

“(A) IN GENERAL.—Except as provided under subparagraph (B), the Secretary shall approve or disapprove a waiver request submitted under paragraph (1) not more than 30 days after the date on which such request is submitted.

“(B) EXCEPTIONS.—The Secretary may disapprove a waiver request submitted under paragraph (1), only if the Secretary determines that—

“(i) the waiver request does not meet the requirements of this section;

“(ii) the waiver is not permitted pursuant to subsection (b)(2); or

“(iii) the description required under paragraph (2)(C) provides insufficient information to demonstrate that the waiving of such requirements is necessary or appropriate consistent with subsection (a).

“(4) DURATION.—A waiver approved by the Secretary under this section may be for a period not to exceed the 2019–2020 academic year, except to carry out full implementation of any maintenance of effort waivers granted during the 2019–2020 academic year.

“(d) REPORTING AND PUBLICATION.—

“(1) PUBLIC NOTICE.—A State educational agency, Indian Tribe, or local educational agency requesting a waiver under subsection (b)(2) shall provide the public and all local educational agencies in the State with notice of, and the opportunity to comment on, the request by posting information regarding the waiver request and the process for commenting on the State website.

“(2) NOTIFYING CONGRESS.—Not later than 7 days after granting a waiver under this section, the Secretary shall notify the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Appropriations of the Senate, the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives, and the Committee on Appropriations of the House of Representatives of such waiver.

“(3) PUBLICATION.—Not later than 30 days after granting a waiver under this section, the Secretary shall publish a notice of the Secretary’s decision (including which waiver was granted and the reason for granting the waiver) in the Federal Register and on the website of the Department of Education.

“(4) REPORT.—Not later than 30 days after the date of enactment of this Act [Mar. 27, 2020], the Secretary shall prepare and submit a report to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, and the Committee on Education and Labor [now Committee on Education and the Workforce] and the Committee on Appropriations of the House of Representatives, with recommendations on any additional waivers under the Individuals with Disabilities Education Act (20 U.S.C. 1401 [1400] et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) the Secretary believes are necessary to be enacted into law to provide limited flexibility to States and local educational agencies to meet the needs of students during the emergency involving Federal primary responsibility determined to exist by the President under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191(b)) with respect to the Coronavirus Disease 2019 (COVID–19).

“(e) TERMS.—In this section, the term ‘State educational agency’ includes the Bureau of Indian Education, and the term ‘local educational agency’ includes Bureau of Indian Education funded schools operated pursuant to a grant under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), or a contract under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.).”

[For definitions of terms as used in section 3511 of Pub. L. 116–136, set out above, see section 3502 of Pub.

L. 116–136, set out in a note under section 1001 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.)

Editorial Notes**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.

Statutory Notes and Related Subsidiaries**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.)

Editorial Notes**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.