

damages described in subsection (a)(1)(A) of this section.

**(3) Sums recovered**

Any sums recovered by the Secretary pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

**(c) Limitation**

**(1) In general**

Except as provided in paragraph (2), an action may be brought under this section not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

**(2) Willful violation**

In the case of such action brought for a willful violation of section 2615 of this title, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

**(3) Commencement**

In determining when an action is commenced by the Secretary under this section for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

**(d) Action for injunction by Secretary**

The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(1) to restrain violations of section 2615 of this title, including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees; or

(2) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

**(e) Solicitor of Labor**

The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this section.

**(f) Government Accountability Office and Library of Congress**

In the case of the Government Accountability Office and the Library of Congress, the authority of the Secretary of Labor under this subchapter shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.

(Pub. L. 103-3, title I, §107, Feb. 5, 1993, 107 Stat. 15; Pub. L. 104-1, title II, §202(c)(1)(B), Jan. 23, 1995, 109 Stat. 9; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110-181, div. A, title V, §585(a)(3)(G), Jan. 28, 2008, 122 Stat. 131.)

AMENDMENTS

2008—Subsec. (a)(1)(A)(i)(II). Pub. L. 110-181 inserted “(or 26 weeks, in a case involving leave under section 2612(a)(3) of this title)” after “12 weeks”.

2004—Subsec. (f). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in heading and text.

1995—Subsec. (f). Pub. L. 104-1 added subsec. (f).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-1 effective one year after transmission to Congress of the study under section 1371 of Title 2, The Congress, see section 1312(e)(2) of Title 2. The study required under section 1371 of Title 2, dated Dec. 31, 1996, was transmitted to Congress by the Board of Directors of the Office of Compliance on Dec. 30, 1996.

**§ 2618. Special rules concerning employees of local educational agencies**

**(a) Application**

**(1) In general**

Except as otherwise provided in this section, the rights (including the rights under section 2614 of this title, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this subchapter shall apply to—

(A) any “local educational agency” (as defined in section 7801 of title 20) and an eligible employee of the agency; and

(B) any private elementary or secondary school and an eligible employee of the school.

**(2) Definitions**

For purposes of the application described in paragraph (1):

**(A) Eligible employee**

The term “eligible employee” means an eligible employee of an agency or school described in paragraph (1).

**(B) Employer**

The term “employer” means an agency or school described in paragraph (1).

**(b) Leave does not violate certain other Federal laws**

A local educational agency and a private elementary or secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 794 of this title, or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this subchapter.

**(c) Intermittent leave or leave on reduced schedule for instructional employees**

**(1) In general**

Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school requests leave under subparagraph (C) or (D) of section 2612(a)(1) of this title or under section 2612(a)(3) of this title that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—

- (i) has equivalent pay and benefits; and
- (ii) better accommodates recurring periods of leave than the regular employment position of the employee.

**(2) Application**

The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an eligible employee who complies with section 2612(e)(2) of this title.

**(d) Rules applicable to periods near conclusion of academic term**

The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any eligible employee employed principally in an instructional capacity by any such educational agency or school:

**(1) Leave more than 5 weeks prior to end of term**

If the eligible employee begins leave under section 2612 of this title more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

- (A) the leave is of at least 3 weeks duration; and
- (B) the return to employment would occur during the 3-week period before the end of such term.

**(2) Leave less than 5 weeks prior to end of term**

If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 2612(a)(1) of this title or under section 2612(a)(3) of this title during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

- (A) the leave is of greater than 2 weeks duration; and
- (B) the return to employment would occur during the 2-week period before the end of such term.

**(3) Leave less than 3 weeks prior to end of term**

If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 2612(a)(1) of this title or under section 2612(a)(3) of this title during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

**(e) Restoration to equivalent employment position**

For purposes of determinations under section 2614(a)(1)(B) of this title (relating to the restoration of an eligible employee to an equivalent position), in the case of a local educational agency or a private elementary or secondary school, such determination shall be made on the basis of

established school board policies and practices, private school policies and practices, and collective bargaining agreements.

**(f) Reduction of amount of liability**

If a local educational agency or a private elementary or secondary school that has violated this subchapter proves to the satisfaction of the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of this subchapter, such court may, in the discretion of the court, reduce the amount of the liability provided for under section 2617(a)(1)(A) of this title to the amount and interest determined under clauses (i) and (ii), respectively, of such section.

(Pub. L. 103-3, title I, § 108, Feb. 5, 1993, 107 Stat. 17; Pub. L. 103-382, title III, § 394(e), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 107-110, title X, § 1076(v), Jan. 8, 2002, 115 Stat. 2093; Pub. L. 110-181, div. A, title V, § 585(a)(3)(H), Jan. 28, 2008, 122 Stat. 131.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. 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.

AMENDMENTS

2008—Subsecs. (c)(1), (d)(2), (3). Pub. L. 110-181 inserted “or under section 2612(a)(3) of this title” after “section 2612(a)(1) of this title”.

2002—Subsec. (a)(1)(A). Pub. L. 107-110 substituted “section 7801 of title 20” for “section 8801 of title 20”.

1994—Subsec. (a)(1)(A). Pub. L. 103-382 substituted “section 8801 of title 20” for “section 2891(12) of title 20”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of Title 20, Education.

**§ 2619. Notice**

**(a) In general**

Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this subchapter and information pertaining to the filing of a charge.

**(b) Penalty**

Any employer that willfully violates this section may be assessed a civil money penalty not to exceed \$100 for each separate offense.

(Pub. L. 103-3, title I, § 109, Feb. 5, 1993, 107 Stat. 19.)