

**(b) Procedures applicable**

(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

**(c) Contents**

A compliance agreement under this section shall contain—

(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2), by which the recipient shall be in full compliance with the applicable requirements of law, and

(2) those terms and conditions with which the recipient must comply until it is in full compliance.

**(d) Failure of recipient to comply with terms and conditions**

If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

(Pub. L. 90-247, title IV, §457, as added Pub. L. 100-297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 355.)

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100-297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

**§ 1234g. Judicial review****(a) Recipients entitled to review; stay of action by Secretary**

Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 1234a, 1234d, or 1234e of this title, and any State entitled to receive funds under a program described in section 1232d(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

**(b) Petition for review; filing of record**

A recipient that desires judicial review of an action described in subsection (a) shall, within 60 days of that action, file with the United

States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28.

**(c) Findings of fact**

The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

**(d) Scope of review; review by Supreme Court**

The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 90-247, title IV, §458, as added Pub. L. 100-297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103-382, title II, §212(b)(3)(D), Oct. 20, 1994, 108 Stat. 3913.)

**Editorial Notes****AMENDMENTS**

1994—Subsec. (a). Pub. L. 103-382 made technical amendment to reference to section 1232d(a) of this title to reflect renumbering of corresponding section of original act.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100-297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

**§ 1234h. Use of recovered funds****(a) Repayment to recipient; factors considered**

Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program, provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance;

(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

**(b) Terms and conditions of repayment**

Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

(1) the submission of periodic reports on the use of funds provided under this section; and

(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

**(c) Availability of funds**

Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the later of—

(1) the fiscal year in which final agency action under section 1234a(e) of this title is taken; or

(2) if such recipient files a petition for judicial review, the fiscal year in which final judicial action under section 1234g of this title is taken.

**(d) Publication in Federal Register of notice of intent to enter into repayment arrangement**

At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

(Pub. L. 90-247, title IV, § 459, as added Pub. L. 100-297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103-382, title II, § 250(b), Oct. 20, 1994, 108 Stat. 3927.)

**Editorial Notes**

**AMENDMENTS**

1994—Subsec. (a)(1). Pub. L. 103-382, § 250(b)(1), inserted before semicolon “, provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance”.

Subsec. (c). Pub. L. 103-382, § 250(b)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 1234a(e) of this title is taken.”

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100-297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

**§ 1234i. Definitions**

For purposes of this subchapter:

(1) The term “recipient” means a recipient of a grant or cooperative agreement under an applicable program.

(2) The term “applicable program” excludes programs authorized by the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] and assistance programs provided under the Act of September 30, 1950<sup>1</sup> (Public Law 874, 81st Congress), and the Act of September 23, 1950<sup>1</sup> (Public Law 815, 81st Congress).

(Pub. L. 90-247, title IV, § 460, as added Pub. L. 100-297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 357.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Higher Education Act of 1965, referred to in par. (2), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in par. (2), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103-382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Act of September 23, 1950 (Public Law 815, 81st Congress), referred to in par. (2), is act Sept. 23, 1950, ch. 995, as amended generally by act Aug. 12, 1958, Pub. L. 85-620, title I, 72 Stat. 548, which was classified generally to chapter 19 (§ 631 et seq.) of this title prior to repeal by Pub. L. 103-382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100-297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

**SUBCHAPTER V—READY TO LEARN  
TELEVISION**

**Editorial Notes**

**CODIFICATION**

This subchapter was classified to part G (§ 3161 et seq.) of subchapter IV of chapter 47 of this title prior to its renumbering by Pub. L. 103-252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649.

**PRIOR PROVISIONS**

A prior subchapter V, consisting of sections 1234 to 1234i, was renumbered subchapter IV by Pub. L. 103-382, title II, § 212(b)(2), Oct. 20, 1994, 108 Stat. 3913.

<sup>1</sup> See References in Text note below.