

§ 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and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.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 findings of fact shall likewise be conclusive if supported by substantial evidence.

(d) Scope of review; review by Supreme Court

The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 90-247, title IV, §458, as added Pub. L. 100-297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103-382, title II, §212(b)(3)(D), Oct. 20, 1994, 108 Stat. 3913.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-382 made technical amendment to reference to section 1232d(a) of this title to reflect renumbering of corresponding section of original act.

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.

§ 1234h. Use of recovered funds**(a) Repayment to recipient; factors considered**

Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—