(iv) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under part D of the Act, and private providers of scientifically based technical assistance.

(2) Identifies the State as a high-risk grantee and imposes special conditions on the State’s grant under part C of the Act.

(b) Needs intervention. If the Secretary determines, for three or more consecutive years, that a State needs intervention under §303.703(b)(1)(iii) in implementing the requirements of part C of the Act, the following apply:

(1) The Secretary may take any of the actions described in paragraph (a) of this section.

(2) The Secretary takes one or more of the following actions:

(i) Requires the State to prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.

(ii) Requires the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, as amended (GEPA), 20 U.S.C. 1234f, if the Secretary has reason to believe that the State cannot correct the problem within one year.

(iii) Seeks to recover funds under section 452 of GEPA, 20 U.S.C. 1234a.

(iv) Withholds, in whole or in part, any further payments to the State under part C of the Act.

(2) Withholds, in whole or in part, any further payments to the State under part C of the Act.

(3) Refers the case to the Office of Inspector General of the Department of Education.

(4) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(d) Report to Congress. The Secretary reports to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 30 days of taking enforcement action pursuant to paragraph (a), (b), or (c) of this section, on the specific action taken and the reasons why enforcement action was taken.

(Authority: 20 U.S.C. 1416(e)(1)–(3), 1416(e)(5), 1442)

§ 303.705 Withholding funds.

(a) Opportunity for hearing. Prior to withholding any funds under part C of the Act, the Secretary provides reasonable notice and an opportunity for a hearing to the lead agency involved, pursuant to the procedures in §§303.231 through 303.236.

(b) Suspension. Pending the outcome of any hearing to withhold payments under paragraph (a) of this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under part C of the Act, or both, after the recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under part C of the Act should not be suspended.

(c) Nature of withholding. (1) Limitation. If the Secretary determines that it is appropriate to withhold further payments under section 616(e)(2) or (e)(3) of the Act, the Secretary may determine—

(i) That such withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary’s determination under §303.703(b)(1); or

(ii) That the lead agency must not make further payments of funds under part C of the Act to specified State agencies. EIS programs or, if the lead agency does not provide part C funds to
§ 303.706 Public attention.

Whenever a State receives notice that the Secretary is proposing to take or is taking an enforcement action pursuant to §303.704, the State must, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to section 616 of the Act and §303.704 of the regulations to the attention of the public within the State, including by posting the notice on the Web site of the lead agency and distributing the notice to the media and to EIS programs.

(Authority: 20 U.S.C. 1416(e)(7), 1442)

§ 303.707 Rule of construction.

Nothing in this subpart may be construed to restrict the Secretary from utilizing any authority under GEPA, 20 U.S.C. 1221 et seq., and its regulations in 34 CFR parts 76, 77, 80, and 81, including the imposition of special conditions under 34 CFR 80.12, to monitor and enforce the requirements of the Act.

(Authority: 20 U.S.C. 1416(g), 1442)

§ 303.708 State enforcement.

Nothing in this subpart may be construed to restrict a State from utilizing any other authority available to it to monitor and enforce the requirements of the Act.

(Authority: 20 U.S.C. 1416(a)(1)(C), 1442)