation on Department's authority.**

(a) An award, compromise or settlement of a claim hereunder in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised or settled hereunder only after consultation with the Department of Justice when, in the opinion of the Department:

- (1) A new precedent or a new point of law is involved; or
- (2) A question of policy is or may be involved; or
- (3) The United States is or may be entitled to indemnity or contribution from a third party and the Department is unable to adjust the third party claim; or
- (4) The compromise of a particular claim, as a practical matter, will or

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may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised or settled only after consultation with the Department of Justice when it is learned that the United States or an employee, agent or cost plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

## **PART 36—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION**

Sec.

36.1 Purpose.

36.2 Penalty adjustment.

AUTHORITY: 20 U.S.C. 1221e-3 and 3474; 28 U.S.C. 2461 note, as amended by § 701 of Pub. Law 114-74, unless otherwise noted.

SOURCE: 67 FR 69655, Nov. 18, 2002, unless otherwise noted.

### **§ 36.1 Purpose.**

The purpose of this part is to make inflation adjustments to the civil monetary penalties within the jurisdiction of the Department of Education. These penalties are subject to review and adjustment as necessary at least once every 4 years in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(Authority: 20 U.S.C. 1221e-3 and 3474; 28 U.S.C. 2461 note, as amended by § 701 of Pub. Law 114-74.)

[67 FR 69655, Nov. 18, 2002, as amended at 77 FR 60049, Oct. 2, 2012; 81 FR 50323, Aug. 1, 2016]

### **§ 36.2 Penalty adjustment.**

The citations for the adjusted penalty provisions, a brief description of the penalty, and the adjusted maximum (and minimum, if applicable) penalty amounts are listed in Table 1 of this section.

TABLE 1 TO § 36.2—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

Statute	Description	New maximum (and minimum, if applicable) penalty amount
20 U.S.C. 1015(c)(5) (section 131(c)(5) of the Higher Education Act of 1965 (HEA)).	Provides for a fine, as set by Congress in 1998, of up to \$25,000 for failure by an institution of higher education (IHE) to provide information on the cost of higher education to the Commissioner of Education Statistics.	\$45,429
20 U.S.C. 1022d(a)(3) (section 205(a)(3) of the HEA).	Provides for a fine, as set by Congress in 2008, of up to \$27,500 for failure by an IHE to provide information to the State and the public regarding its teacher-preparation programs.	37,839
20 U.S.C. 1082(g) (section 432(g) of the HEA).	Provides for a civil penalty, as set by Congress in 1986, of up to \$25,000 for violations by lenders and guaranty agencies of title IV of the HEA, which authorizes the Federal Family Education Loan Program.	67,544
20 U.S.C. 1094(c)(3)(B) (section 487(c)(3)(B) of the HEA).	Provides for a civil penalty, as set by Congress in 1986, of up to \$25,000 for an IHE's violation of title IV of the HEA, which authorizes various programs of student financial assistance.	67,544
20 U.S.C. 1228c(c)(2)(E) (section 429 of the General Education Provisions Act).	Provides for a civil penalty, as set by Congress in 1994, of up to \$1,000 for an educational organization's failure to disclose certain information to minor students and their parents.	1,993
31 U.S.C. 1352(c)(1) and (c)(2)(A) ..	Provides for a civil penalty, as set by Congress in 1989, of \$10,000 to \$100,000 for recipients of Government grants, contracts, etc. that improperly lobby Congress or the executive branch with respect to the award of Government grants and contracts.	23,727 to 237,268
31 U.S.C. 3802(a)(1) and (a)(2) .....	Provides for a civil penalty, as set by Congress in 1986, of up to \$5,000 for false claims and statements made to the Government.	13,508

[67 FR 69655, Nov. 18, 2002, as amended at 70 FR 298, Jan. 4, 2005; 77 FR 60049, Oct. 2, 2012; 81 FR 50323, Aug. 1, 2016; 82 FR 18562, Apr. 20, 2017; 83 FR 2064, Jan. 16, 2018; 84 FR 974, Feb. 1, 2019; 85 FR 2036, Jan. 14, 2020; 86 FR 7977, Feb. 3, 2021; 87 FR 23452, Apr. 20, 2022; 88 FR 5787, Jan. 30, 2023]

## PART 60—INDEMNIFICATION OF DEPARTMENT OF EDUCATION EMPLOYEES

### Sec.

60.1 What are the policies of the Department regarding indemnification?

60.2 What procedures apply to requests for indemnification?

AUTHORITY: 20 U.S.C. 3411, 3461, 3471, and 3474.

SOURCE: 54 FR 7148, Feb. 16, 1989, unless otherwise noted.

### § 60.1 What are the policies of the Department regarding indemnification?

(a)(1) The Department of Education may indemnify, in whole or in part, an employee for any verdict, judgment, or other monetary award rendered against the employee if—

(i) The conduct giving rise to the verdict, judgment, or award occurred within the scope of his or her employment with the Department; and

(ii) The indemnification is in the interest of the United States, as determined by the Secretary.

(2) The regulations in this part apply to an action pending against an ED employee as of March 30, 1989, as well as to any action commenced after that date.

(3) As used in this part, the term *employee* includes—

(i) A present or former officer or employee of the Department or of an advisory committee to the Department, including a special Government employee;

(ii) An employee of another Federal agency on detail to the Department; or

(iii) A student volunteer under 5 U.S.C. 3111.

(4) As used in this part the term *Secretary* means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

(b)(1) The Department may pay, in whole or in part, to settle or compromise a personal damage claim against an employee if—

(i) The alleged conduct giving rise to the personal damage claim occurred within the scope of employment; and