

## DEFINITIONS

For meaning of references to an intellectual disability and to individuals with intellectual disabilities in provisions amended by section 2 of Pub. L. 111-256, see section 2(k) of Pub. L. 111-256, set out as a note under section 1400 of this title.

**§ 1402. Office of Special Education Programs****(a) Establishment**

There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in the Department for administering and carrying out this chapter and other programs and activities concerning the education of children with disabilities.

**(b) Director**

The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

**(c) Voluntary and uncompensated services**

Notwithstanding section 1342 of title 31, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this chapter.

(Pub. L. 91-230, title VI, § 603, as added Pub. L. 108-446, title I, § 101, Dec. 3, 2004, 118 Stat. 2659.)

## PRIOR PROVISIONS

A prior section 1402, Pub. L. 91-230, title VI, § 603, as added Pub. L. 105-17, title I, § 101, June 4, 1997, 111 Stat. 46, related to the Office of Special Education Programs, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1402, Pub. L. 91-230, title VI, § 603, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93-380, title VI, § 612(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 98-199, § 3(a), Dec. 2, 1983, 97 Stat. 1357; Pub. L. 101-476, title IX, § 901(b)(21), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102-119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to the Office of Special Education Programs, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

**§ 1403. Abrogation of State sovereign immunity****(a) In general**

A State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this chapter.

**(b) Remedies**

In a suit against a State for a violation of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

**(c) Effective date**

Subsections (a) and (b) apply with respect to violations that occur in whole or part after October 30, 1990.

(Pub. L. 91-230, title VI, § 604, as added Pub. L. 108-446, title I, § 101, Dec. 3, 2004, 118 Stat. 2659.)

## PRIOR PROVISIONS

A prior section 1403, Pub. L. 91-230, title VI, § 604, as added Pub. L. 105-17, title I, § 101, June 4, 1997, 111 Stat.

47, related to abrogation of State sovereign immunity, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1403, Pub. L. 91-230, title VI, § 604, as added Pub. L. 101-476, title I, § 103, Oct. 30, 1990, 104 Stat. 1106, related to abrogation of State sovereign immunity, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

Another prior section 1403, Pub. L. 91-230, title VI, § 604, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93-380, title VI, § 613, Aug. 21, 1974, 88 Stat. 580; Pub. L. 94-273, §§ 3(14), 13(2), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 98-199, § 4, Dec. 2, 1983, 97 Stat. 1358, established the National Advisory Committee on the Education of Handicapped Children and Youth, prior to repeal by Pub. L. 99-457, title IV, § 407, Oct. 8, 1986, 100 Stat. 1177.

**§ 1404. Acquisition of equipment; construction or alteration of facilities****(a) In general**

If the Secretary determines that a program authorized under this chapter will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

**(b) Compliance with certain regulations**

Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the “Americans with Disabilities Accessibility Guidelines for Buildings and Facilities”); or

(2) appendix A of subpart 101-19.6 of title 41, Code of Federal Regulations (commonly known as the “Uniform Federal Accessibility Standards”).

(Pub. L. 91-230, title VI, § 605, as added Pub. L. 108-446, title I, § 101, Dec. 3, 2004, 118 Stat. 2659.)

## PRIOR PROVISIONS

A prior section 1404, Pub. L. 91-230, title VI, § 605, as added Pub. L. 105-17, title I, § 101, June 4, 1997, 111 Stat. 47, related to the acquisition of equipment and construction or alteration of facilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1404, Pub. L. 91-230, title VI, § 605, Apr. 13, 1970, 84 Stat. 177; Pub. L. 98-199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100-630, title I, § 101(b), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 102-119, § 25(a)(2), Oct. 7, 1991, 105 Stat. 605, related to acquisition of equipment and construction of necessary facilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

**§ 1405. Employment of individuals with disabilities**

The Secretary shall ensure that each recipient of assistance under this chapter makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this chapter.

(Pub. L. 91-230, title VI, § 606, as added Pub. L. 108-446, title I, § 101, Dec. 3, 2004, 118 Stat. 2659.)

## PRIOR PROVISIONS

A prior section 1405, Pub. L. 91-230, title VI, § 606, as added Pub. L. 105-17, title I, § 101, June 4, 1997, 111 Stat. 47, related to employment of individuals with disabili-