

carrying out programs financed under this subchapter shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of the persons providing substantially comparable services, or in excess of the average rate of compensation paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment, whichever is higher; or (2) less than the minimum wage rate prescribed in section 206(a)(1) of title 29. The Secretary shall encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience.

(b) Limitation

(1) In general

Notwithstanding any other provision of law, no Federal funds may be used to pay any part of the compensation of an individual employed by a Head Start agency, if such compensation, including non-Federal funds, exceeds an amount equal to the rate payable for level II of the Executive Schedule under section 5313 of title 5.

(2) Compensation

In this subsection, the term "compensation"—

(A) includes salary, bonuses, periodic payments, severance pay, the value of any vacation time, the value of a compensatory or paid leave benefit not excluded by subparagraph (B), and the fair market value of any employee perquisite or benefit not excluded by subparagraph (B); and

(B) excludes any Head Start agency expenditure for a health, medical, life insurance, disability, retirement, or any other employee welfare or pension benefit.

(Pub. L. 97-35, title VI, §653, Aug. 13, 1981, 95 Stat. 507; Pub. L. 101-501, title I, §122, Nov. 3, 1990, 104 Stat. 1237; Pub. L. 110-134, §22, Dec. 12, 2007, 121 Stat. 1442.)

AMENDMENTS

2007—Pub. L. 110-134 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1990—Pub. L. 101-501 inserted at end "The Secretary shall encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

§ 9849. Nondiscrimination provisions

(a) Discrimination based on race, creed, color, etc., as basis for denial of financial assistance

The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because

of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) Sex discrimination; enforcement provisions applicable

No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 2000d-1 of this title. Section 2000d-2 of this title shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this subchapter.

(c) Discrimination based on handicapping condition as basis for denial of financial assistance

The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract relating to the financial assistance specifically provides that no person with responsibilities in the operation of the program, project, or activity will discriminate against any individual because of a handicapping condition in violation of section 794 of title 29.

(Pub. L. 97-35, title VI, §654, Aug. 13, 1981, 95 Stat. 507.)

§ 9850. Limitation with respect to certain unlawful activities

No individual employed or assigned by or in any Head Start agency or other agency assisted under this subchapter shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this subchapter by such Head Start agency or such other agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance.

(Pub. L. 97-35, title VI, §655, Aug. 13, 1981, 95 Stat. 507; Pub. L. 110-134, §23, Dec. 12, 2007, 121 Stat. 1443.)

AMENDMENTS

2007—Pub. L. 110-134 inserted "or in" after "assigned by".

§ 9851. Political activities

(a) State or local agency

For purposes of chapter 15 of title 5, any agency which assumes responsibility for planning, developing, and coordinating Head Start programs and receives assistance under this subchapter shall be deemed to be a State or local agency. For purposes of clauses (1) and (2) of section 1502(a) of such title, any agency receiving assistance under this subchapter shall be deemed to be a State or local agency.

(b) Restrictions**(1) In general**

A program assisted under this subchapter, and any individual employed by, or assigned to or in, a program assisted under this subchapter (during the hours in which such individual is working on behalf of such program), shall not engage in—

(A) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; or

(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election.

(2) Registration

No funds appropriated under this subchapter may be used to conduct voter registration activities. Nothing in this subchapter prohibits the availability of Head Start facilities during hours of operation for the use of any nonpartisan organization to increase the number of eligible citizens who register to vote in elections for Federal office.

(3) Rules and regulations

The Secretary, after consultation with the Director of the Office of Personnel Management, may issue rules and regulations to provide for the enforcement of this section, which may include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

(Pub. L. 97-35, title VI, §656, Aug. 13, 1981, 95 Stat. 508; Pub. L. 110-134, §24, Dec. 12, 2007, 121 Stat. 1443.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-134, §24(1), inserted heading.

Subsec. (b). Pub. L. 110-134, §24(2), added subsec. (b) and struck out former subsec. (b) which read as follows: “Programs assisted under this subchapter shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or (3) any voter registration activity. The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.”

§ 9852. Advance funding

For the purpose of affording adequate notice of funding available under this subchapter, appropriations for carrying out this subchapter are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(Pub. L. 97-35, title VI, §657, Aug. 13, 1981, 95 Stat. 508.)

§ 9852a. Parental consent requirement for non-emergency intrusive physical examinations**(a) Definition**

The term “nonemergency intrusive physical examination” means, with respect to a child, a physical examination that—

(1) is not immediately necessary to protect the health or safety of the child involved or the health or safety of another individual; and

(2) requires incision or is otherwise invasive, or involves exposure of private body parts.

(b) Requirement

A Head Start agency shall obtain written parental consent before administration of any non-emergency intrusive physical examination of a child in connection with participation in a program under this subchapter.

(c) Rule of construction

Nothing in this section shall be construed to prohibit agencies from using established methods, for handling cases of suspected or known child abuse and neglect, that are in compliance with applicable Federal, State, or tribal law.

(Pub. L. 97-35, title VI, §657A, as added Pub. L. 110-134, §25, Dec. 12, 2007, 121 Stat. 1443.)

PRIOR PROVISIONS

A prior section 9852a, Pub. L. 97-35, title VI, §657A, as added Pub. L. 103-252, title I, §123, May 18, 1994, 108 Stat. 650, related to consultation with Corporation for National and Community Service, prior to repeal by Pub. L. 105-285, title I, §118, Oct. 27, 1998, 112 Stat. 2727.

§ 9852b. Centers of Excellence in Early Childhood**(a) Definition**

In this section, the term “center of excellence” means a Center of Excellence in Early Childhood designated under subsection (b).

(b) Designation and bonus grants

The Secretary shall, subject to the availability of funds under this section, establish a program under which the Secretary shall—

(1) designate not more than 200 exemplary Head Start agencies (including Early Head Start agencies, Indian Head Start agencies, and migrant and seasonal Head Start agencies) as Centers of Excellence in Early Childhood; and

(2) make bonus grants to the centers of excellence to carry out the activities described in subsection (d).

(c) Application and designation**(1) Application****(A) Nomination and submission****(i) In general**

To be eligible to receive a designation as a center of excellence under subsection (b), except as provided in clause (ii), a Head Start agency in a State shall be nominated by the Governor of the State, after selection for nomination by such Governor through a competitive process, and shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.