

§ 1231b-2. Review of applications

(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions

In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Secretary, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law, rules, regulations, or guidelines governing the applicable program, in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, (3) ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or (4) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing, the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines governing such applicable program, it shall rescind such final action.

(b) Appeals to Secretary; persons aggrieved; notice; orders prescribing appropriate agency actions; finality of agency fact findings; interim orders pending appeal or review

Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its final action after a review under subsection (a) may appeal such action to the Secretary. An appeal under this subsection may be taken only if notice of such appeal is filed with the Secretary within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a). If, on such appeal, the Secretary determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Secretary may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Records; availability

Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) Termination of assistance for noncompliance with provisions or orders

If any State educational agency fails or refuses to comply with any provision of this sec-

tion, or with any order of the Secretary under subsection (b), the Secretary shall forthwith terminate all assistance to the State educational agency under the applicable program affected or issue such other orders as the Secretary may deem appropriate to achieve such compliance.

(Pub. L. 90-247, title IV, § 432, formerly § 425, as added Pub. L. 93-380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 566; amended Pub. L. 95-561, title XII, § 1247, Nov. 1, 1978, 92 Stat. 2354; renumbered § 432 and amended Pub. L. 103-382, title II, §§ 212(b)(1), 243, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 432 of Pub. L. 90-247 was renumbered section 438, and is classified to section 1232a of this title.

Another prior section 432 of Pub. L. 90-247 was renumbered section 442, and was classified to section 1233a of this title prior to repeal by Pub. L. 103-382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-382, § 243(1)(C), (D), inserted comma after “the hearing” in third sentence and substituted “guidelines governing such applicable program, it” for “guidelines, governing such applicable program it” in fourth sentence.

Pub. L. 103-382, § 243(1)(A), (B), substituted “Secretary, any applicant” for “Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant”.

Subsec. (b). Pub. L. 103-382, § 243(2), substituted “Secretary” for “Commissioner” wherever appearing.

Subsec. (d). Pub. L. 103-382, § 243(3), substituted “Secretary under” for “Commissioner under” and “Secretary shall” for “Commissioner shall” and inserted before period at end “or issue such other orders as the Secretary may deem appropriate to achieve such compliance”.

1978—Subsec. (a). Pub. L. 95-561 added cl. (3) relating to the ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, and redesignated former cl. (3) as (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95-561, set out as a note under section 1221e-3 of this title.

EFFECTIVE DATE

Pub. L. 93-380, title V, § 508(b), Aug. 21, 1974, 88 Stat. 566, provided that: “The amendments made by subsection (a) [enacting this section and section 1231b-1 of this title] shall be effective on the date of enactment of this Act [Aug. 21, 1974].”

§ 1231c. Advice, counsel, and technical assistance

(a) State educational agencies, institutions of higher education

For the purpose of carrying out more effectively Federal education programs, the Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

(1) in determining benefits available to them under Federal law;

(2) in preparing applications for, and meeting requirements of, applicable programs;

(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and