

(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 B 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 B of the Act should not be suspended.

(c) *Nature of withholding.* (1) If the Secretary determines that it is appropriate to withhold further payments under § 300.604(b)(2) or (c)(2), the Secretary may determine—

(i) That the withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary's determination under § 300.603(b)(1); or

(ii) That the SEA must not make further payments under Part B of the Act to specified State agencies or LEAs that caused or were involved in the Secretary's determination under § 300.603(b)(1).

(2) Until the Secretary is satisfied that the condition that caused the initial withholding has been substantially rectified—

(i) Payments to the State under Part B of the Act must be withheld in whole or in part; and

(ii) Payments by the SEA under Part B of the Act must be limited to State agencies and LEAs whose actions did not cause or were not involved in the Secretary's determination under § 300.603(b)(1), as the case may be.

(Authority: 20 U.S.C. 1416(e)(4), (e)(6))

**§ 300.606 Public attention.**

Any State that has received notice under §§ 300.603(b)(1)(ii) through (iv) must, by means of a public notice, take such measures as may be necessary to notify the public within the State of the pendency of an action taken pursuant to § 300.604.

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

**§ 300.607 Divided State agency responsibility.**

For purposes of this subpart, if responsibility for ensuring that the requirements of Part B of the Act are

met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the SEA pursuant to § 300.149(d), and if the Secretary finds that the failure to comply substantially with the provisions of Part B of the Act are related to a failure by the public agency, the Secretary takes appropriate corrective action to ensure compliance with Part B of the Act, except that—

(a) Any reduction or withholding of payments to the State under § 300.604 must be proportionate to the total funds allotted under section 611 of the Act to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the SEA; and

(b) Any withholding of funds under § 300.604 must be limited to the specific agency responsible for the failure to comply with Part B of the Act.

(Authority: 20 U.S.C. 1416(h))

**§ 300.608 State enforcement.**

(a) If an SEA determines that an LEA is not meeting the requirements of Part B of the Act, including the targets in the State's performance plan, the SEA must prohibit the LEA from reducing the LEA's maintenance of effort under § 300.203 for any fiscal year.

(b) Nothing in this subpart shall be construed to restrict a State from utilizing any other authority available to it to monitor and enforce the requirements of Part B of the Act.

(Authority: 20 U.S.C. 1416(f); 20 U.S.C. 1412(a)(11))

**§ 300.609 Rule of construction.**

Nothing in this subpart shall be construed to restrict the Secretary from utilizing any authority under GEPA, including the provisions in 34 CFR parts 76, 77, 80, and 81 to monitor and enforce the requirements of the Act, including the imposition of special conditions under 34 CFR 80.12.

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