

“(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

“(ii) submit the comments to the Secretary; and

“(iii) provide notice and information to the public regarding the waiver request in the manner in which the applying agency customarily provides similar notices and information to the public.”

Subsec. (b)(3)(B). Pub. L. 114-95, §8013(2)(C)(ii), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

“(i) the request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of the State educational agency; and

“(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner in which that agency customarily provides similar notices and information to the public.”

Subsec. (b)(4). Pub. L. 114-95, §8013(2)(D), added par. (4).

Subsec. (c)(1). Pub. L. 114-95, §8013(3)(A), inserted “, Indian tribes” after “local educational agencies”.

Subsec. (c)(8). Pub. L. 114-95, §8013(3)(B), substituted “part C of subchapter IV” for “subpart 1 of part B of subchapter V”.

Subsec. (c)(9). Pub. L. 114-95, §8013(3)(C), added par. (9) and struck out former par. (9) which read as follows: “the prohibitions regarding—

“(A) State aid in section 7902 of this title;

“(B) use of funds for religious worship or instruction in section 7885 of this title; and

“(C) activities in section 7906 of this title; or”.

Subsec. (d). Pub. L. 114-95, §8013(4)(A), inserted “; limitations” after “waiver” in heading.

Subsec. (d)(2). Pub. L. 114-95, §8013(4)(B), substituted “State demonstrates” for “Secretary determines” in introductory provisions.

Subsec. (d)(3). Pub. L. 114-95, §8013(4)(C), added par. (3).

Subsec. (e). Pub. L. 114-95, §8013(5), added subsec. (e) and struck out former subsec. (e) which required certain reports to State educational agencies, the Secretary, and Congress concerning waivers under this section.

Subsec. (f). Pub. L. 114-95, §8013(6), substituted “if, after notice and an opportunity for a hearing, the Secretary—” for “if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.” and added pars. (A) and (B).

#### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

#### PART E—APPROVAL AND DISAPPROVAL OF STATE PLANS AND LOCAL APPLICATIONS

### § 7871. Approval and disapproval of State plans

#### (a) Approval

A plan submitted by a State pursuant to section 6611(d), 7113(c), 7173, or 7842 of this title shall be approved by the Secretary unless the Secretary makes a written determination (which shall include the supporting information and rationale supporting such determination), prior to the expiration of the 120-day period beginning on the date on which the Secretary received the plan, that the plan is not in compliance with section 6611(d), 7113(c), or 7173 of this title, or part C, respectively.

#### (b) Disapproval process

##### (1) In general

The Secretary shall not finally disapprove a plan submitted under section 6611(d), 7113(c), 7173, or 7842 of this title, except after giving the State educational agency notice and an opportunity for a hearing.

##### (2) Notifications

If the Secretary finds that the plan is not in compliance, in whole or in part, with section 6611(d), 7113(c), or 7173 of this title, or part C, as applicable, the Secretary shall—

(A) immediately notify the State of such determination;

(B) provide a detailed description of the specific provisions of the plan that the Secretary determines fail to meet the requirements, in whole or in part, of such section or part, as applicable;

(C) offer the State an opportunity to revise and resubmit its plan within 45 days of such determination, including the chance for the State to present supporting information to clearly demonstrate that the State plan meets the requirements of such section or part, as applicable;

(D) provide technical assistance, upon request of the State, in order to assist the State to meet the requirements of such section or part, as applicable;

(E) conduct a hearing within 30 days of the plan’s resubmission under subparagraph (C), unless a State declines the opportunity for such hearing; and

(F) request additional information, only as to the noncompliant provisions, needed to make the plan compliant.

##### (3) Response

If the State educational agency responds to the Secretary’s notification described in paragraph (2)(A) prior to the expiration of the 45-day period beginning on the date on which the State educational agency received the notification, and resubmits the plan as described in paragraph (2)(C), the Secretary shall approve such plan unless the Secretary determines the plan does not meet the requirements of section 6611(d), 7113(c), or 7173 of this title, or part C, as applicable.

##### (4) Failure to respond

If the State educational agency does not respond to the Secretary’s notification described in paragraph (2)(A) prior to the expiration of the 45-day period beginning on the date on which the State educational agency received the notification, such plan shall be deemed to be disapproved.

##### (c) Limitation

A plan submitted under section 6611(d), 7113(c), 7173, or 7842 of this title shall not be approved or disapproved based upon the nature of the activities proposed within such plan if such proposed activities meet the applicable program requirements.

##### (d) Peer-review requirements

Notwithstanding any other requirements of this part, the Secretary shall ensure that any

portion of a consolidated State plan that is related to part A of subchapter I is subject to the peer-review process described in section 6311(a)(4) of this title.

(Pub. L. 89–10, title VIII, § 8451, as added Pub. L. 114–95, title VIII, § 8014, Dec. 10, 2015, 129 Stat. 2107.)

#### PRIOR PROVISIONS

A prior section 7871, Pub. L. 89–10, title IX, § 9151, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3792, established the National Advisory Council on Indian Education, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

#### EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

### § 7872. Approval and disapproval of local educational agency applications

#### (a) Approval

An application submitted by a local educational agency pursuant to section 6612(b), 7116, 7174(b) or 7845 of this title, shall be approved by the State educational agency unless the State educational agency makes a written determination (which shall include the supporting information and rationale for such determination), prior to the expiration of the 120-day period beginning on the date on which the State educational agency received the application, that the application is not in compliance with section 6612(b), 7116, or 7174(b) of this title, or part C, respectively.

#### (b) Disapproval process

##### (1) In general

The State educational agency shall not finally disapprove an application submitted under section 6612(b), 7116, 7174(b) or 7845 of this title except after giving the local educational agency notice and opportunity for a hearing.

##### (2) Notifications

If the State educational agency finds that the application submitted under section 6612(b), 7116, 7174(b) or 7845 of this title is not in compliance, in whole or in part, with section 6612(b), 7116, or 7174(b) of this title, or part C, respectively, the State educational agency shall—

(A) immediately notify the local educational agency of such determination;

(B) provide a detailed description of the specific provisions of the application that the State determines fail to meet the requirements, in whole or in part, of such section or part, as applicable;

(C) offer the local educational agency an opportunity to revise and resubmit its application within 45 days of such determination, including the chance for the local educational agency to present supporting information to clearly demonstrate that the application meets the requirements of such section or part;

(D) provide technical assistance, upon request of the local educational agency, in order to assist the local educational agency to meet the requirements of such section or part, as applicable;

(E) conduct a hearing within 30 days of the application's resubmission under subparagraph (C), unless a local educational agency declines the opportunity for such a hearing; and

(F) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

#### (3) Response

If the local educational agency responds to the State educational agency's notification described in paragraph (2)(A) prior to the expiration of the 45-day period beginning on the date on which the local educational agency received the notification, and resubmits the application as described in paragraph (2)(C), the State educational agency shall approve such application unless the State educational agency determines the application does not meet the requirements of this part.

#### (4) Failure to respond

If the local educational agency does not respond to the State educational agency's notification described in paragraph (2)(A) prior to the expiration of the 45-day period beginning on the date on which the local educational agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title VIII, § 8452, as added Pub. L. 114–95, title VIII, § 8014, Dec. 10, 2015, 129 Stat. 2108.)

#### PRIOR PROVISIONS

Prior sections 7872 to 7874 were omitted in the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

Section 7872, Pub. L. 89–10, title IX, § 9152, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793, related to peer review of applications.

Section 7873, Pub. L. 89–10, title IX, § 9153, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793, related to preference for Indian applicants for grants.

Section 7874, Pub. L. 89–10, title IX, § 9154, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793, related to minimum grant criteria.

#### EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

### PART F—UNIFORM PROVISIONS

#### CODIFICATION

Pub. L. 114–95, title VIII, § 8001(b)(1), Dec. 10, 2015, 129 Stat. 2089, redesignated part E (§ 7881 et seq.) of subchapter IX of this chapter as part F of this subchapter.

#### SUBPART 1—PRIVATE SCHOOLS

### § 7881. Participation by private school children and teachers

#### (a) Private school participation

##### (1) In general

Except as otherwise provided in this chapter, to the extent consistent with the number