

(2) Administrative proceeding

A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued, 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 thereof to such person by certified mail with return receipt and provide therein 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 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 should 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 its agencies or instrumentalities owes 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 thereof 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 thereof to the Secretary or the Secretary's designee. The petition 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 tran-

script 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 either or both are final under this section, or after a court under paragraph (5) has entered a final judgment 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 then currently prevailing rates from the day either 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. 103-227, title X, § 1043, Mar. 31, 1994, 108 Stat. 272.)

§ 6084. Preemption

Nothing in this part 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 part.

(Pub. L. 103-227, title X, § 1044, Mar. 31, 1994, 108 Stat. 274.)

CHAPTER 69—SCHOOL-TO-WORK OPPORTUNITIES

§§ 6101 to 6104. Omitted

CODIFICATION

Sections 6101 to 6104 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6101, Pub. L. 103-239, § 2, May 4, 1994, 108 Stat. 569, stated findings of Congress.

Section 6102, Pub. L. 103-239, § 3, May 4, 1994, 108 Stat. 570, stated purposes and Congressional intent.

Section 6103, Pub. L. 103-239, § 4, May 4, 1994, 108 Stat. 572; Pub. L. 103-382, title III, § 394(j)(1), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105-244, title I, § 102(c)(1), Oct. 7, 1998, 112 Stat. 1622; Pub. L. 108-446, title III, § 305(f), Dec. 3, 2004, 118 Stat. 2805, contained definitions.

Section 6104, Pub. L. 103-239, § 5, May 4, 1994, 108 Stat. 575, provided for Federal administration of this chapter.

SHORT TITLE

Section 1(a) of Pub. L. 103-239 provided that: "This Act [enacting this chapter, amending former sections 2394b and 2394c and section 4441 of this title, former section 1699 of Title 29, Labor, and former sections 11449 and 11450 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 4401 and 4441 of this title] may be cited as the 'School-to-Work Opportunities Act of 1994'."

SUBCHAPTER I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

§§ 6111 to 6114. Omitted

CODIFICATION

Sections 6111 to 6114 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6111, Pub. L. 103-239, title I, § 101, May 4, 1994, 108 Stat. 576, related to general program requirements.

Section 6112, Pub. L. 103-239, title I, § 102, May 4, 1994, 108 Stat. 576, related to school-based learning component.