

by the appropriate authorities for the activities or practice involved in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

**(b) Exceptions to teacher liability protection**

If the laws of a State limit teacher liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

**(c) Limitation on punitive damages based on the actions of teachers**

**(1) General rule**

Punitive damages may not be awarded against a teacher in an action brought for harm based on the act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act or omission of such teacher that constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

**(2) Construction**

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

**(d) Exceptions to limitations on liability**

**(1) In general**

The limitations on the liability of a teacher under this subpart shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

**(2) Hiring**

The limitations on the liability of a teacher under this subpart shall not apply to misconduct during background investigations, or during other actions, involved in the hiring of a teacher.

**(e) Rules of construction**

**(1) Concerning responsibility of teachers to schools and governmental entities**

Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

**(2) Concerning corporal punishment**

Nothing in this subpart shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

(Pub. L. 89-10, title VIII, § 8556, formerly title II, § 2366, as added Pub. L. 107-110, title II, § 201, Jan. 8, 2002, 115 Stat. 1668; renumbered title IX, § 9546, renumbered title VIII, § 8556, and amended Pub. L. 114-95, title II, § 2001(a)(1), (3)(A), (B), (D), title VIII, § 8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

**Editorial Notes**

**CODIFICATION**

Section was classified to section 6736 of this title prior to renumbering by Pub. L. 114-95.

**AMENDMENTS**

2015—Pub. L. 114-95, § 2001(a)(1), struck out undesignated par. following par. (2) which read as follows: "ate law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law."

Subsec. (b)(3). Pub. L. 114-95, § 2001(a)(1), added par. (3).

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2015 AMENDMENT**

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

**§ 7947. Allocation of responsibility for noneconomic loss**

**(a) General rule**

In any civil action against a teacher, based on an act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b).

**(b) Amount of liability****(1) In general****(A) Liability**

Each defendant who is a teacher shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable.

**(B) Separate judgment**

The court shall render a separate judgment against each defendant in an amount determined pursuant to subparagraph (A).

**(2) Percentage of responsibility**

For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

**(c) Rule of construction**

Nothing in this section shall be construed to preempt or supersede any Federal or State law that further limits the application of joint liability in a civil action described in subsection (a), beyond the limitations established in this section.

(Pub. L. 89–10, title VIII, § 8557, formerly title II, § 2367, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1670; renumbered title IX, § 9547, renumbered title VIII, § 8557, Pub. L. 114–95, title II, § 2001(a)(3)(A), (B), (D), title VIII, § 8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

**Editorial Notes**

## CODIFICATION

Section was classified to section 6737 of this title prior to renumbering by Pub. L. 114–95.

**§ 7948. Effective date****(a) In general**

This subpart shall take effect 90 days after January 8, 2002.

**(b) Application**

This subpart applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the No Child Left Behind Act of 2001 without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

(Pub. L. 89–10, title VIII, § 8558, formerly title II, § 2368, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1670; renumbered title IX, § 9548, renumbered title VIII, § 8558, Pub. L. 114–95, title II, § 2001(a)(3)(A), (B), (D), title VIII, § 8001(a)(7), Dec. 10, 2015, 129 Stat. 1913, 2088, 2089.)

**Editorial Notes**

## REFERENCES IN TEXT

For the effective date of the No Child Left Behind Act of 2001, referred to in subsec. (b), see section 5 of Pub.

L. 107–110, set out as an Effective Date note under section 6301 of this title.

## CODIFICATION

Section was classified to section 6738 of this title prior to renumbering by Pub. L. 114–95.

## SUBPART 4—GUN POSSESSION

**Editorial Notes**

## CODIFICATION

Pub. L. 114–95, title IV, § 4001(a)(2)(A)–(C), title VIII, § 8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, redesignated subpart 3 (§ 7151) of part A of subchapter IV of this chapter as subpart 4 of part F of this subchapter.

**§ 7961. Gun-free requirements****(a) Short title**

This subpart may be cited as the “Gun-Free Schools Act”.

**(b) Requirements****(1) In general**

Each State receiving Federal funds under any subchapter of this chapter shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

**(2) Construction**

Nothing in this subpart shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

**(3) Definition**

For the purpose of this section, the term “firearm” has the same meaning given such term in section 921(a) of title 18.

**(c) Special rule**

The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

**(d) Report to State**

Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any subchapter of this chapter shall provide to the State, in the application requesting such assistance—

(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

(A) the name of the school concerned;