

the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

(Pub. L. 113–128, title I, §185, July 22, 2014, 128 Stat. 1594; Pub. L. 117–286, §4(b)(48), Dec. 27, 2022, 136 Stat. 4348.)

Editorial Notes

AMENDMENTS

2022—Subsec. (b)(3)(D). Pub. L. 117–286 substituted “chapter 4 of title 5” for “the Inspector General Act of 1978 (5 U.S.C. App.)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

§ 3246. Administrative adjudication

(a) In general

Whenever any applicant for financial assistance under this subchapter is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 3244 of this title.

(b) Appeal

The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged during the 20-day period shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, notifies the parties that the case involved has been accepted for review.

(c) Time limit

Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

(d) Additional requirement

The provisions of section 3247 of this title shall apply to any final action of the Secretary under this section.

(Pub. L. 113–128, title I, §186, July 22, 2014, 128 Stat. 1596.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

§ 3247. Judicial review

(a) Review

(1) Petition

With respect to any final order by the Secretary under section 3246 of this title by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under this subchapter, or any final order of the Secretary under section 3246 of this title with respect to a corrective action or sanction imposed under section 3244 of this title, any party to a proceeding that resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant for or recipient of the funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

(2) Action on petition

The clerk of the court shall transmit a copy of the review petition to the Secretary, who shall file the record on which the final order was entered as provided in section 2112 of title 28. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

(3) Standard and scope of review

No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

(b) Judgment

The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The judgment of the court regarding the order shall be final, subject to certiorari review by the Supreme Court as provided in section 1254(1) of title 28.

(Pub. L. 113–128, title I, §187, July 22, 2014, 128 Stat. 1597.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

§ 3248. Nondiscrimination

(a) In general

(1) Federal financial assistance

For the purpose of applying the prohibitions against discrimination on the basis of age

under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 794 of this title, on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) Prohibition of discrimination regarding participation, benefits, and employment

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), national origin, age, disability, or political affiliation or belief.

(3) Prohibition on assistance for facilities for sectarian instruction or religious worship

Participants shall not be employed under this subchapter to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

(4) Prohibition on discrimination on basis of participant status

No person may discriminate against an individual who is a participant in a program or activity that receives funds under this subchapter, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

(5) Prohibition on discrimination against certain noncitizens

Participation in programs and activities or receiving funds under this subchapter shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

(b) Action of Secretary

Whenever the Secretary finds that a State or other recipient of funds under this subchapter has failed to comply with a provision of law referred to in subsection (a)(1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(2) take such other action as may be provided by law.

(c) Action of Attorney General

When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this subchapter is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) Job Corps

For the purposes of this section, Job Corps members shall be considered to be the ultimate beneficiaries of Federal financial assistance.

(e) Regulations

The Secretary shall issue regulations necessary to implement this section not later than 1 year after July 22, 2014. Such regulations shall adopt standards for determining discrimination and procedures for enforcement that are consistent with the Acts referred to in subsection (a)(1), as well as procedures to ensure that complaints filed under this section and such Acts are processed in a manner that avoids duplication of effort.

(Pub. L. 113-128, title I, §188, July 22, 2014, 128 Stat. 1597.)

Editorial Notes

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsec. (a)(1), 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.

The Education Amendments of 1972, referred to in subsec. (a)(1), (2), 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 Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Act 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.

This Act, referred to in subsec. (a)(1), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

§ 3249. Secretarial administrative authorities and responsibilities

(a) In general

In accordance with chapter 5 of title 5, the Secretary may prescribe rules and regulations to carry out this subchapter, only to the extent necessary to administer and ensure compliance with the requirements of this subchapter. Such rules and regulations may include provisions making adjustments authorized by section 6504 of title 31. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

(b) Acquisition of certain property and services

The Secretary is authorized, in carrying out this subchapter, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this subchapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31.

(c) Authority to enter into certain agreements and to make certain expenditures

The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this subchapter, as may be necessary to carry out this subchapter, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of over-payments or underpayments.

(d) Annual report

The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate an annual report regarding the programs and activities funded under this subchapter. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and challenges of the programs and activities in meeting the objectives of this subchapter;

(2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this subchapter in the fiscal year prior to the submission of the report;

(3) recommendations for modifications in the programs and activities based on analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

(e) Utilization of services and facilities

The Secretary is authorized, in carrying out this subchapter, under the same procedures as are applicable under subsection (c) or to the extent permitted by law other than this subchapter, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this subchapter, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.

(f) Obligational authority

Notwithstanding any other provision of this subchapter, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this subchapter, except to such extent and in such amounts as are provided in advance in appropriations Acts.

(g) Program year

(1) In general

(A) Program year

Except as provided in subparagraph (B), appropriations for any fiscal year for programs and activities funded under this subchapter shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(B) Youth workforce investment activities

The Secretary may make available for obligation, beginning April 1 of any fiscal year, funds appropriated for such fiscal year to carry out youth workforce investment activities under part B and activities under section 3226 of this title.

(2) Availability

(A) In general

Funds obligated for any program year for a program or activity funded under part B may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds received by local areas from States under part B during a program year may be expended during that program year and the succeeding program year.

(B) Certain national activities

(i) In general

Funds obligated for any program year for any program or activity carried out under section 3224 of this title shall remain available until expended.

(ii) Incremental funding basis

A contract or arrangement entered into under the authority of subsection (a) or (b) of section 3224 of this title (relating to