

§ 98.6 Reports.

The Secretary may require the recipient to submit reports containing information necessary to resolve complaints under section 439 of the Act and the regulations in this part.

(Authority: 20 U.S.C. 1221e-3(a)(1), 1232h)

§ 98.7 Filing a complaint.

(a) Only a student or a parent or guardian of a student directly affected by a violation under Section 439 of the Act may file a complaint under this part. The complaint must be submitted in writing to the Office.

(b) The complaint filed under paragraph (a) of this section must—

(1) Contain specific allegations of fact giving reasonable cause to believe that a violation of either § 98.3 or § 98.4 exists; and

(2) Include evidence of attempted resolution of the complaint at the local level (and at the State level if a State complaint resolution process exists), including the names of local and State officials contacted and significant dates in the attempted resolution process.

(c) The Office investigates each complaint which the Office receives that meets the requirements of this section to determine whether the recipient or contractor failed to comply with the provisions of section 439 of the Act.

(Approved by the Office of Management and Budget under control number 1880-0507)

(Authority: 20 U.S.C. 1221e-3(a)(1), 1232h)

§ 98.8 Notice of the complaint.

(a) If the Office receives a complaint that meets the requirements of § 98.7, it provides written notification to the complainant and the recipient or contractor against which the violation has been alleged that the complaint has been received.

(b) The notice to the recipient or contractor under paragraph (a) of this section must:

(1) Include the substance of the alleged violation; and

(2) Inform the recipient or contractor that the Office will investigate the complaint and that the recipient or

contractor may submit a written response to the complaint.

(Authority: 20 U.S.C. 1221e-3(A)(1), 1232h)

§ 98.9 Investigation and findings.

(a) The Office may permit the parties to submit further written or oral arguments or information.

(b) Following its investigations, the Office provides to the complainant and recipient or contractor written notice of its findings and the basis for its findings.

(c) If the Office finds that the recipient or contractor has not complied with section 439 of the Act, the Office includes in its notice under paragraph (b) of this section:

(1) A statement of the specific steps that the Secretary recommends the recipient or contractor take to comply; and

(2) Provides a reasonable period of time, given all of the circumstances of the case, during which the recipient or contractor may comply voluntarily.

(Authority: 20 U.S.C. 1221e-3(a)(1), 1232h)

§ 98.10 Enforcement of the findings.

(a) If the recipient or contractor does not comply during the period of time set under § 98.9(c), the Secretary may either:

(1) For a recipient, take an action authorized under 34 CFR part 78, including:

(i) Issuing a notice of intent to terminate funds under 34 CFR 78.21;

(ii) Issuing a notice to withhold funds under 34 CFR 78.21, 200.94(b), or 298.45(b), depending upon the applicable program under which the notice is issued; or

(iii) Issuing a notice to cease and desist under 34 CFR 78.31, 200.94(c) or 298.45(c), depending upon the program under which the notice is issued; or

(2) For a contractor, direct the contracting officer to take an appropriate action authorized under the Federal Acquisition Regulations, including either:

(i) Issuing a notice to suspend operations under 48 CFR 12.5; or

(ii) Issuing a notice to terminate for default, either in whole or in part under 48 CFR 49.102.