

§ 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

(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

(b) Cost allocation, collection, etc., by local educational agencies

The Secretary shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

(c) Dissemination

In awarding contracts and grants for the development of curricula or instructional materials, the Secretary and the Director of the National Institute of Education shall—

(1) encourage applicants to assure that such curricula or instructional materials will be developed in a manner conducive to dissemination through continuing consultations with publishers, personnel of State and local educational agencies, teachers, administrators, community representatives, and other individuals experienced in such dissemination;

(2) permit applicants to include provision for reasonable consultation fees or planning costs; and

(3) insure that grants to public agencies and nonprofit private organizations and contracts with public agencies and private organizations for publication and dissemination of curricula or instructional materials, or both, are awarded competitively to such agencies and organizations which provide assurances that the curricula and instructional materials will reach the target populations for which they were developed.

(d) Annual report by Secretary

The Secretary's annual report shall contain a statement of the Secretary's activities under this section.

(Pub. L. 90-247, title IV, § 433, formerly § 414, as added Pub. L. 91-230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered § 424, Pub. L. 92-318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 426, Pub. L. 93-380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 95-561, title XII, § 1248, Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96-88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered § 433, Pub. L. 103-382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 433 of Pub. L. 90-247 was renumbered section 439, and is classified to section 1232b of this title.

Another prior section 433 of Pub. L. 90-247 was renumbered section 443, and was classified to section 1233b of this title prior to repeal by Pub. L. 103-382.

AMENDMENTS

1978—Subsecs. (c), (d). Pub. L. 95-561 added subsec. (c) and redesignated former subsec. (c) as (d).

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.

TRANSFER OF FUNCTIONS

“Secretary” and “Secretary’s”, meaning the Secretary of Education, substituted for “Commissioner” and “Commissioner’s”, respectively, in subsecs. (a) to (d) pursuant to sections 301(a)(1) and 507 of Pub. L. 96-88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

NATIONAL INSTITUTE OF EDUCATION

The National Institute of Education consisting of a National Council on Educational Research and a Director of the Institute was established by section 1221e of this title which, as amended generally by Pub. L. 99-498, title XIV, § 1401(a), Oct. 17, 1986, 100 Stat. 1589, provided objectives and duties for the Office of Educational Research and Improvement and established the National Advisory Council on Educational Research and Improvement, and section 1401(b) of Pub. L. 99-498 transferred the property and records of the National Institute of Education to the Office of Educational Research and Improvement.

§ 1231c-1. Repealed. Pub. L. 103-382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90-247, title IV, § 426A, as added Pub. L. 95-561, title XII, § 1202, Nov. 1, 1978, 92 Stat. 2334; amended Pub. L. 96-88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to equalization assistance.

§ 1231d. Parental involvement and dissemination

In the case of any applicable program in which the Secretary determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, the Secretary shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination is made provides for payments to local educational agencies, applications for such payments shall—

(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by such programs and projects;

(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

(Pub. L. 90-247, title IV, § 434, formerly § 415, as added Pub. L. 91-230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered § 425, Pub. L. 92-318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 427, Pub. L. 93-380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; renumbered § 434 and amended Pub. L. 103-382, title II, §§ 212(b)(1), 244, Oct. 20, 1994, 108 Stat. 3913, 3922.)