

**PART 36—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION**

Sec.

36.1 Purpose.

36.2 Penalty adjustment.

AUTHORITY: 28 U.S.C. 2461 note and 31 U.S.C. 3701 note, unless otherwise noted.

SOURCE: 67 FR 69655, Nov. 18, 2002, unless otherwise noted.

**§ 36.1 Purpose.**

The purpose of this part is to make inflation adjustments to the civil mon-

etary penalties within the jurisdiction of the Department of Education. These penalties are subject to review and adjustment as necessary at least once every 4 years in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(Authority: 28 U.S.C. 2461 note and 31 U.S.C. 3701 note)

**§ 36.2 Penalty adjustment.**

The citations for the adjusted penalty provisions, a brief description of the penalty, and the adjusted maximum (and minimum, if applicable) penalty amounts are listed in Table I.

TABLE I, SECTION 36.2—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

Statute	Description	New maximum (and minimum, if applicable) penalty amount
20 U.S.C. 1082(g) .....	Provides for a civil penalty of up to \$25,000 for violations by lenders and guaranty agencies of Title IV-B of the Higher Education Act of 1965, as amended (HEA), which authorizes the Federal Family Education Loan Program.	\$27,500.
20 U.S.C. 1094(c)(3)(B) .....	Provides for a civil penalty of up to \$25,000 for an institution of higher education's violation of Title IV of the Higher Education Act of 1965, as amended, which authorizes various programs of student financial assistance.	\$27,500.
31 U.S.C. 1352(c)(1) and (c)(2)(A).	Provides for a civil penalty of \$10,000 to \$100,000 for recipients of Government grants, contracts, etc. that lobby Congress or the Executive Branch with respect to the award of Government grants and contracts.	\$11,000 to \$110,000.
31 U.S.C. 3802(a)(1) and (a)(2).	Provides for a civil penalty of up to \$5,000 for false claims and statements made to the Government.	\$5,500.

(Authority: 28 U.S.C. 2461 note and 31 U.S.C. 3701 note)

**PART 60—INDEMNIFICATION OF DEPARTMENT OF EDUCATION EMPLOYEES**

Sec.

60.1 What are the policies of the Department regarding indemnification?

60.2 What procedures apply to requests for indemnification?

AUTHORITY: 20 U.S.C. 3411, 3461, 3471, and 3474.

SOURCE: 54 FR 7148, Feb. 16, 1989, unless otherwise noted.

**§ 60.1 What are the policies of the Department regarding indemnification?**

(a)(1) The Department of Education may indemnify, in whole or in part, an employee for any verdict, judgment, or other monetary award rendered against the employee if—

(i) The conduct giving rise to the verdict, judgment, or award occurred within the scope of his or her employment with the Department; and

(ii) The indemnification is in the interest of the United States, as determined by the Secretary.

(2) The regulations in this part apply to an action pending against an ED employee as of March 30, 1989, as well as to any action commenced after that date.

(3) As used in this part, the term *employee* includes—

(i) A present or former officer or employee of the Department or of an advisory committee to the Department, including a special Government employee;

(ii) An employee of another Federal agency on detail to the Department; or

(iii) A student volunteer under 5 U.S.C. 3111.

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(4) As used in this part the term *Secretary* means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

(b)(1) The Department may pay, in whole or in part, to settle or compromise a personal damage claim against an employee if—

(i) The alleged conduct giving rise to the personal damage claim occurred within the scope of employment; and

(ii) The settlement or compromise is in the interest of the United States, as determined by the Secretary.

(2) Payment under paragraph (b)(1) of this section may include reimbursement, in whole or in part, of an employee for prior payment made by the employee under a settlement or compromise that meets the requirements of this section.

(c) The Department does not indemnify or settle a personal damage claim before entry of an adverse verdict, judgment, or monetary award unless the Secretary determines that exceptional circumstances justify the earlier indemnification or settlement.

(d) Any payment under this part, either to indemnify a Department of Education employee or to settle a personal damage claim, is contingent upon the availability of appropriated funds.

(Authority: 20 U.S.C. 3411, 3461, 3471, and 3474)

### § 60.2 What procedures apply to requests for indemnification?

(a) When an employee of the Department of Education becomes aware that an action has been filed against the employee in his or her individual capacity as a result of conduct taken within the scope of his or her employment, the employee shall immediately notify the head of his or her principal operating component and shall cooperate with appropriate officials of the Department in the defense of the action.

(b) As part of the notification in paragraph (a) of this section or at a later time, the employee may request—

(1) Indemnification to satisfy a verdict, judgment, or award entered against the employee; or

(2) Payment to satisfy the requirements of a settlement proposal.

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(c)(1) The employee's request must be in writing to the head of his or her principal operating component and must be accompanied by copies of the complaint and other documents filed in the action, including the verdict, judgment, award, settlement, or settlement proposal, as appropriate.

(2)(i) As used in this section, the term *principal operating component* means an office in the Department headed by an Assistant Secretary, a Deputy Under Secretary, or an equivalent departmental officer who reports directly to the Secretary.

(ii) The term also includes the Office of the Secretary and the Office of the Under Secretary.

(d) The head of the employee's principal operating component submits to the General Counsel, in a timely manner, the request, together with a recommended disposition of the request.

(e) The General Counsel forwards to the Secretary for decision—

(1) The employee's request;

(2) The recommendation of the head of the employee's principal operating component; and

(3) The General Counsel's recommendation.

(Authority: 20 U.S.C. 3411, 3461, 3471, and 3474)

## PART 73—STANDARDS OF CONDUCT

Sec.

73.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

73.2 Conflict of interest waiver.

APPENDIX TO PART 73—CODE OF ETHICS FOR GOVERNMENT SERVICE

AUTHORITY: 5 U.S.C. 301, 7301; 18 U.S.C. 208; and E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306.

SOURCE: 60 FR 5818, Jan. 30, 1995, unless otherwise noted.

### § 73.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Department of Education are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635 and to the Department of Education regulation at 5 CFR part 6301 which supplements the