

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(3) Treatment of program funds withdrawn from grant of authority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

scribed in paragraph (3)), terminate a grant of flexibility authority for a State if there is evidence that the State educational agency involved has failed to comply with the terms of the grant of authority.

(3) Evidence

If a State educational agency believes that a determination of the Secretary under this subsection is in error for statistical or other substantive reasons, the State educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final termination determination under this subsection.

(b) Final review

(1) In general

If, at the end of the 5-year term of a grant of flexibility authority made under this division, the State educational agency has not met the requirements described in section 7315(c) of this title, the Secretary may not renew the grant of flexibility authority under section 7315c of this title.

(2) Compliance

Beginning on the date on which such term ends, the State educational agency, and the local educational agencies with which the State educational agency has entered into performance agreements, shall be required to comply with each of the program requirements in effect on such date for each program that was included in the grant of authority.

(Pub. L. 89-10, title VI, §6143, as added Pub. L. 107-110, title VI, §601, Jan. 8, 2002, 115 Stat. 1883.)

§ 7315c. Renewal of grant of flexibility authority

(a) In general

Except as provided in section 7315b of this title and in accordance with this section, if a State educational agency has met, by the end of the original 5-year term of a grant of flexibility authority under this division, the requirements described in section 7315(c) of this title, the Secretary shall renew a grant of flexibility authority for one additional 5-year term.

(b) Renewal

The Secretary may not renew a grant of flexibility authority under this division unless, not later than 6 months before the end of the original term of the grant of authority, the State educational agency seeking the renewal notifies the Secretary, and the local educational agencies with which the State educational agency has entered into performance agreements, of the agency's intention to renew the grant of authority.

(c) Effective date

A renewal under this section shall be effective on the later of—

- (1) the expiration of the original term of the grant of authority; or
- (2) the date on which the State educational agency seeking the renewal provides to the Secretary all data required for the application described in section 7315(c) of this title.

(Pub. L. 89-10, title VI, §6144, as added Pub. L. 107-110, title VI, §601, Jan. 8, 2002, 115 Stat. 1884.)

Division B—Local Flexibility Demonstration

§ 7321. Local flexibility demonstration agreements

(a) Authority

Except as otherwise provided in this division, the Secretary shall, on a competitive basis, enter into local flexibility demonstration agreements—

- (1) with local educational agencies that submit approvable proposed agreements under subsection (c) of this section and that are selected under subsection (b) of this section; and
- (2) under which those agencies may consolidate and use funds in accordance with section 7321a of this title.

(b) Selection of local educational agencies

(1) In general

Subject to paragraph (2), the Secretary shall enter into local flexibility demonstration agreements under this division with not more than 80 local educational agencies. Each local educational agency shall be selected on a competitive basis from among those local educational agencies that—

(A) submit a proposed local flexibility demonstration agreement under subsection (c) of this section to the Secretary and demonstrate, to the satisfaction of the Secretary, that the agreement—

(i) has a substantial promise of assisting the local educational agency in meeting the State's definition of adequate yearly progress, advancing the education priorities of the local educational agency, meeting the general purposes of the programs included under this division and the purposes of this part, improving student achievement, and narrowing achievement gaps in accordance with section 6311(b) of this title;

(ii) meets the requirements of this division; and

(iii) contains a plan to consolidate and use funds in accordance with section 7321a of this title in order to meet the State's definition of adequate yearly progress and the local educational agency's specific, measurable goals for improving student achievement and narrowing achievement gaps; and

(B) have consulted and involved parents and other educators in the development of the proposed local flexibility demonstration agreement.

(2) Geographic distribution

(A) Initial agreements

The Secretary may enter into not more than three local flexibility demonstration agreements under this division with local educational agencies in each State that does not have a grant of flexibility authority under division A of this subpart.

(B) Urban and rural areas

If more than three local educational agencies in a State submit approvable local flexibility demonstration agreements under this