

**(d) Repayment of amounts****(1) In general**

Each recipient of funds under this subchapter shall be liable to repay the amounts described in subsection (c)(1), from funds other than funds received under this subchapter, upon a determination by the Secretary that the misexpenditure of the amounts was due to willful disregard of the requirements of this subchapter, gross negligence, failure to observe accepted standards of administration, or a pattern of misexpenditure described in subsection (c)(1). No such determination shall be made under this subsection or subsection (c) until notice and opportunity for a fair hearing have been given to the recipient.

**(2) Factors in imposing sanctions**

In determining whether to impose any sanction authorized by this section against a recipient of funds under this subchapter for violations of this subchapter (including applicable regulations) by a subgrantee or contractor of such recipient, the Secretary shall first determine whether such recipient has adequately demonstrated that the recipient has—

(A) established and adhered to an appropriate system, for entering into and monitoring subgrant agreements and contracts with subgrantees and contractors, that contains acceptable standards for ensuring accountability;

(B) entered into a written subgrant agreement or contract with such a subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the subgrant agreement or contract, including carrying out the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this subchapter, including regulations issued under this subchapter, by such subgrantee or contractor.

**(3) Waiver**

If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this subchapter and with any applicable Federal or State law directly against any subgrantee or contractor for violation of this subchapter, including regulations issued under this subchapter.

**(e) Immediate termination or suspension of assistance in emergency situations**

In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the recipient is given prompt notice and the opportunity for a subsequent hearing within

30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

**(f) Discrimination against participants**

If the Secretary determines that any recipient under this subchapter has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this subchapter, or has testified or is about to testify in any such proceeding or an investigation under or related to this subchapter, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this subchapter, including regulations issued under this subchapter, the Secretary shall, within 30 days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

**(g) Remedies**

The remedies described in this section shall not be considered to be the exclusive remedies available for violations described in this section.

(Pub. L. 113-128, title I, §184, July 22, 2014, 128 Stat. 1590.)

**EFFECTIVE DATE**

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

**§ 3245. Reports; recordkeeping; investigations****(a) Recipient recordkeeping and reports****(1) In general**

Recipients of funds under this subchapter shall keep records that are sufficient to permit the preparation of reports required by this subchapter and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

**(2) Records and reports regarding general performance**

Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this subchapter. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress, in which case an estimate regarding such information may be provided.

**(3) Maintenance of standardized records**

In order to allow for the preparation of the reports required under subsection (c), such recipients shall maintain standardized records for all individual participants and provide to

the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

**(4) Availability to the public**

**(A) In general**

Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

**(B) Exception**

Subparagraph (A) shall not apply to—

(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(ii) trade secrets, or commercial or financial information, that is—

- (I) obtained from a person; and
- (II) privileged or confidential.

**(C) Fees to recover costs**

Such recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).

**(b) Investigations of use of funds**

**(1) In general**

**(A) Secretary**

In order to evaluate compliance with the provisions of this subchapter, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this subchapter.

**(B) Comptroller general of the United States**

In order to ensure compliance with the provisions of this subchapter, the Comptroller General of the United States may conduct investigations of the use of funds received under this subchapter by any recipient.

**(2) Prohibition**

In conducting any investigation under this subchapter, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to compile and that is not readily available to such recipient.

**(3) Audits**

**(A) In general**

In carrying out any audit under this subchapter (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as soon as practicable) prior to the commencement of the audit.

**(B) Notification requirement**

If the scope, objectives, or purposes of the audit change substantially during the course

of the audit, the entity being audited shall be notified of the change as soon as practicable.

**(C) Additional requirement**

The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

**(D) Rule of construction**

Nothing contained in this subchapter shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

**(c) Grantee information responsibilities**

Each State, each local board, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this subchapter—

(1) shall make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) shall prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 3248 of this title;

(3) shall monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this subchapter; and

(4) shall, to the extent practicable, submit or make available (including through electronic means) any reports, records, plans, or any other data that are required to be submitted or made available, respectively, under this subchapter.

**(d) Information to be included in reports**

**(1) In general**

The reports required in subsection (c) shall include information regarding programs and activities carried out under this subchapter pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 3248 of this title.

**(2) Additional requirement**

The Secretary shall ensure that all elements of the information required for the reports de-

scribed in paragraph (1) are defined and that the information is reported uniformly.

**(e) Quarterly financial reports**

**(1) In general**

Each local board in a State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this subchapter. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

**(2) Additional requirement**

Each State shall submit to the Secretary, and the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

**(f) Maintenance of additional records**

Each State and local board shall maintain records with respect to programs and activities carried out under this subchapter that identify—

- (1) any income or profits earned, including such income or profits earned by subrecipients; and
- (2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

**(g) Cost categories**

In requiring entities to maintain records of costs by cost category under this subchapter, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

(Pub. L. 113–128, title I, §185, July 22, 2014, 128 Stat. 1594.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (b)(3)(D), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

**§ 3246. Administrative adjudication**

**(a) In general**

Whenever any applicant for financial assistance under this subchapter is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law

judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 3244 of this title.

**(b) Appeal**

The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged during the 20-day period shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, notifies the parties that the case involved has been accepted for review.

**(c) Time limit**

Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

**(d) Additional requirement**

The provisions of section 3247 of this title shall apply to any final action of the Secretary under this section.

(Pub. L. 113–128, title I, §186, July 22, 2014, 128 Stat. 1596.)

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

**§ 3247. Judicial review**

**(a) Review**

**(1) Petition**

With respect to any final order by the Secretary under section 3246 of this title by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under this subchapter, or any final order of the Secretary under section 3246 of this title with respect to a corrective action or sanction imposed under section 3244 of this title, any party to a proceeding that resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant for or recipient of the funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

**(2) Action on petition**

The clerk of the court shall transmit a copy of the review petition to the Secretary, who shall file the record on which the final order was entered as provided in section 2112 of title 28. The filing of a review petition shall not