

determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the proposed amendment, that the proposed amendment is not in compliance with this division.

(B) Disapproval

The Secretary shall not finally disapprove the proposed amendment, except after giving the State educational agency notice and an opportunity for a hearing.

(C) Notification

If the Secretary finds that the proposed amendment is not in compliance, in whole or in part, with this division, the Secretary shall—

- (i) give the State educational agency notice and an opportunity for a hearing; and
- (ii) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

(I) cite the specific provisions in the proposed amendment that are not in compliance; and

(II) request additional information, only as to the noncompliant provisions, needed to make the proposed amendment compliant.

(D) Response

If the State educational agency responds to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the proposed amendment with the requested information described in subparagraph (C)(ii)(II), the Secretary shall approve or disapprove such proposed amendment prior to the later of—

- (i) the expiration of the 45-day period beginning on the date on which the proposed amendment is resubmitted; or
- (ii) the expiration of the 120-day period described in subparagraph (A).

(E) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, such proposed amendment shall be deemed to be disapproved.

(3) Treatment of program funds withdrawn from grant of authority

Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a grant of authority shall apply to the use of funds made available under the program by the State educational agency and each local educational agency with which the State educational agency has a performance agreement.

(Pub. L. 89-10, title VI, §6141, as added Pub. L. 107-110, title VI, §601, Jan. 8, 2002, 115 Stat. 1879.)

§ 7315a. Consolidation and use of funds

(a) In general

(1) Authority

Under a grant of flexibility authority made under this division, a State educational agency may consolidate Federal funds described in subsection (b) of this section and made available to the agency, and use such funds for any educational purpose authorized under this chapter.

(2) Program requirements

Except as otherwise provided in this division, a State educational agency may use funds under paragraph (1) notwithstanding the program requirements of the program under which the funds were made available to the State.

(b) Eligible funds and programs

(1) Funds

The funds described in this subsection are funds, for State-level activities and State administration, that are described in the following provisions:

(A) Section 6304 of this title.

(B) Paragraphs (4) and (5) of section 6362(d) of this title.

(C) Section 6613(a)(3) of this title.

(D) Section 6762(a)(1) of this title.

(E) Subsections (a) (with the agreement of the Governor), (b)(2), and (c)(1) of section 7112 of this title.

(F) Paragraphs (2) and (3) of section 7172(c) of this title.

(G) Section 7211a(b) of this title.

(2) Programs

The programs described in this subsection are the programs authorized to be carried out with funds described in paragraph (1).

(c) Special rule

A State educational agency that receives a grant of flexibility authority under this division—

(1) shall ensure that the funds described in section 7211a(a) of this title are allocated to local educational agencies in the State in accordance with section 7211a(a) of this title; but

(2) may specify how the local educational agencies shall use the allocated funds.

(Pub. L. 89-10, title VI, §6142, as added Pub. L. 107-110, title VI, §601, Jan. 8, 2002, 115 Stat. 1883.)

§ 7315b. Performance review and penalties

(a) Midterm review

(1) Failure to make adequate yearly progress

If, during the term of a grant of flexibility authority under this division, a State educational agency fails to make adequate yearly progress for 2 consecutive years, the Secretary shall, after providing notice and an opportunity for a hearing, terminate the grant of authority promptly.

(2) Noncompliance

The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide evidence as de-