

(B) Eleven voting members of the Council shall constitute a quorum.

(5) Special rule

The Council shall—

(A) review general policies for the operation of the Center and shall advise the Commissioner on standards to ensure that statistics and other information disseminated by the Center are of high quality and are not subject to partisan political influence; and

(B) advise the Commissioner and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress.

(6) Staff

The Council shall appoint a staff of not more than six individuals with technical expertise to enable the Council to carry out its duties.

(Pub. L. 103-382, title IV, §407, Oct. 20, 1994, 108 Stat. 4033.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9010, 9011 of this title.

§ 9007. Confidentiality

(a) Confidentiality standards

(1) In general

(A) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this chapter.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) Prohibition

No person may—

(A) use any individually identifiable information furnished under this chapter for any purpose other than a statistical purpose;

(B) make any publication whereby the data furnished by any particular person under this chapter can be identified; or

(C) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports.

(b) Administration

(1) In general

No department, bureau, agency, officer, or employee of the Federal Government, except

the Commissioner in carrying out the purposes of this chapter, shall require, for any reason, copies of reports that have been filed under this chapter with the Center or retained by any individual respondent. Copies of such reports that have been so filed or retained with the Center or any of the Center's employees, contractors, or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This paragraph shall apply only to individually identifiable information (as defined in paragraph (5)(A)).

(2) Employee or staff violations

Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a)(2) of this section, knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (a)(2) of this section, and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this chapter, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(3) Temporary staff

The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Center in performing the Center's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) Information requirements

No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, except such collection of information or data acquisition activity may be subject to review or coordination if the Commissioner determines that such review or coordination is beneficial.

(5) Definitions

For the purposes of this section—

(A) the term "individually identifiable information" means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term "report" means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) Violations

Any person who uses any data provided by the Center, in conjunction with any other in-

formation or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (a)(2) of this section, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(7) Access to reports or records

Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Center's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

(c) Investigation and prosecution of terrorism

(1) In general

Notwithstanding subsections (a) and (b) of this section, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring the Secretary to permit the Attorney General (or his designee) to—

(A) collect reports, records, and information (including individually identifiable information) in the possession of the center that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18 or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such information, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) Application and approval

(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the information sought is described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) Protection

An officer or employee of the Department who, in good faith, produces information in accordance with an order issued under this subsection does not violate subsection (b)(2) of this section and shall not be liable to any person for that production.

(Pub. L. 103-382, title IV, § 408, Oct. 20, 1994, 108 Stat. 4034; Pub. L. 107-56, title V, § 508, Oct. 26, 2001, 115 Stat. 368.)

AMENDMENTS

2001—Subsec. (c). Pub. L. 107-56 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9008 of this title.

§ 9008. Dissemination

(a) General requests

(1) In general

The Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) Compilations

The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.

(b) Congressional requests

The Center shall furnish such special statistical compilations and surveys as the Congress may request.

(c) Joint statistical projects

The Secretary may engage in joint statistical projects related to the purposes of this chapter, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) Fees

(1) In general

Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c) of this section, may be made subject to the payment of the actual or estimated cost of such work.

(2) Funds received

All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) Access

(1) Other agencies

The Center shall, consistent with section 9007 of this title, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Center.

(2) Interested parties

The Center shall, in accordance with such terms and conditions as the Secretary may prescribe, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for the purposes of research and acquiring statistical information.

(Pub. L. 103-382, title IV, § 409, Oct. 20, 1994, 108 Stat. 4035.)

§ 9009. Cooperative education statistics systems

(a) In general

The Commissioner may establish one or more national cooperative education statistics sys-