

Federal agency or the contractor of such agency providing the services to children.

**(2) Administrative proceeding**

A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued under paragraph (1), by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5. Before making such assessment or issuing such order, or both, the Secretary shall give written notice of the assessment or order to such person by certified mail with return receipt and provide information in the notice of an opportunity to request in writing, not later than 30 days after the date of receipt of such notice, such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form that may be used to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing, which shall be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

**(3) Circumstances affecting penalty or order**

In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C) such other matters as justice may require.

**(4) Modification**

The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or the agencies or instrumentalities of the United States owe to the person against whom the penalty is assessed.

**(5) Petition for review**

Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy of the petition to the Secretary or the Secretary's designee. The pe-

tion shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

**(6) Failure to comply**

If a person fails to pay an assessment of a civil penalty or comply with an order, after the assessment or order, or both, are final under this section, or after a court has entered a final judgment under paragraph (5) in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at prevailing rates from the day the assessment or order, or both, are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

(Pub. L. 89-10, title VIII, § 8573, formerly title IV, § 4303, as added Pub. L. 107-110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1774; renumbered title IX, § 9563, renumbered title VIII, § 8573, and amended Pub. L. 114-95, title IV, § 4001(a)(1), (4)(A), (B), (C)(ii), title VIII, § 8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

**Editorial Notes**

**CODIFICATION**

Section was classified to section 7183 of this title prior to renumbering by Pub. L. 114-95.

**AMENDMENTS**

2015—Subsec. (b)(1). Pub. L. 114-95, § 4001(a)(1)(A), substituted “early childhood education programs” for “early childhood development (Head Start) services”.

Subsec. (c)(2). Pub. L. 114-95, § 4001(a)(1)(B)(i), substituted “education programs” for “development services” in heading.

Subsec. (c)(2)(A). Pub. L. 114-95, § 4001(a)(1)(B)(ii), substituted “education programs” for “development (Head Start) services”.

Subsec. (e)(3)(C). Pub. L. 114-95, § 4001(a)(1)(C), added subpar. (C) and struck out former subpar. (C) which was missing an opening parenthesis before the subpar. designation and read as follows: “such other matters as justice may require.”

**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.

**§ 7974. Preemption**

Nothing in this subpart<sup>1</sup> is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this subpart.<sup>1</sup>

(Pub. L. 89-10, title VIII, § 8574, formerly title IV, § 4304, as added Pub. L. 107-110, title IV, § 401,

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

Jan. 8, 2002, 115 Stat. 1776; renumbered title IX, §9564, renumbered title VIII, §8574, Pub. L. 114-95, title IV, §4001(a)(4)(A), (B), (C)(ii), title VIII, §8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subpart, referred to in text, was in the original “this part”, and was translated as reading “this subpart”, to reflect the probable intent of Congress. Pub. L. 114-95 redesignated part C of title IV of Pub. L. 89-10 as subpart 5 of part F of title VIII of Pub. L. 89-10, which is classified to this subpart.

##### CODIFICATION

Section was classified to section 7184 of this title prior to renumbering by Pub. L. 114-95.

#### PART G—EVALUATIONS

#### Editorial Notes

##### CODIFICATION

Pub. L. 114-95, title VIII, §8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 2088, 2089, redesignated part F (§7941) of subchapter IX of this chapter as part G of this subchapter.

### § 7981. Evaluations

#### (a) Reservation of funds

Except as provided in subsection<sup>1</sup> (b) and (e), the Secretary, in consultation with the Director of the Institute of Education Sciences, may reserve not more than 0.5 percent of the amount appropriated for each program authorized under this chapter to carry out activities under this section. If the Secretary elects to make a reservation under this subsection, the reserved amounts—

(1) shall first be used by the Secretary, acting through the Director of the Institute of Education Sciences, to—

(A) conduct comprehensive, high-quality evaluations of the programs that—

(i) are consistent with the evaluation plan under subsection (d); and

(ii) primarily include impact evaluations that use experimental or quasi-experimental designs, where practicable and appropriate, and other rigorous methodologies that permit the strongest possible causal inferences;

(B) conduct studies of the effectiveness of the programs and the administrative impact of the programs on schools and local educational agencies; and

(C) widely disseminate evaluation findings under this section related to programs authorized under this chapter—

(i) in a timely fashion;

(ii) in forms that are understandable, easily accessible, usable, and adaptable for use in the improvement of educational practice;

(iii) through electronic transfer and other means, such as posting, as available, to the websites of State educational agencies, local educational agencies, the Insti-

tute of Education Sciences, or the Department, or in another relevant place; and

(iv) in a manner that promotes the utilization of such findings; and

(2) may be used by the Secretary, acting through the Director of the Institute of Education Sciences—

(A) to evaluate the aggregate short- and long-term effects and cost efficiencies across—

(i) Federal programs assisted or authorized under this chapter; and

(ii) related Federal early childhood education programs, preschool programs, elementary school programs, and secondary school programs, under any other Federal law;

(B) to increase the usefulness of the evaluations conducted under this section by improving the quality, timeliness, efficiency, and use of information relating to performance to promote continuous improvement of programs assisted or authorized under this chapter; and

(C) to assist recipients of grants under such programs in collecting and analyzing data and other activities related to conducting high-quality evaluations under paragraph (1).

#### (b) Subchapter I

The Secretary, acting through the Director of the Institute of Education Sciences, shall use funds authorized under section 6302(e) of this title to carry out evaluation activities under this section related to subchapter I, and shall not reserve any other money from such subchapter for evaluation.

#### (c) Consolidation

Notwithstanding any other provision of this section or section 6302(e) of this title, the Secretary, in consultation with the Director of the Institute of Education Sciences—

(1) may consolidate the funds reserved under subsections (a) and (b) for purposes of carrying out the activities under subsection (a)(1); and

(2) shall not be required to evaluate under subsection (a)(1) each program authorized under this chapter each year.

#### (d) Evaluation plan

The Director of the Institute of Education Sciences, shall, on a biennial basis, develop, submit to Congress, and make publicly available an evaluation plan, that—

(1) describes the specific activities that will be carried out under subsection (a) for the 2-year period applicable to the plan, and the timelines of such activities;

(2) contains the results of the activities carried out under subsection (a) for the most recent 2-year period; and

(3) describes how programs authorized under this chapter will be regularly evaluated.

#### (e) Evaluation activities authorized elsewhere

If, under any other provision of this chapter, funds are authorized to be reserved or used for evaluation activities with respect to a program, the Secretary may not reserve additional funds

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