

is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

- (1) make a report in writing stating its findings of fact; and
- (2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

(d) Report and order as final agency action

The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

(e) Enforcement of final order

The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

- (1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or
- (2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

(Pub. L. 90-247, title IV, § 456, as added Pub. L. 95-561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2351; amended Pub. L. 100-297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 355.)

AMENDMENTS

1988—Pub. L. 100-297 amended section generally, substituting provisions relating to cease and desist orders for provisions relating to use of recovered funds. See section 1234h of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-297 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 a note under section 1234 of this title.

§ 1234f. Compliance agreements

(a) Discretionary authority; purposes of agreement

In accordance with section 1234c of this title, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

(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) of this section, 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.)

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) of this section 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 find-