

cy, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 90-247, title IV, § 438, formerly § 422, as added Pub. L. 91-230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 432 and amended Pub. L. 92-318, title III, § 301(a)(1), title VII, § 717(b), June 23, 1972, 86 Stat. 326, 369; Pub. L. 94-482, title IV, § 404(b), Oct. 12, 1976, 90 Stat. 2230; renumbered § 438, Pub. L. 103-382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

#### PRIOR PROVISIONS

A prior section 438 of Pub. L. 90-247 was renumbered section 444, and is classified to section 1232g of this title.

Another prior section 438 of Pub. L. 90-247 was renumbered section 448, and was classified to section 1233g of this title prior to repeal by Pub. L. 103-382.

#### AMENDMENTS

1976—Pub. L. 94-482 substituted provisions prohibiting any applicable program from exercising Federal control of education, for provisions prohibiting such specific Federal laws as the Act of Sept. 30, 1950, National Defense Education Act of 1958, Act of Sept. 23, 1950, Higher Education Facilities Act of 1963, Elementary and Secondary Education Act of 1965, Higher Education Act of 1965, International Education Act of 1966, Emergency School Aid Act, and the Vocational Education Act of 1963 from exercising such Federal control.

1972—Pub. L. 92-318, § 717(b), inserted “the Emergency School Aid Act;” after “the International Education Act of 1966;”.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as a note under section 1001 of this title.

#### EX. ORD. NO. 13791. ENFORCING STATUTORY PROHIBITIONS ON FEDERAL CONTROL OF EDUCATION

Ex. Ord. No. 13791, Apr. 26, 2017, 82 F.R. 20427, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to restore the proper division of power under the Constitution between the Federal Government and the States and to further the goals of, and to ensure strict compliance with, statutes that prohibit Federal interference with State and local control over education, including section 103 of the Department of Education Organization Act (DEOA) (20 U.S.C. 3403), sections 438 and 447 of the General Education Provisions Act (GEPA), as amended (20 U.S.C. 1232a and 1232j), and sections 8526A, 8527, and 8529 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) (20 U.S.C. 7906a, 7907, and 7909), it is hereby ordered as follows:

**SECTION 1. Policy.** It shall be the policy of the executive branch to protect and preserve State and local control over the curriculum, program of instruction, administration, and personnel of educational institutions,

schools, and school systems, consistent with applicable law, including ESEA, as amended by ESSA, and ESEA's restrictions related to the Common Core State Standards developed under the Common Core State Standards Initiative.

**SEC. 2. Review of Regulations and Guidance Documents.** (a) The Secretary of Education (Secretary) shall review all Department of Education (Department) regulations and guidance documents relating to DEOA, GEPA, and ESEA, as amended by ESSA.

(b) The Secretary shall examine whether these regulations and guidance documents comply with Federal laws that prohibit the Department from exercising any direction, supervision, or control over areas subject to State and local control, including:

(i) the curriculum or program of instruction of any elementary and secondary school and school system;

(ii) school administration and personnel; and

(iii) selection and content of library resources, textbooks, and instructional materials.

(c) The Secretary shall, as appropriate and consistent with applicable law, rescind or revise any regulations that are identified pursuant to subsection (b) of this section as inconsistent with statutory prohibitions. The Secretary shall also rescind or revise any guidance documents that are identified pursuant to subsection (b) of this section as inconsistent with statutory prohibitions. The Secretary shall, to the extent consistent with law, publish any proposed regulations and withdraw or modify any guidance documents pursuant to this subsection no later than 300 days after the date of this order.

**SEC. 3. Definition.** The term “guidance document” means any written statement issued by the Department to the public that sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue, including Dear Colleague letters, interpretive memoranda, policy statements, manuals, circulars, memoranda, pamphlets, bulletins, advisories, technical assistance, and grants of applications for waivers.

**SEC. 4. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

#### § 1232b. Labor standards

All laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 3145 of title 40.

(Pub. L. 90-247, title IV, § 439, formerly § 423, as added Pub. L. 91-230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 433, Pub. L. 92-318, title III, § 301(a)(1), June 23, 1972, 86 Stat.

326; renumbered §439 and amended Pub. L. 103-382, title II, §§212(b)(1), 261(d), Oct. 20, 1994, 108 Stat. 3913, 3927.)

## REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

## CODIFICATION

“Sections 3141-3144, 3146, and 3147 of title 40” substituted for “the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5)” and “section 3145 of title 40” substituted for “section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

## PRIOR PROVISIONS

A prior section 439 of Pub. L. 90-247 was renumbered section 445, and is classified to section 1232h of this title.

## AMENDMENTS

1994—Pub. L. 103-382, §261(d), substituted “All laborers” for “Except for emergency relief under section 241-1 of this title, all laborers”.

## PART 3—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

**§ 1232c. State agency monitoring and enforcement****(a) State plan**

In the case of any applicable program in which Federal funds are made available to local agencies in a State through or under the supervision of a State board or agency, the Secretary may require the State to submit a plan for monitoring compliance by local agencies with Federal requirements under such program and for enforcement by the State of such requirements. The Secretary may require such plan to provide—

(1) for periodic visits by State personnel of programs administered by local agencies to determine whether such programs are being conducted in accordance with such requirements;

(2) for periodic audits of expenditures under such programs by auditors of the State or other auditors not under the control, direction, or supervision of the local educational agency; and

(3) that the State investigate and resolve all complaints received by the State, or referred to the State by the Secretary, relating to the administration of such programs.

**(b) State enforcement of Federal requirements**

In order to enforce the Federal requirements under any applicable program the State may—

(1) withhold approval, in whole or in part, of the application of a local agency for funds under the program until the State is satisfied that such requirements will be met; except that the State shall not finally disapprove such an application unless the State provides the local agency an opportunity for a hearing before an impartial hearing officer and such officer determines that there has been a sub-

stantial failure by the local agency to comply with any of such requirements;

(2) suspend payments to any local agency, in whole or in part, under the program if the State has reason to believe that the local agency has failed substantially to comply with any of such requirements, except that (A) the State shall not suspend such payments until fifteen days after the State provides the local agency an opportunity to show cause why such action should not be taken and (B) no such suspension shall continue in effect longer than sixty days unless the State within such period provides the notice for a hearing required under paragraph (3) of this subsection;

(3) withhold payments, in whole or in part, under any such program if the State finds, after reasonable notice and opportunity for a hearing before an impartial hearing officer, that the local agency has failed substantially to comply with any of such requirements.

**(c) Withholding of payments**

Any withholding of payments under subsection (b)(3) of this subsection<sup>1</sup> shall continue until the State is satisfied that there is no longer a failure to comply substantially with any of such requirements.

(Pub. L. 90-247, title IV, §440, formerly §434, as added Pub. L. 95-561, title XII, §1231(a)(3), Nov. 1, 1978, 92 Stat. 2342; renumbered §440 and amended Pub. L. 103-382, title II, §§212(b)(1), 261(e), Oct. 20, 1994, 108 Stat. 3913, 3927.)

## PRIOR PROVISIONS

A prior section 1232c, Pub. L. 90-247, title IV, §434, formerly §424, as added Pub. L. 91-230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered §434 and amended Pub. L. 92-318, title III, §301(a)(1), title V, §501, June 23, 1972, 86 Stat. 326, 345; Pub. L. 93-380, title V, §§510, 511(a), Aug. 21, 1974, 88 Stat. 568, 569; Pub. L. 94-482, title V, §501(f)(1), Oct. 12, 1976, 90 Stat. 2237, related to administration of education programs and projects, prior to repeal by section 1231(a)(3) of Pub. L. 95-561.

A prior section 440 of Pub. L. 90-247 was renumbered section 446, and is classified to section 1232i of this title.

## AMENDMENTS

1994—Pub. L. 103-382, §261(e)(1), struck out “educational” after “State” in section catchline.

Subsec. (a). Pub. L. 103-382, §261(e)(2)(A), substituted “Secretary” for “Commissioner” wherever appearing.

Subsecs. (b), (c). Pub. L. 103-382, §261(e)(2)(B), (C), redesignated provision following par. (3) of subsec. (b) as subsec. (c) and substituted “subsection (b)(3)” for “paragraph (3)”.

## EFFECTIVE DATE

Pub. L. 95-561, title XII, §1261, Nov. 1, 1978, 92 Stat. 2356, provided that: “The amendments made by section 1231 [enacting this section and sections 1232d, 1232e, and 1232f of this title and amending section 1088f-1 of this title] shall take effect with respect to appropriations for fiscal year 1980 and subsequent fiscal years. The amendments made by section 1232 [enacting sections 1234, 1234a, 1234b, 1234c, 1234d, and 1234e of this title]

<sup>1</sup> So in original. Probably should be “section”.