

1992—Subsec. (a). Pub. L. 102-569 substituted “1993 through 1997” for “1987 through 1992”.

1991—Subsec. (a). Pub. L. 102-52 substituted “1992” for “1991”.

1988—Subsec. (a). Pub. L. 100-630 substituted “1991” for “1990”.

1986—Subsec. (a). Pub. L. 99-506 amended first sentence generally. Prior to amendment, first sentence read as follows: “There are authorized to be appropriated \$4,000,000 for the fiscal year 1984, \$4,200,000 for the fiscal year 1985, and \$4,300,000 for the fiscal year 1986 to carry out the provisions of this chapter.”

§ 1905. Definitions

For purposes of this chapter—

(1) the terms “Helen Keller National Center for Youths and Adults who are Deaf-Blind” and “Center” mean the Helen Keller National Center for Youths and Adults who are Deaf-Blind, and its affiliated network, operated pursuant to this chapter;

(2) the term “individual who is deaf-blind” means any individual—

(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

(C) meets such other requirements as the Secretary may prescribe by regulation; and

(3) the term “Secretary” means the Secretary of Education.

(Pub. L. 98-221, title II, §206, Feb. 22, 1984, 98 Stat. 34; Pub. L. 102-569, title IX, §§905, 908(c)(1), Oct. 29, 1992, 106 Stat. 4482, 4486.)

AMENDMENTS

1992—Par. (1). Pub. L. 102-569, §§905(1), 908(c)(1), substituted “Youths and Adults who are Deaf-Blind” for “Deaf-Blind Youths and Adults” in two places and struck out “section 313 of the Rehabilitation Act of 1973 and continued under” after “operated pursuant to”.

Par. (2). Pub. L. 102-569, §905(2), amended par. (2) generally, substituting present provisions for provisions defining “deaf-blind individual”.

§ 1906. Construction; effect on agreements

This chapter shall not be construed as modifying or affecting any agreement between the De-

partment of Education or any other department or agency of the United States and the Helen Keller Services for the Blind, Incorporated, or any successor to or assignee of such corporation, with respect to the Center.

(Pub. L. 98-221, title II, §207, Feb. 22, 1984, 98 Stat. 34; Pub. L. 102-569, title IX, §906, Oct. 29, 1992, 106 Stat. 4483.)

AMENDMENTS

1992—Pub. L. 102-569 substituted “Helen Keller Services for the Blind, Incorporated” for “Industrial Home for the Blind, Incorporated”.

§ 1907. Helen Keller National Center Federal Endowment Fund

(a) Establishment

The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the “Endowment Fund”) in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) Federal payments

(1) In general

The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

(2) Amount of payment

Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

(c) Investments

(1) In general

The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person’s own business affairs.

(2) Limitations

(A) Federally insured investments and other investments

The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York.

(B) Real estate

The Endowment Fund corpus and income may not be invested in real estate.

(C) Conflict of interest

The Endowment Fund corpus or income may not be invested in instruments or secu-

rities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

(D) Encumbrances

The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

(d) Withdrawals and expenditures

(1) In general

For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

(2) Operational and commercial expenses

(A) In general

The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

(B) Limitation

The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

(3) Limitations and waiver of limitations

(A) In general

Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

(B) Exception

The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

- (i) a financial emergency, such as a pending insolvency or temporary liquidity problem;
- (ii) a life-threatening situation occasioned by a natural disaster or arson; or
- (iii) another unusual occurrence or exigent circumstance.

(e) Reporting requirements

(1) Financial records

The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

(2) Audit and report

(A) Audit

The Center shall arrange for the conduct of an annual financial and compliance audit

of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 1903(a) of this title.

(B) Report

The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

(3) Annual report

Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

(f) Recovery of payments

After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

(g) Definitions

For the purposes of this section:

(1) Endowment fund

The term “endowment fund” means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

(2) Endowment Fund corpus

The term “Endowment Fund corpus” means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

(3) Endowment Fund income

The term “Endowment Fund income” means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1999 through 2003. Such sums shall remain available until expended.

(Pub. L. 98-221, title II, §208, as added Pub. L. 102-569, title IX, §907, Oct. 29, 1992, 106 Stat. 4483; amended Pub. L. 105-220, title IV, §412(b), Aug. 7, 1998, 112 Stat. 1241.)

AMENDMENTS

1998—Subsec. (h). Pub. L. 105-220 substituted “1999 through 2003” for “1993 through 1997”.

§ 1908. Registry

(a) In general

To assist the Center in providing services to individuals who are deaf-blind, the Center may establish and maintain registries of such individuals in each of the regional field offices of the network of the Center.

(b) Voluntary provision of information

No individual who is deaf-blind may be required to provide information to the Center for any purpose with respect to a registry established under subsection (a).

(c) Nondisclosure

The Center (including the network of the Center) may not disclose information contained in a registry established under subsection (a) to any individual or organization that is not affiliated with the Center, unless the individual to whom the information relates provides specific written authorization for the Center to disclose the information.

(d) Privacy rights

The requirements of section 552a of title 5 (commonly known as the "Privacy Act of 1974") shall apply to personally identifiable information contained in the registries established by the Center under subsection (a), in the same manner and to the same extent as such requirements apply to a record of an agency.

(e) Removal of information

On the request of an individual, the Center shall remove all information relating to the individual from any registry established under subsection (a).

(Pub. L. 98-221, title II, §209, as added Pub. L. 105-220, title IV, §412(c), Aug. 7, 1998, 112 Stat. 1241.)

CHAPTER 22—EMPLOYEE POLYGRAPH PROTECTION

Sec.	
2001.	Definitions.
2002.	Prohibitions on lie detector use.
2003.	Notice of protection.
2004.	Authority of Secretary.
2005.	Enforcement provisions.
2006.	Exemptions.
2007.	Restrictions on use of exemptions.
2008.	Disclosure of information.
2009.	Effect on other law and agreements.

§ 2001. Definitions

As used in this chapter:

(1) Commerce

The term "commerce" has the meaning provided by section 203(b) of this title.

(2) Employer

The term "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.

(3) Lie detector

The term "lie detector" includes a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other

similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(4) Polygraph

The term "polygraph" means an instrument that—

(A) records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(B) is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(5) Secretary

The term "Secretary" means the Secretary of Labor.

(Pub. L. 100-347, §2, June 27, 1988, 102 Stat. 646.)

EFFECTIVE DATE

Pub. L. 100-347, §11, June 27, 1988, 102 Stat. 653, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), this Act [enacting this chapter] shall become effective 6 months after the date of enactment of this Act [June 27, 1988].

"(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act."

SHORT TITLE

Pub. L. 100-347, §1, June 27, 1988, 102 Stat. 646, provided that: "This Act [enacting this chapter] may be cited as the 'Employee Polygraph Protection Act of 1988'."

§ 2002. Prohibitions on lie detector use

Except as provided in sections 2006 and 2007 of this title, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(1) directly or indirectly, to require, request, suggest, or cause any employee or prospective employee to take or submit to any lie detector test;

(2) to use, accept, refer to, or inquire concerning the results of any lie detector test of any employee or prospective employee;

(3) to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against—

(A) any employee or prospective employee who refuses, declines, or fails to take or submit to any lie detector test, or

(B) any employee or prospective employee on the basis of the results of any lie detector test; or

(4) to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against, any employee or prospective employee because—

(A) such employee or prospective employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter,