approved by the Secretary that demonstrate that the State meets any requirement of §300.100, including any policies and procedures filed under Part B of the Act as in effect before, December 3, 2004, the Secretary considers the State to have met the requirement for purposes of receiving a grant under Part B of the Act.

(b) Modifications made by a State. (1) Subject to paragraph (b)(2) of this section, policies and procedures submitted by a State in accordance with this subpart remain in effect until the State submits to the Secretary the modifications that the State determines necessary.

(2) The provisions of this subpart apply to a modification to an application to the same extent and in the same manner that they apply to the original plan.

(c) Modifications required by the Secretary. The Secretary may require a State to modify its policies and procedures, but only to the extent necessary to ensure the State’s compliance with this part, if—

(1) After December 3, 2004, the provisions of the Act or the regulations in this part are amended;

(2) There is a new interpretation of this Act by a Federal court or a State’s highest court; or

(3) There is an official finding of non-compliance with Federal law or regulations.

(Approved by the Office of Management and Budget under control number 1820–0030)

(Authority: 20 U.S.C. 1412(c)(2) and (3))

§ 300.179 Notice and hearing before determining that a State is not eligible to receive a grant.

(a) General. (1) The Secretary does not make a final determination that a State is not eligible to receive a grant under Part B of the Act until providing the State—

(i) With reasonable notice; and

(ii) With an opportunity for a hearing.

(2) In implementing paragraph (a)(1)(i) of this section, the Secretary sends a written notice to the SEA by certified mail with return receipt requested.

(b) Content of notice. In the written notice described in paragraph (a)(2) of this section, the Secretary—

(1) States the basis on which the Secretary proposes to make a final determination that the State is not eligible;

(2) May describe possible options for resolving the issues;

(3) Advises the SEA that it may request a hearing and that the request for a hearing must be made not later than 30 days after it receives the notice of the proposed final determination that the State is not eligible; and