

Subsec. (c). Pub. L. 105-285, §113(4)(A), substituted “subsection (a)” for “subsection (a)(1)” in introductory provisions.

Subsec. (c)(2). Pub. L. 105-285, §113(4)(B), substituted “3;” for “3 (or under age 5, in the case of children served by an entity specified in subsection (e)(3) of this section);”.

Subsec. (d). Pub. L. 105-285, §113(5), inserted “and” at end of par. (1), redesignated par. (3) as (2), inserted “or for-profit” after “nonprofit”, and struck out former par. (2) which read as follows: “entities that, on the day before the date of enactment of this section, were operating—

“(A) Parent-Child Centers receiving financial assistance under section 9835(a)(4) of this title, as in effect on such date; or

“(B) programs receiving financial assistance under the Comprehensive Child Development Act, as in effect on such date; and”.

Subsec. (e). Pub. L. 105-285, §113(8), struck out “other” before “grant recipients” in heading and substituted “From the portion specified in section 9835(a)(6) of this title.” for “From the balance remaining of the portion specified in section 9835(a)(6) of this title, after making grants to the eligible entities specified in subsection (e) of this section.” in text.

Pub. L. 105-285, §113(6), (7), redesignated subsec. (f) as (e) and struck out heading and text of former subsec. (e) which related to time-limited priority for certain entities.

Subsecs. (f), (g). Pub. L. 105-285, §113(7), (10), added subsec. (g) and redesignated former subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (h). Pub. L. 105-285, §113(9), struck out heading and text of subsec. (h) which related to Secretarial responsibilities.

EFFECTIVE DATE

Section effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as an Effective Date of 1994 Amendment note under section 9832 of this title.

§ 9841. Appeals, notice, hearing, and mediation; alternative agency for Indian tribe

(a) Notice requirements; suspension or termination of assistance stayed pending hearing; mediation

The Secretary shall prescribe—

(1) procedures to assure that special notice of and an opportunity for a timely and expeditious appeal to the Secretary will be provided for an agency or organization which desires to serve as a delegate agency under this subchapter and whose application to the Head Start agency has been wholly or substantially rejected or has not been acted upon within a period of time deemed reasonable by the Secretary, in accordance with regulations which the Secretary shall prescribe;

(2) procedures to assure that financial assistance under this subchapter shall not be suspended, except in emergency situations, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken;

(3) procedures to assure that financial assistance under this subchapter may be terminated or reduced, and an application for refunding may be denied, after the recipient has been afforded reasonable notice and opportunity for a full and fair hearing, including—

(A) a right to file a notice of appeal of a decision not later than 30 days after notice of the decision from the Secretary; and

(B) access to a full and fair hearing of the appeal, not later than 120 days after receipt by the Secretary of the notice of appeal;

(4) procedures (including mediation procedures) are developed and published, to be used in order to—

(A) resolve in a timely manner conflicts potentially leading to an adverse action between—

(i) recipients of financial assistance under this subchapter; and

(ii) delegate agencies, or policy councils of Head Start agencies;

(B) avoid the need for an administrative hearing on an adverse action; and

(C) prohibit a Head Start agency from expending financial assistance awarded under this subchapter for the purpose of paying legal fees, or other costs incurred, pursuant to an appeal under paragraph (3);

(5) procedures to assure that the Secretary may suspend financial assistance to a recipient under this subchapter—

(A) except as provided in subparagraph (B), for not more than 30 days; or

(B) in the case of a recipient under this subchapter that has multiple and recurring deficiencies for 180 days or more and has not made substantial and significant progress toward meeting the goals of the grantee's quality improvement plan or eliminating all deficiencies identified by the Secretary, during the hearing of an appeal described in paragraph (3), for any amount of time; and

(6) procedures to assure that in cases where a Head Start agency prevails in a decision under paragraph (4), the Secretary may determine and provide a reimbursement to the Head Start agency for fees deemed reasonable and customary.

(b) Notification of conflict by Head Start agency to regional office

In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict; and

(2) a reasonable period for the mediation.

(c) Timeline for administrative hearing

The Secretary shall also specify—

(1) a timeline for an administrative hearing, if necessary, on an adverse action; and

(2) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

(d) Termination of designation not stayed upon appeal

In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

(e) Establishment of alternative agency by Indian tribe

(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 9836 of this title as the Head Start agency providing services to the tribe, if—

(A) the Secretary terminates financial assistance under this section to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

(A) served on the administrative staff or program staff of the agency described in paragraph (1)(A); and

(B) was responsible for a deficiency that—

(i) relates to the performance standards or financial management standards described in section 9836a(a)(1) of this title; and

(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).

(Pub. L. 97-35, title VI, § 646, Aug. 13, 1981, 95 Stat. 504; Pub. L. 101-501, title I, § 115, Nov. 3, 1990, 104 Stat. 1232; Pub. L. 103-252, title I, § 113, May 18, 1994, 108 Stat. 641; Pub. L. 110-134, § 16, Dec. 12, 2007, 121 Stat. 1421.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-134, § 16(1), struck out “procedures to assure that” after “prescribe” in introductory provisions.

Subsec. (a)(1), (2). Pub. L. 110-134, § 16(2), inserted “procedures to assure that” after the par. designation.

Subsec. (a)(3) to (6). Pub. L. 110-134, § 16(3), added pars. (3) to (6) and struck out former pars. (3) and (4) which read as follows:

“(3) financial assistance under this subchapter shall not be terminated or reduced, an application for re-funding shall not be denied, and a suspension of financial assistance shall not be continued for longer than 30 days, unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing; and

“(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

“(A) resolve in a timely manner conflicts potentially leading to adverse action between—

“(i) recipients of financial assistance under this subchapter; and

“(ii) delegate agencies or Head Start Parent Policy Councils; and

“(B) avoid the need for an administrative hearing on an adverse action.”

1994—Subsec. (a)(4). Pub. L. 103-252, § 113(a), added par. (4).

Subsecs. (b) to (e). Pub. L. 103-252, § 113(b), added subsecs. (b) to (e) and struck out former subsec. (b) which read as follows: “The Secretary may not prescribe any procedure that would modify the operation of section 1303.21 or 1303.33, or any of subdivisions (a) through (f) of section 1303.35, of title 45 of the Code of Federal Regulations as in effect on April 1, 1990.”

1990—Subsec. (a). Pub. L. 101-501, § 115(1), (2), designated existing provisions as subsec. (a) and inserted “or reduced” after “terminated” in par. (3).

Subsec. (b). Pub. L. 101-501, § 115(3), added subsec. (b).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 115(1), (2) of Pub. L. 101-501 effective Oct. 1, 1990, and amendment by section 115(3) of Pub. L. 101-501 effective Apr. 1, 1990, see section 1001(a), (b)(2) of Pub. L. 101-501, set out as a note under section 8621 of this title.

§ 9842. Records and audits

(a) Each recipient of financial assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this subchapter.

(c) Each recipient of financial assistance under this subchapter shall—

(1) maintain, and annually submit to the Secretary, a complete accounting of the recipient’s administrative expenses (including a detailed statement identifying the amount of financial assistance provided under this subchapter used to pay expenses for salaries and compensation and the amount (if any) of other funds used to pay such expenses);

(2) not later than 30 days after the date of completion of an audit conducted in the manner and to the extent provided in chapter 75 of title 31 (commonly known as the “Single Audit Act of 1984”), submit to the Secretary a copy of the audit management letter and of any audit findings as they relate to the Head Start program; and

(3) provide such additional documentation as the Secretary may require.

(Pub. L. 97-35, title VI, § 647, Aug. 13, 1981, 95 Stat. 505; Pub. L. 110-134, § 17, Dec. 12, 2007, 121 Stat. 1422.)

AMENDMENTS

2007—Subsec. (c). Pub. L. 110-134 added subsec. (c).

§ 9843. Technical assistance and training**(a) Secretarial training and technical assistance****(1) Authority**

From the funds provided under section 9835(a)(2)(C)(i) of this title, the Secretary shall