

child care consumer education and referral services.

**(3) Prohibition**

Nothing in this subsection shall be construed to allow the Secretary to compel States to provide additional data and information that is currently (as of November 19, 2014) not publicly available, or is not required by this subchapter, unless such additional data are related to the purposes and scope of this subchapter, and are subject to a notice and comment period of no less than 90 days.

(Pub. L. 97-35, title VI, § 658L, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-244; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104-193, title VI, § 612, Aug. 22, 1996, 110 Stat. 2285; Pub. L. 105-33, title V, § 5602(3), Aug. 5, 1997, 111 Stat. 646; Pub. L. 113-186, § 8(d), Nov. 19, 2014, 128 Stat. 1997.)

AMENDMENTS

2014—Pub. L. 113-186 substituted “Reports, hotline, and Web site” for “Report by Secretary” in section catchline, designated existing provisions as subsec. (a), inserted heading, substituted “2016” for “1998” and “to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate” for “to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate”, inserted at end of subsec. (a) “Such report shall contain a determination around whether each State that uses amounts provided under this subchapter has complied with the priority for services described in sections 9858c(c)(2)(Q) and 9858c(c)(3)(B) of this title.”, and added subsec. (b).

1997—Pub. L. 105-33 substituted “1998” for “1997”.

1996—Pub. L. 104-193 substituted “July 31, 1997, and biennially thereafter” for “July 31, 1993, and annually thereafter” and “Committee on Economic and Educational Opportunities” for “Committee on Education and Labor”.

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

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 OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5603 of Pub. L. 105-33, set out as a note under section 618 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as a note under section 9858 of this title.

**§ 9858k. Limitations on use of financial assistance for certain purposes**

**(a) Sectarian purposes and activities**

No financial assistance provided under this subchapter, pursuant to the choice of a parent under section 9858c(c)(2)(A)(i)(I) of this title or

through any other grant or contract under the State plan, shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

**(b) Tuition**

With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subchapter shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

(Pub. L. 97-35, title VI, § 658M, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-244; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

AMENDMENTS

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

**§ 9858l. Nondiscrimination**

**(a) Religious nondiscrimination**

**(1) Construction**

**(A) In general**

Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion.

**(B) Exception**

A sectarian organization may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

**(2) Discrimination against child**

**(A) In general**

A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

**(B) Non-funded child care slots**

Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

**(3) Employment in general**

**(A) Prohibition**

A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such

employee's primary responsibility is or will be working directly with children in the provision of child care services.

**(B) Qualified applicants**

If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

**(C) Present employees**

This paragraph shall not apply to employees of child care providers receiving assistance under this subchapter if such employees are employed with the provider on November 5, 1990.

**(4) Employment and admission practices**

Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

**(b) Effect on State law**

Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this subchapter.

(Pub. L. 97-35, title VI, § 658N, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-245; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

AMENDMENTS

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

**§ 9858m. Amounts reserved; allotments**

**(a) Amounts reserved**

**(1) Territories and possessions**

The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa,

the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

**(2) Indians<sup>1</sup> tribes**

**(A) In general**

The Secretary shall reserve not less than 2 percent of the amount appropriated under section 9858 of this title in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

**(B) Limitations**

Notwithstanding subparagraph (A), the Secretary shall only reserve an amount that is greater than 2 percent of the amount appropriated under section 9858 of this title, for payments described in subparagraph (A), for a fiscal year (referred to in this subparagraph as the "reservation year") if—

(i) the amount appropriated under section 9858 of this title for the reservation year is greater than the amount appropriated under section 9858 of this title for fiscal year 2014; and

(ii) the Secretary ensures that the amount allotted to States under subsection (b) for the reservation year is not less than the amount allotted to States under subsection (b) for fiscal year 2014.

**(3) National toll-free hotline and Web site**

The Secretary shall reserve up to \$1,500,000 of the amount appropriated under this subchapter for each fiscal year for the operation of a national toll-free hotline and Web site, under section 9858j(b) of this title.

**(4) Technical assistance**

The Secretary shall reserve up to ½ of 1 percent of the amount appropriated under this subchapter for each fiscal year to support technical assistance and dissemination activities under paragraphs (3) and (4) of section 9858g(a) of this title.

**(5) Research, demonstration, and evaluation**

The Secretary may reserve ½ of 1 percent of the amount appropriated under this subchapter for each fiscal year to conduct research and demonstration activities, as well as periodic external, independent evaluations of the impact of the program described by this subchapter on increasing access to child care services and improving the safety and quality of child care services, using scientifically valid research methodologies, and to disseminate the key findings of those evaluations widely and on a timely basis.

**(b) State allotment**

**(1) General rule**

From the amounts appropriated under section 9858 of this title for each fiscal year remaining after reservations under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product

<sup>1</sup> So in original. Probably should be "Indian".