



## Why is GEPA Important to Federal Education Grants Management

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Virtual Spring Forum 2021  
The Future of the Federal Role in Education:  
Bringing Clarity to Chaos

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- Governs "Applicable Program"
- Tydings Amendment
- Contingent Extension of Programs
- System of Payments
- Appeals of State Actions
- Regulatory Authority
- Prohibiting Federal Control of Education

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- State Agency Monitoring
- Single State Application
- Single LEA Application
- Retention of Records for Audit
- FERPA
- Prohibition on Federally Sponsored Tests
- Enforcement
- Statute of Limitation / Grantbacks

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- GEPA enacted in 1968 as part of ESEA Amendments – Title IV
- Pub L 90-247

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- GEPA applies to “Applicable Program”
  - Any program for which Secretary or ED has administrative responsibility as provided by law
  - Section 400

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Tydings Amendment (Section 421)

- Carryover Provision
  - Applicability ➡ subject to specific limitations in program statutes
  - Changed from 24 months to 27 months in 1975
  - Carryover subject to new statute, regulation, program plan

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What programs are subject to GEPA:

- a) ESEA, IDEA, Perkins, AEFLA;
- b) Only programs that specifically incorporate GEPA in the authorizing statute;
- c) All State-Administered programs;
- d) Programs for which the Secretary has administrative responsibility as provided by law.

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Contingent Extension (Section 422)  
Authorizations automatically extended

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Payments (Section 423)



- Authorizes:
  1. Installment
  2. Advance
  3. Reimbursement

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### Appeal of SEA Action in State Administered Programs (Section 432)

- Recipients of pass-through funds may request a hearing within 30 days if:
  1. State disapproves local plan;
  2. State fails to provide 100% required;
  3. State orders repayment after audit; or
  4. State terminates assistance.

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- If recipient aggrieved by failure of State to rescind action after appeal, recipient may appeal action to Secretary  
- 432 (b)



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LEAs/IHEs may appeal SEA actions under State Administered programs directly to the Secretary.

- a) True
- b) False
- c) True, only if the SEA fails to rescind its action

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### Regulations (Section 437)

- Regulations → "Generally applicable rule, regulation, guideline, interpretation or other requirement"
- Prescribed by Secretary or ED
- Legally binding effect
- Must contain citation to federal statute

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### Prohibition Against Federal Control of Education (Section 438)

- No federal control over curriculum, program of instruction, administration, personnel of any education institution, or selection of textbooks



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### Labor Standards (Section 439)

- Applies Davis-Bacon Act to employees of contractors under applicable programs – prevailing wage rates



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## State Agency Monitoring

- Secretary "may" require monitoring plans for pass-throughs, including:
  1. Periodic visits
  2. Periodic audits
  3. Investigation of all complaints



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- In order to enforce federal regulations, State may:
  1. Withhold approval of local application
  2. Suspend payments
  3. Withhold payments

- Section 440 (b)

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## Single State Application (Section 441)

- Key set of assurances (continuous in effect)
  - Compliance with statutes, regulations, program plans
  - Public control of funds
  - Monitoring and providing T/A
  - Correction of deficiencies
  - Fiscal control and accountability (fiduciary)
  - No purchase of equipment or computer software which results "in direct financial benefit to any organization representing interests of purchasing entity"

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True or False. If a local is determined by the State to be in violation of the civil rights requirements (Title VI, Title IX, Section 504), the State may suspend payments:

- a) True
- b) False

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Single Local Application (Section 442)  
Very similar to State application

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### Records (Section 443)

All recipients must maintain records for 3 years from the completion of the funded activity

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### What types of records?

- Amount and disposition of funds
- Total costs of the activity
- Federal share
- Records to facilitate an effective audit
- ED and Comptroller General shall have access, for purpose of audit examination

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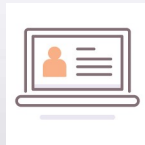
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### FERPA (Section 444)

- Student and parent access to records
- Prohibitions on permitting the release of education records or personally identifiable information



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### Prohibition on Federally Sponsored Testing (Section 447)

- No funds to ED may be used to pilot tests, field tests, or implement, administer, or distribute any test, unless specifically authorized

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### Enforcement (Part D)

- Establishes OALJ –
  - Recovery of funds
  - Withholding
  - Cease and desist
  - "Other proceedings designated by the Secretary"

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Recipients must retain records for a period of:

- a) 5 years,
- b) 3 years,
- c) 6 years,
- d) forever.



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### Recovery of Funds (Secretary 452)

- Program Determination Letter (PDL) based on audit, monitoring, etc.
- 5-year Statute of Limitations

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### Measure of Recovery (Section 453)

- “Proportionate to the extent of the harm the violation caused to an identifiable federal interest”



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### Mitigating Circumstances (Section 443(b))

- When it is unjust to compel recovery because recipient reasonably relied on erroneous written guidance

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### Grantbacks (Section 459)

- Secretary “may” consider granting back up to 75% of recovered funds if practices / procedures have been corrected



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