

substituted “guidelines governing such applicable program, it” for “guidelines, governing such applicable program it” in fourth sentence.

Pub. L. 103-382, §243(1)(A), (B), substituted “Secretary, any applicant” for “Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant”.

Subsec. (b). Pub. L. 103-382, §243(2), substituted “Secretary” for “Commissioner” wherever appearing.

Subsec. (d). Pub. L. 103-382, §243(3), substituted “Secretary under” for “Commissioner under” and “Secretary shall” for “Commissioner shall” and inserted before period at end “or issue such other orders as the Secretary may deem appropriate to achieve such compliance”.

1978—Subsec. (a). Pub. L. 95-561 added cl. (3) relating to the ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, and redesignated former cl. (3) as (4).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95-561, set out as a note under section 1221e-3 of this title.

##### EFFECTIVE DATE

Pub. L. 93-380, title V, §508(b), Aug. 21, 1974, 88 Stat. 566, provided that: “The amendments made by subsection (a) [enacting this section and section 1231b-1 of this title] shall be effective on the date of enactment of this Act [Aug. 21, 1974].”

#### § 1231c. Advice, counsel, and technical assistance

##### (a) State educational agencies, institutions of higher education

For the purpose of carrying out more effectively Federal education programs, the Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

- (1) in determining benefits available to them under Federal law;
- (2) in preparing applications for, and meeting requirements of, applicable programs;
- (3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and
- (4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

##### (b) Cost allocation, collection, etc., by local educational agencies

The Secretary shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this

subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

##### (c) Dissemination

In awarding contracts and grants for the development of curricula or instructional materials, the Secretary and the Director of the National Institute of Education shall—

(1) encourage applicants to assure that such curricula or instructional materials will be developed in a manner conducive to dissemination through continuing consultations with publishers, personnel of State and local educational agencies, teachers, administrators, community representatives, and other individuals experienced in such dissemination;

(2) permit applicants to include provision for reasonable consultation fees or planning costs; and

(3) insure that grants to public agencies and nonprofit private organizations and contracts with public agencies and private organizations for publication and dissemination of curricula or instructional materials, or both, are awarded competitively to such agencies and organizations which provide assurances that the curricula and instructional materials will reach the target populations for which they were developed.

##### (d) Annual report by Secretary

The Secretary’s annual report shall contain a statement of the Secretary’s activities under this section.

(Pub. L. 90-247, title IV, §433, formerly §414, as added Pub. L. 91-230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered §424, Pub. L. 92-318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §426, Pub. L. 93-380, title V, §508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 95-561, title XII, §1248, Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96-88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered §433, Pub. L. 103-382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 433 of Pub. L. 90-247 was renumbered section 439, and is classified to section 1232b of this title.

Another prior section 433 of Pub. L. 90-247 was renumbered section 443, and was classified to section 1233b of this title prior to repeal by Pub. L. 103-382.

##### AMENDMENTS

1978—Subsecs. (c), (d). Pub. L. 95-561 added subsec. (c) and redesignated former subsec. (c) as (d).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95-561, set out as a note under section 1221e-3 of this title.

##### TRANSFER OF FUNCTIONS

“Secretary” and “Secretary’s”, meaning the Secretary of Education, substituted for “Commissioner” and “Commissioner’s”, respectively, in subsecs. (a) to (d) pursuant to sections 301(a)(1) and 507 of Pub. L.

96-88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

#### NATIONAL INSTITUTE OF EDUCATION

The National Institute of Education consisting of a National Council on Educational Research and a Director of the Institute was established by section 1221e of this title which, as amended generally by Pub. L. 99-498, title XIV, §1401(a), Oct. 17, 1986, 100 Stat. 1589, provided objectives and duties for the Office of Educational Research and Improvement and established the National Advisory Council on Educational Research and Improvement, and section 1401(b) of Pub. L. 99-498 transferred the property and records of the National Institute of Education to the Office of Educational Research and Improvement.

#### § 1231c-1. Repealed. Pub. L. 103-382, title II, §212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90-247, title IV, §426A, as added Pub. L. 95-561, title XII, §1202, Nov. 1, 1978, 92 Stat. 2334; amended Pub. L. 96-88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to equalization assistance.

#### § 1231d. Parental involvement and dissemination

In the case of any applicable program in which the Secretary determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, the Secretary shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination is made provides for payments to local educational agencies, applications for such payments shall—

(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by such programs and projects;

(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

(Pub. L. 90-247, title IV, §434, formerly §415, as added Pub. L. 91-230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered §425, Pub. L. 92-318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §427, Pub. L. 93-380, title V, §508(a), Aug. 21, 1974, 88 Stat. 565; renumbered §434 and amended Pub. L. 103-382, title II, §§212(b)(1), 244, Oct. 20, 1994, 108 Stat. 3913, 3922.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 434 of Pub. L. 90-247 was renumbered section 440, and is classified to section 1232c of this title.

Another prior section 434 of Pub. L. 90-247 was renumbered section 444, and was classified to section 1233c of this title prior to repeal by Pub. L. 103-382.

Another prior section 434 of Pub. L. 90-247 was classified to section 1232c of this title prior to repeal by Pub. L. 95-561.

#### AMENDMENTS

1994—Pub. L. 103-382, §244, substituted “Secretary determines” for “Commissioner determines” and “the Secretary shall” for “he shall” and inserted “is made” after “such determination”.

#### § 1231e. Use of funds withheld

(a) At any time that the Secretary makes an allotment or reallocation to any State under any applicable program, the Secretary shall reduce such allotment or reallocation by such amount as the Secretary determines such allotment or reallocation would have been reduced, had the data on which such allotment or reallocation is based excluded all data relating to local educational agencies of the State that, on the date of the Secretary’s action, are ineligible to receive the Federal financial assistance involved because of failure to comply with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 794 of title 29, or the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.].

(b) The Secretary may use any funds withheld under subsection (a)—

(1) to increase the allotments or reallocations of local educational agencies within the State that are not described in subsection (a), or the allotments or reallocation of all States, in accordance with the Federal law governing the program; or

(2) for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964 [42 U.S.C. 2000c-4], or for any other program administered by the Department that is designed to enhance equity in education or redress discrimination on the basis of race, color, national origin, sex, age, or disability.

(Pub. L. 90-247, title IV, §435, formerly §416, as added Pub. L. 91-230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered §426, Pub. L. 92-318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; renumbered §428, Pub. L. 93-380, title V, §508(a), Aug. 21, 1974, 88 Stat. 565; renumbered §435 and amended Pub. L. 103-382, title II, §§212(b)(1), 245, Oct. 20, 1994, 108 Stat. 3913, 3922.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

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.

The Age Discrimination Act of 1975, referred to in subsec. (a), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.