

sible and usable by researchers, practitioners, and the general public.

(3) Utilizing the most modern technology and other methods available, including arrangements to use data collected electronically by States and local educational agencies, to ensure the efficient collection and timely distribution of information, including data and reports.

(4) Establishing and measuring performance against a set of indicators for the quality of data collected, analyzed, and reported.

(5) Continuously improving management strategies and practices.

(6) Making information available to the public in an expeditious fashion.

(Pub. L. 107-279, title I, §185, Nov. 5, 2002, 116 Stat. 1972.)

### § 9576. Authority to publish

#### (a) Publication

The Director may prepare and publish (including through oral presentation) such research, statistics (consistent with part C), and evaluation information and reports from any office, board, committee, and center of the Institute, as needed to carry out the priorities and mission of the Institute without the approval of the Secretary or any other office of the Department.

#### (b) Advance copies

The Director shall provide the Secretary and other relevant offices with an advance copy of any information to be published under this section before publication.

#### (c) Peer review

All research, statistics, and evaluation reports conducted by, or supported through, the Institute shall be subjected to rigorous peer review before being published or otherwise made available to the public.

#### (d) Items not covered

Nothing in subsections<sup>1</sup> (a), (b), or (c) shall be construed to apply to—

(1) information on current or proposed budgets, appropriations, or legislation;

(2) information prohibited from disclosure by law or the Constitution, classified national security information, or information described in section 552(b) of title 5; and

(3) review by officers of the United States in order to prevent the unauthorized disclosure of information described in paragraph (1) or (2).

(Pub. L. 107-279, title I, §186, Nov. 5, 2002, 116 Stat. 1973.)

### § 9577. Vacancies

Any member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A vacancy in an office, board, committee, or center of the Institute shall be filled in the manner in which the original appointment was made. This section does

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

not apply to employees appointed under section 9578 of this title.

(Pub. L. 107-279, title I, §187, Nov. 5, 2002, 116 Stat. 1973.)

### § 9578. Scientific or technical employees

#### (a) In general

The Director may appoint, for terms not to exceed 6 years (without regard to the provisions of title 5 governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees to carry out the functions of the Institute or the office, board, committee, or center, respectively, if—

(1) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

(2) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS-15, as determined in accordance with section 5376 of title 5, except that not more than 7 individuals appointed under this section may be paid at a rate that does not exceed the rate of basic pay for level III of the Executive Schedule;

(3) the appointment of such employee is necessary (as determined by the Director on the basis of clear and convincing evidence) to provide the Institute or the office, board, committee, or center with scientific or technical expertise which could not otherwise be obtained by the Institute or the office, board, committee, or center through the competitive service; and

(4) the total number of such employees does not exceed 40 individuals or 1/5 of the number of full-time, regular scientific or professional employees of the Institute, whichever is greater.

#### (b) Duties of employees

All employees described in subsection (a) shall work on activities of the Institute or the office, board, committee, or center, and shall not be reassigned to other duties outside the Institute or the office, board, committee, or center during their term.

(Pub. L. 107-279, title I, §188, Nov. 5, 2002, 116 Stat. 1973.)

### Editorial Notes

#### REFERENCES IN TEXT

GS-15, referred to in subsec. (a)(2), is contained in the General Schedule, which is set out under section 5332 of Title 5, Government Organization and Employees.

Level III of the Executive Schedule, referred to in subsec. (a)(2), is set out in section 5314 of Title 5, Government Organization and Employees.

### Statutory Notes and Related Subsidiaries

#### REFERENCES TO MAXIMUM RATE UNDER 5 U.S.C. 5376

For reference to maximum rate under section 5376 of Title 5, Government Organization and Employees, see section 2(d)(3) of Pub. L. 110-372, set out as an Effective

Date of 2008 Amendment note under section 5376 of Title 5.

### § 9579. Fellowships

In order to strengthen the national capacity to carry out high-quality research, evaluation, and statistics related to education, the Director shall establish and maintain research, evaluation, and statistics fellowships in institutions of higher education (which may include the establishment of such fellowships in historically Black colleges and universities and other institutions of higher education with large numbers of minority students) that support graduate and postdoctoral study onsite at the Institute or at the institution of higher education. In establishing the fellowships, the Director shall ensure that women and minorities are actively recruited for participation.

(Pub. L. 107-279, title I, §189, Nov. 5, 2002, 116 Stat. 1974.)

### § 9580. Voluntary service

The Director may accept voluntary and uncompensated services to carry out and support activities that are consistent with the priorities and mission of the Institute.

(Pub. L. 107-279, title I, §190, Nov. 5, 2002, 116 Stat. 1974.)

### § 9581. Rulemaking

Notwithstanding section 1232(d) of this title, the exemption for public property, loans, grants, and benefits in section 553(a)(2) of title 5 shall apply to the Institute.

(Pub. L. 107-279, title I, §191, Nov. 5, 2002, 116 Stat. 1974.)

### § 9582. Copyright

Nothing in this Act shall be construed to affect the rights, remedies, limitations, or defense under title 17.

(Pub. L. 107-279, title I, §192, Nov. 5, 2002, 116 Stat. 1974.)

## Editorial Notes

### REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 107-279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 7013, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 and former sections 6317, 6491, 6932, 7253c, 7283b, and 7283d of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

### § 9583. Removal

#### (a) Presidential

The Director, each member of the Board, and the Commissioner for Education Statistics may

be removed by the President prior to the expiration of the term of each such appointee.

#### (b) Director

Each Commissioner appointed by the Director pursuant to section 9517 of this title may be removed by the Director prior to the expiration of the term of each such Commissioner.

(Pub. L. 107-279, title I, §193, Nov. 5, 2002, 116 Stat. 1974.)

### § 9584. Authorization of appropriations

#### (a) In general

There are authorized to be appropriated to administer and carry out this subchapter (except section 9564 of this title) \$400,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) not less than the amount provided to the National Center for Education Statistics (as such Center was in existence on the day before November 5, 2002) for fiscal year 2002 shall be provided to the National Center for Education Statistics, as authorized under part C; and

(2) not more than the lesser of 2 percent of such funds or \$1,000,000 shall be made available to carry out section 9516 of this title (relating to the National Board for Education Sciences).

#### (b) Regional educational laboratories

There are authorized to be appropriated to carry out section 9564 of this title \$100,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years. Of the amounts appropriated under the preceding sentence for a fiscal year, the Director shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

#### (c) Availability

Amounts made available under this section shall remain available until expended.

(Pub. L. 107-279, title I, §194, Nov. 5, 2002, 116 Stat. 1975.)

## SUBCHAPTER II—EDUCATIONAL TECHNICAL ASSISTANCE

### § 9601. Definitions

In this subchapter:

#### (1) In general

The terms “local educational agency” and “State educational agency” have the meanings given those terms in section 7801 of this title.

#### (2) Secretary

The term “Secretary” means the Secretary of Education.

(Pub. L. 107-279, title II, §202, Nov. 5, 2002, 116 Stat. 1975; Pub. L. 114-95, title IX, §9215(gg)(1), Dec. 10, 2015, 129 Stat. 2174.)

## Editorial Notes

### AMENDMENTS

2015—Par. (1). Pub. L. 114-95 made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.