

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 chapter, 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 chapter 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 chapter has failed to comply with a provision of law referred to in subsection (a)(1) of this section, or with paragraph (2), (3), (4), or (5) of subsection (a) of this section, 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) of this section, or whenever the Attorney General has reason to believe that a State or other recipient of funds under this chapter is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) of this section or in violation of paragraph (2), (3), (4), or (5) of subsection (a) of this section, 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 as the ultimate beneficiaries of Federal financial assistance.

(e) Regulations

The Secretary shall issue regulations necessary to implement this section not later than one year after August 7, 1998. Such regulations shall adopt standards for determining discrimi-

nation and procedures for enforcement that are consistent with the Acts referred to in a¹ subsection (a)(1) of this section, 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. 105-220, title I, §188, Aug. 7, 1998, 112 Stat. 1049.)

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. 105-220, Aug. 7, 1998, 112 Stat. 936, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

This chapter, referred to in subsecs. (a)(3) to (5), (b), and (c), was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, which enacted this chapter, repealed sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737 to 1791h, 1792 to 1792b, 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 11421, 11441 to 11447, 11449, 11450, 11461 to 11466, 11471, and 11472 of Title 42, The Public Health and Welfare, and sections 42101 to 42106 of Title 49, Transportation, enacted provisions set out as notes under sections 1501, 2301, and 2940 of this title and section 11421 of Title 42, and repealed provisions set out as notes under sections 801 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality. For complete classification of title I to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1577 of this title prior to repeal by Pub. L. 105-220.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 2939. Administrative provisions

(a) In general

The Secretary may, in accordance with chapter 5 of title 5, prescribe rules and regulations to carry out this chapter only to the extent necessary to administer and ensure compliance with the requirements of this chapter. Such

¹ So in original.

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 chapter, 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 chapter, 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 chapter, as may be necessary to carry out this chapter, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of overpayments or underpayments.

(d) Annual report

The Secretary shall prepare and submit to Congress an annual report regarding the programs and activities carried out under this chapter. The Secretary shall include in such report—

- (1) a summary of the achievements, failures, and problems of the programs and activities in meeting the objectives of this chapter;
- (2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this chapter 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 chapter, under the same procedures as are applicable under subsection (c) of this section or to the extent permitted by law other than this chapter, 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 chapter, 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 chapter, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this chapter 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) and section 2918a of this title, appropriations for any fiscal year for programs and activities carried out under this chapter 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 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 activities under subchapter II of this chapter.

(2) Availability

Funds obligated for any program year for a program or activity carried out under this chapter may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds obligated for any program year for a program or activity carried out under section 2916 or 2917 of this title shall remain available until expended. Funds received by local areas from States under this chapter during a program year may be expended during that program year and the succeeding program year. No amount of the funds described in this paragraph shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 2891 of this title, or a plan, grant agreement, contract, application, or other agreement described in subchapter IV, as appropriate.

(h) Enforcement of Military Selective Service Act

The Secretary shall ensure that each individual participating in any program or activity established under this chapter, or receiving any assistance or benefit under this chapter, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

(i) Waivers and special rules

(1) Existing waivers

With respect to a State that has been granted a waiver under the provisions relating to training and employment services of the Department of Labor in title I of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998 (Public Law 105-78; 111

Stat. 1467), the authority provided under such waiver shall continue in effect and apply, and include a waiver of the related provisions of subchapter II of this chapter and this subchapter, for the duration of the initial waiver.

(2) Special rule regarding designated areas

A State that has enacted, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this chapter, notwithstanding section 2831 of this title.

(3) Special rule regarding sanctions

A State that enacts, not later than December 31, 1997, a State law providing for the sanctioning of such service delivery areas for failure to meet performance measures for workforce investment activities, may use the State law to sanction local areas for failure to meet State performance measures under this chapter.

(4) General waivers of statutory or regulatory requirements

(A) General authority

Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of subchapter II of this chapter or this subchapter (except for requirements relating to wage and labor standards, including nondisplacement protections, worker rights, participation and protection of workers and participants, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, the establishment and functions of local areas and local boards, and procedures for review and approval of plans); and

(ii) any of the statutory or regulatory requirements of sections 49g through 49i of this title (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers).

(B) Requests

A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce investment system that—

(i) identifies the statutory or regulatory requirements that are requested to be waived and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;

(ii) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(iii) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describes the individuals impacted by the waiver; and

(v) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and an opportunity to comment on such request has been provided to the local board.

(C) Conditions

Not later than 90 days after the date of the original submission of a request for a waiver under subparagraph (A), the Secretary shall provide a waiver under this paragraph if and only to the extent that—

(i) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in subparagraph (B); and

(ii) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

(Pub. L. 105-220, title I, §189, Aug. 7, 1998, 112 Stat. 1051; Pub. L. 105-277, div. A, §101(f) [title VIII, §401(13)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-411; Pub. L. 109-281, §2(c), Sept. 22, 2006, 120 Stat. 1181.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c), (d)(1), (2), (e), (f), (g)(1)(A), (2), (h), and (i)(2), (3), was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, which enacted this chapter, repealed sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737 to 1791h, 1792 to 1792b, 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 11421, 11441 to 11447, 11449, 11450, 11461 to 11466, 11471, and 11472 of Title 42, The Public Health and Welfare, and sections 42101 to 42106 of Title 49, Transportation, enacted provisions set out as notes under sections 1501, 2301, and 2940 of this title and section 11421 of Title 42, and repealed provisions set out as notes under sections 801 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality. For complete classification of title I to the Code, see Tables.

Title I of the Departments of Labor, Health and Human Services, and Education, and related Agencies Appropriations Act, 1998, referred to in subsec. (i)(1), is title I of Pub. L. 105-78, Nov. 13, 1997, 111 Stat. 1467.

CODIFICATION

In subsec. (a), “section 6504 of title 31” substituted for “section 204 of the Intergovernmental Cooperation Act of 1968” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 1504, 1571, and 1579 to 1581 of this title prior to repeal by Pub. L. 105-220.

AMENDMENTS

2006—Subsec. (g)(1)(A). Pub. L. 109-281 inserted “and section 2918a of this title” after “Except as provided in subparagraph (B)”.

1998—Subsec. (i)(1). Pub. L. 105-277 substituted “1998 (Public Law 105-78; 111 Stat. 1467)” for “1997 (Public

Law 104-208; 110 Stat. 3009-234)”. The substitution was made to reflect the probable intent of Congress, in the absence of closing quotation marks designating the provisions to be inserted.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-281 effective Sept. 22, 2006, see section 2(f) of Pub. L. 109-281, set out as a note under section 1701u of Title 12, Banks and Banking.

§ 2940. References

(a) References to Comprehensive Employment and Training Act

Except as otherwise specified, a reference in a Federal law (other than a reference in a provision amended by the Reading Excellence Act) to a provision of the Comprehensive Employment and Training Act—

- (1) effective on August 7, 1998, shall be deemed to refer to the corresponding provision of the Job Training Partnership Act or of the Workforce Investment Act of 1998; and
- (2) effective on July 1, 2000, shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998.

(b) References to Job Training Partnership Act

Except as otherwise specified, a reference in a Federal law (other than a reference in this Act or a reference in a provision amended by the Reading Excellence Act) to a provision of the Job Training Partnership Act—

- (1) effective on August 7, 1998, shall be deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998; and
- (2) effective on July 1, 2000, shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998.

(Pub. L. 105-220, title I, §190, Aug. 7, 1998, 112 Stat. 1054; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(h)(1)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-435.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act, referred to in subsec. (a), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, which was classified generally to chapter 17 (§801 et seq.) of this title, and was repealed by section 184(a)(1) of the Job Training Partnership Act, Pub. L. 97-300, title I, Oct. 13, 1982, 96 Stat. 1357.

The Reading Excellence Act, referred to in text, is section 101(f) [title VIII] of Pub. L. 105-277, div. A, Oct. 21, 1998, 112 Stat. 2681-337, 2681-391. The provisions of title VIII of section 101(f) appear at 112 Stat. 2681-391 to 2681-435. For complete classification of this Act to the Code, see Tables.

The Job Training Partnership Act, referred to in subsecs. (a)(1) and (b), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§1501 et seq.) of this title, prior to repeal by Pub. L. 105-220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059. For complete classification of this Act to the Code, see Tables.

The Workforce Investment Act of 1998, referred to in text, is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

This Act, referred to in subsec. (b), is the Workforce Investment Act of 1998. See note above.

AMENDMENTS

1998—Pub. L. 105-277 amended section catchline and text generally. Prior to amendment, text read as fol-

lows: “Effective on August 7, 1998, all references in any other provision of law (other than section 665 of title 18) to the Comprehensive Employment and Training Act, or to the Job Training Partnership Act, as the case may be, shall be deemed to refer to the ‘Workforce Investment Act of 1998.’”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. A, §101(f) [title VIII, §405(h)(2)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-435, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the Workforce Investment Act of 1998 [Pub. L. 105-220].”

PREPARATION OF LEGISLATION TO MAKE TECHNICAL AND CONFORMING AMENDMENTS

Pub. L. 105-220, title I, §199A, Aug. 7, 1998, 112 Stat. 1059, as amended by Pub. L. 105-277, div. A, §101(f) [title VIII, §405(h)(3)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-435, provided that:

“(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle [subtitle F (§§199, 199A) of title I of Pub. L. 105-220, repealing sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737, 1751 to 1791h, 1792 to 1792b, and 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 11421, 11441 to 11447, 11449, 11450, 11461 to 11466, 11471, and 11472 of Title 42, The Public Health and Welfare, and sections 42101 to 42106 of Title 49, Transportation, enacting provisions set out as notes under sections 1501 and 2301 of this title and section 11421 of Title 42, and repealing provisions set out as notes under sections 1501 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality].

“(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act [Aug. 7, 1998], the Secretary shall submit to Congress the recommended legislation referred to under subsection (a).”

§ 2941. State legislative authority

(a) Authority of State legislature

Nothing in this chapter shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this chapter, of the activities assisted under this chapter. Any funds received by a State under this chapter shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this chapter.

(b) Interstate compacts and cooperative agreements

In the event that compliance with provisions of this chapter would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

(Pub. L. 105-220, title I, §191, Aug. 7, 1998, 112 Stat. 1054.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, which enacted this chapter, repealed sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737 to 1791h, 1792 to 1792b, 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Public Buildings, Prop-