

shall be taken only if the Secretary determines that—

- (1) there has been a failure to comply with such section; and
- (2) compliance with such section cannot be secured by voluntary means.

**(f) Office and review board**

The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.

(Pub. L. 90–247, title IV, §445, formerly §439, as added Pub. L. 93–380, title V, §514(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 95–561, title XII, §1250, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 103–227, title X, §1017, Mar. 31, 1994, 108 Stat. 268; renumbered §445, Pub. L. 103–382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913; amended Pub. L. 107–110, title X, §1061, Jan. 8, 2002, 115 Stat. 2083; Pub. L. 114–95, title IX, §9215(mm)(5), Dec. 10, 2015, 129 Stat. 2176.)

**Editorial Notes**

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c)(5)(A)(ii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(5)(D), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title IV of the Act is classified generally to part A (§7101 et seq.) of subchapter IV of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 445 of Pub. L. 90–247 was classified to section 1233d of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

2015—Subsec. (c)(5)(D). Pub. L. 114–95 substituted “part A of title IV” for “part A of title V”.

2002—Subsec. (b)(1) to (8). Pub. L. 107–110, §1061(1), added pars. (1) to (8) and struck out former pars. (1) to (7) which read as follows:

- “(1) political affiliations;
- “(2) mental and psychological problems potentially embarrassing to the student or his family;
- “(3) sex behavior and attitudes;
- “(4) illegal, anti-social, self-incriminating and demeaning behavior;
- “(5) critical appraisals of other individuals with whom respondents have close family relationships;
- “(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or
- “(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).”

Subsec. (c) to (f). Pub. L. 107–110, §1061(2), (3), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

1994—Pub. L. 103–227 amended section generally, substituting in subsec. (a), provisions relating to inspection of instructional materials by parents or guardians for similar provisions, in subsec. (b), provisions relating to limits on survey, analysis, or evaluations for provisions relating to psychiatric or psychological examinations, testing, or treatment, and adding subsecs. (c) to (e).

1978—Pub. L. 95–561 designated existing provisions as subsec. (a) and added subsec. (b).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE

Pub. L. 93–380, title V, §514(b), Aug. 21, 1974, 88 Stat. 574, provided that: “The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974].”

**§ 1232i. Limitations on withholding of Federal assistance**

**(a) Refusal to supply personal data on students or families**

Except as provided in section 1232g(b)(1)(D) of this title, the refusal of a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

**(b) Noncompliance with nondiscrimination provisions of Federal law**

The extension of Federal financial assistance to a local educational agency may not be limited, deferred, or terminated by the Secretary on the ground of noncompliance with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] or any other nondiscrimination provision of Federal law unless such agency is accorded the right of due process of law, which shall include—

- (1) at least 30 days prior written notice of deferral to the agency, setting forth the particular program or programs which the Secretary finds to be operated in noncompliance with a specific provision of Federal law;
- (2) the opportunity for a hearing on the record before a duly appointed administrative

law judge within a 60-day period (unless such period is extended by mutual consent of the Secretary and such agency) from the commencement of any deferral;

(3) the conclusion of such hearing and the rendering of a decision on the merits by the administrative law judge within a period not to exceed 90 days from the commencement of such hearing, unless the judge finds by a decision that such hearing cannot be concluded or such decision cannot be rendered within such period, in which case such judge may extend such period for not to exceed 60 additional days;

(4) the limitation of any deferral of Federal financial assistance which may be imposed by the Secretary to a period not to exceed 15 days after the rendering of such decision unless there has been an express finding on such record that such agency has failed to comply with any such nondiscrimination provision of Federal law; and

(5) procedures, which shall be established by the Secretary, to ensure the availability of sufficient funds, without regard to any fiscal year limitations, to comply with the decision of such judge.

**(c) Failure to comply with imposition of quotas**

It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas (or any other numerical requirements which have the effect of imposing quotas) on the student admission practices of an institution of higher education or community college receiving Federal financial assistance.

(Pub. L. 90-247, title IV, §446, formerly §440, as added Pub. L. 93-380, title V, §515(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 94-482, title IV, §§407, 408, Oct. 12, 1976, 90 Stat. 2232, 2233; renumbered §446 and amended Pub. L. 103-382, title II, §212(b)(1), (3)(C), Oct. 20, 1994, 108 Stat. 3913.)

**Editorial Notes**

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

PRIOR PROVISIONS

A prior section 446 of Pub. L. 90-247 was classified to section 1233e of this title prior to repeal by Pub. L. 103-382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-382, §212(b)(3)(C), made technical amendment to reference to section 1232g(b)(1)(D) of this title to reflect renumbering of corresponding section of original act.

1976—Pub. L. 94-482 designated existing provisions as subsec. (a) and added subssecs. (b) and (c).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise pro-

vided 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.

EFFECTIVE DATE

Pub. L. 93-380, title V, §515(b), Aug. 21, 1974, 88 Stat. 574, provided that: "The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974]."

**§ 1232j. Prohibition on federally sponsored testing**

**(a) General prohibition**

Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided to the Department of Education or to an applicable program, may be used to pilot test, field test, implement, administer or distribute in any way any federally sponsored national test in reading, mathematics, or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law.

**(b) Exceptions**

Subsection (a) shall not apply to the Third International Mathematics and Science Study or other international comparative assessments developed under the authority of section 9543(a)(6) of this title and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 90-247, title IV, §447, as added Pub. L. 105-277, div. A, §101(f) [title III, §305(a)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-374; amended Pub. L. 107-110, title X, §1062(4), Jan. 8, 2002, 115 Stat. 2088; Pub. L. 107-279, title IV, §404(c), Nov. 5, 2002, 116 Stat. 1985.)

**Editorial Notes**

PRIOR PROVISIONS

A prior section 447 of Pub. L. 90-247 was classified to section 1233f of this title prior to repeal by Pub. L. 103-382.

Prior sections 1233 to 1233h comprising a former subchapter IV of this chapter were repealed by Pub. L. 103-382, title II, §212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

Section 1233, Pub. L. 90-247, title IV, §441, formerly §431, as added Pub. L. 91-230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered §441, Pub. L. 92-318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; Pub. L. 96-88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms for purposes of former subchapter IV of this chapter.

Section 1233a, Pub. L. 90-247, title IV, §442, formerly §432, as added Pub. L. 91-230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §442, Pub. L. 92-318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96-88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, authorized Secretary to establish necessary advisory councils.

Section 1233b, Pub. L. 90-247, title IV, §443, formerly §433, as added Pub. L. 91-230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §443, Pub. L. 92-318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93-380, title V, §516(a), Aug. 21, 1974, 88 Stat. 575; Pub. L. 94-482, title IV, §411, title V, §501(a)(10), Oct. 12, 1976, 90 Stat. 2234, 2235; Pub. L. 96-88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to statutory advisory councils.

Section 1233c, Pub. L. 90-247, title IV, §444, formerly §434, as added Pub. L. 91-230, title IV, §401(a)(10), Apr.