

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.)

Editorial Notes

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 Department 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.)

Editorial Notes

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 En-

dowment 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 securities 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.)

Editorial Notes**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).