

of special education research conducted or supported by the Special Education Research Center; and

(2) assist the Director in the preparation of a biennial report, as described in section 9519 of this title.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2005 through 2010.

(Pub. L. 107-279, title I, §177, as added Pub. L. 108-446, title II, §201(a)(2), Dec. 3, 2004, 118 Stat. 2800.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(1) and (c)(3), 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 this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

EFFECTIVE DATE

Pub. L. 108-446, title III, §302(c), Dec. 3, 2004, 118 Stat. 2803, provided that:

“(1) NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.—Sections 175, 176, and 177 [20 U.S.C. 9567, 9567a, 9567b] (other than section 177(c) [20 U.S.C. 9567b(c)]) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on the date of enactment of this Act [Dec. 3, 2004].

“(2) PLAN.—Section 177(c) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on October 1, 2005.”

PART F—GENERAL PROVISIONS

AMENDMENTS

2004—Pub. L. 108-446, title II, §201(a)(1), Dec. 3, 2004, 118 Stat. 2799, redesignated part E as F.

§ 9571. Interagency data sources and formats

The Secretary, in consultation with the Director, shall ensure that the Department and the Institute use common sources of data in standardized formats.

(Pub. L. 107-279, title I, §181, Nov. 5, 2002, 116 Stat. 1971.)

§ 9572. Prohibitions

(a) National database

Nothing in this subchapter may be construed to authorize the establishment of a nationwide database of individually identifiable information on individuals involved in studies or other collections of data under this subchapter.

(b) Federal Government and use of Federal funds

Nothing in this subchapter may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control the curriculum, program of instruction, or allocation of State or local resources of a State, local educational agency, or school, or to mandate a State, or any subdivision thereof, to spend any funds or incur any costs not provided for under this subchapter.

(c) Endorsement of curriculum

Notwithstanding any other provision of Federal law, no funds provided under this sub-

chapter to the Institute, including any office, board, committee, or center of the Institute, may be used by the Institute to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(d) Federally sponsored testing

(1) In general

Subject to paragraph (2), no funds provided under this subchapter to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(2) Exceptions

Subsection (a) of this section shall not apply to international comparative assessments developed under the authority of section 9543(a)(6) of this title or section 9003(a)(6) of this title (as such section was in effect on the day before November 5, 2002) and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 107-279, title I, §182, Nov. 5, 2002, 116 Stat. 1971.)

REFERENCES IN TEXT

Section 9003 of this title, referred to in subsec. (d)(2), was repealed by Pub. L. 107-279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985.

§ 9573. Confidentiality

(a) In general

All collection, maintenance, use, and wide dissemination of data by the Institute, including each office, board, committee, and center of the Institute, shall conform with the requirements of section 552a of title 5, the confidentiality standards of subsection (c) of this section, and sections 1232g and 1232h of this title.

(b) Student information

The Director shall ensure that all individually identifiable information about students, their academic achievements, their families, and information with respect to individual schools, shall remain confidential in accordance with section 552a of title 5, the confidentiality standards of subsection (c) of this section, and sections 1232g and 1232h of this title.

(c) Confidentiality standards

(1) In general

(A) The Director shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this subchapter.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) Prohibition

No person may—

(A) use any individually identifiable information furnished under this subchapter for

any purpose other than a research, statistics, or evaluation purpose under this subchapter;

(B) make any publication whereby the data furnished by any particular person under this subchapter can be identified; or

(C) permit anyone other than the individuals authorized by the Director to examine the individual reports.

(d) Administration

(1) In general

(A) Disclosure

No Federal department, bureau, agency, officer, or employee and no recipient of a Federal grant, contract, or cooperative agreement may, for any reason, require the Director, any Commissioner of a National Education Center, or any other employee of the Institute to disclose individually identifiable information that has been collected or retained under this subchapter.

(B) Immunity

Individually identifiable information collected or retained under this subchapter shall be immune from legal process and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(C) Application

This paragraph does not apply to requests for individually identifiable information submitted by or on behalf of the individual identified in the information.

(2) Employee or staff violations

Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (c)(2) of this section, knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (c)(2) of this section, and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this subchapter, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(3) Temporary staff

The Director may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Director in performing the Director's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) Information requirements

No collection of information or data acquisition activity undertaken by the Director shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget

under the rules and regulations established pursuant to chapter 35 of title 44, except such collection of information or data acquisition activity may be subject to review or coordination if the Director determines that such review or coordination is beneficial.

(5) Definitions

For the purposes of this section—

(A) the term “individually identifiable information” means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term “report” means a response provided by or about an individual to an inquiry from the Director and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) Violations

Any person who uses any data provided by the Director, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (c)(2) of this section, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(7) Access to reports or records

Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Director's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

(e) Investigation and prosecution of terrorism

(1) In general

Notwithstanding subsections (a) and (b) of this section, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring the Secretary to permit the Attorney General (or his designee) to—

(A) collect reports, records, and information (including individually identifiable information) in the possession of the Director that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18 or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such information, consistent with

such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) Application and approval

(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the information sought is described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) Protection

An officer or employee of the Department who, in good faith, produces information in accordance with an order issued under this subsection does not violate subsection (b)(2)¹ of this section and shall not be liable to any person for that production.

(Pub. L. 107-279, title I, §183, title IV, §401(a)(6), Nov. 5, 2002, 116 Stat. 1972, 1983.)

CODIFICATION

Subsecs. (a) to (c) of section 9007 of this title, which were transferred to this section and redesignated subsecs. (c) to (e) by Pub. L. 107-279, §401(a)(6), were based on Pub. L. 103-382, title IV, §408(a) to (c), Oct. 20, 1994, 108 Stat. 4034; Pub. L. 107-56, title V, §508, Oct. 26, 2001, 115 Stat. 368; Pub. L. 107-279, title IV, §401(a)(1)–(5), Nov. 5, 2002, 116 Stat. 1983.

AMENDMENTS

2002—Subsecs. (c) to (e). Pub. L. 107-279, §401(a)(6), transferred subsecs. (a) to (c) of section 9007 of this title to this section and redesignated them as subsecs. (c) to (e), respectively. See Codification note above.

§ 9574. Availability of data

Subject to section 9573 of this title, data collected by the Institute, including any office, board, committee, or center of the Institute, in carrying out the priorities and mission of the Institute, shall be made available to the public, including through use of the Internet.

(Pub. L. 107-279, title I, §184, Nov. 5, 2002, 116 Stat. 1972.)

§ 9575. Performance management

The Director shall ensure that all activities conducted or supported by the Institute or a National Education Center make customer service a priority. The Director shall ensure a high level of customer satisfaction through the following methods:

(1) Establishing and improving feedback mechanisms in order to anticipate customer needs.

(2) Disseminating information in a timely fashion and in formats that are easily accessible and usable by researchers, practitioners, and the general public.

(3) Utilizing the most modern technology and other methods available, including arrangements to use data collected electronically by States and local educational agencies, to ensure the efficient collection and timely

distribution of information, including data and reports.

(4) Establishing and measuring performance against a set of indicators for the quality of data collected, analyzed, and reported.

(5) Continuously improving management strategies and practices.

(6) Making information available to the public in an expeditious fashion.

(Pub. L. 107-279, title I, §185, Nov. 5, 2002, 116 Stat. 1972.)

§ 9576. Authority to publish

(a) Publication

The Director may prepare and publish (including through oral presentation) such research, statistics (consistent with part C of this subchapter), and evaluation information and reports from any office, board, committee, and center of the Institute, as needed to carry out the priorities and mission of the Institute without the approval of the Secretary or any other office of the Department.

(b) Advance copies

The Director shall provide the Secretary and other relevant offices with an advance copy of any information to be published under this section before publication.

(c) Peer review

All research, statistics, and evaluation reports conducted by, or supported through, the Institute shall be subjected to rigorous peer review before being published or otherwise made available to the public.

(d) Items not covered

Nothing in subsections¹ (a), (b), or (c) of this section shall be construed to apply to—

(1) information on current or proposed budgets, appropriations, or legislation;

(2) information prohibited from disclosure by law or the Constitution, classified national security information, or information described in section 552(b) of title 5; and

(3) review by officers of the United States in order to prevent the unauthorized disclosure of information described in paragraph (1) or (2).

(Pub. L. 107-279, title I, §186, Nov. 5, 2002, 116 Stat. 1973.)

§ 9577. Vacancies

Any member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A vacancy in an office, board, committee, or center of the Institute shall be filled in the manner in which the original appointment was made. This section does not apply to employees appointed under section 9578 of this title.

(Pub. L. 107-279, title I, §187, Nov. 5, 2002, 116 Stat. 1973.)

¹ So in original. Probably means subsection (d)(2).

¹ So in original. Probably should be "subsection".