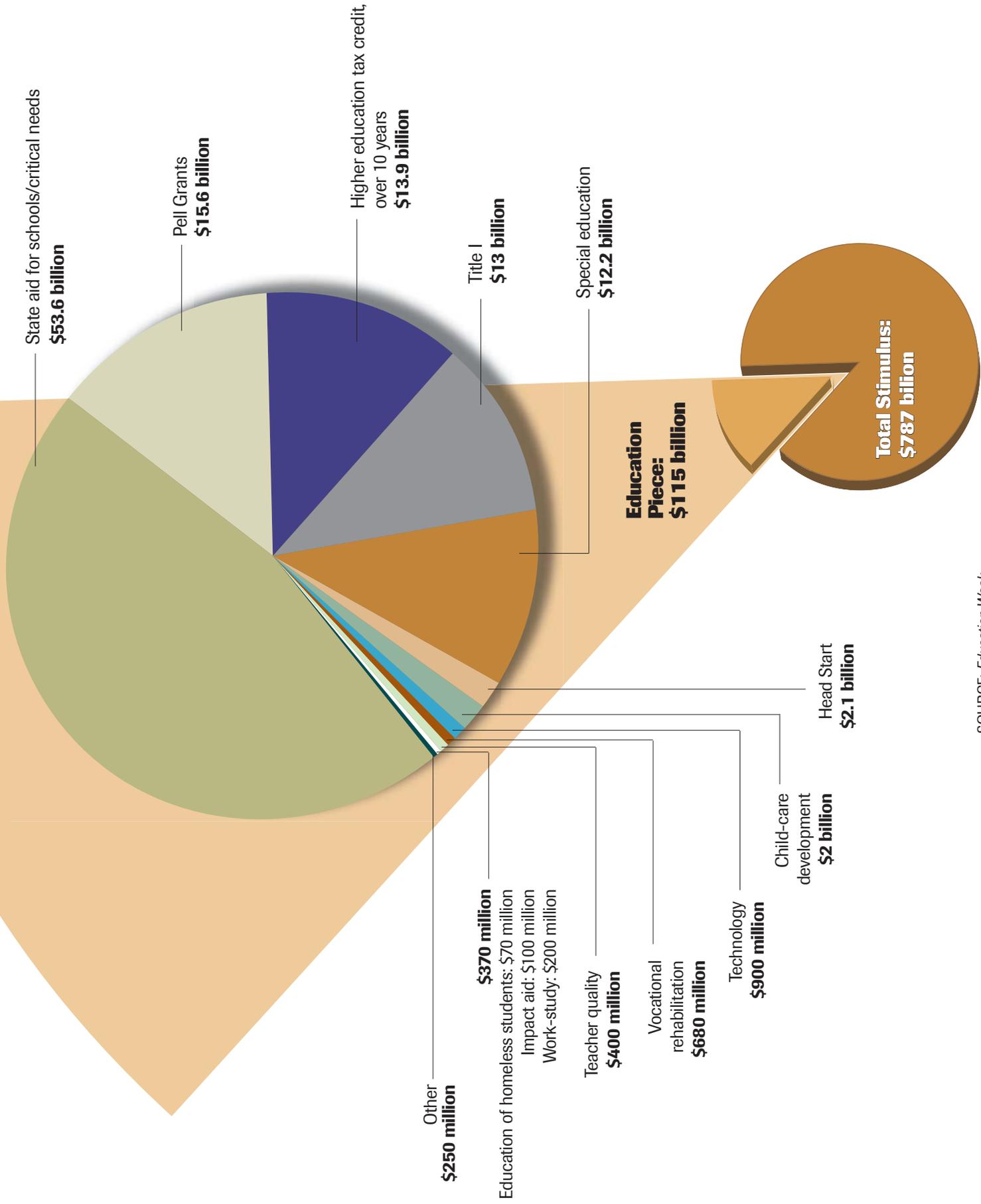


Education Piece: \$115 billion



American Recovery and Reinvestment Act*

Stabilization Funds

Increases to Formula Grants

Education Secretary's Portion

- Competitive Grant Applications
- Innovation Grants — Based on how well the state has used the governor's portion
- Innovation Grants — Grants to innovative LEAs and partnerships to disseminate best practices

Governor's Portion

18.2%

- Used for other "government services," including education, at state discretion

81.8%

- Distributed between K-12 and higher education to cover budget shortfalls
- Based on State funding formulas

- Title I-A Allocation (Targeted and EFIG Only)
- School Improvement Grants (1003 (g) Funds)
- Educational Technology Grants
- Homeless Education
- IDEA Parts B and C
- Vocational Rehabilitation
- Independent Living
- Impact Aid Construction

*Chart does not reflect funding for direct discretionary grants for state data systems, the teacher incentive fund, or teacher quality enhancement grants.

- **Leftover Funds** – those funds, if any, that were not needed to cover budget shortfalls
- Funds will be distributed to LEAs based on their portion of the Title I Allocations
- NOT Title I Funds – can be used for activities under ESEA, IDEA, Perkins, Adult/Family Literacy or for building modernization

ARRA and Title I-A Funding Overlap

IDEA Money Watch

because we need to know where the money goes

COMPARISON OF FY09 AND ARRA IDEA PART B 611 FEDERAL FUNDING

	FY09	ARRA
Authority	Omnibus Appropriations Act of 2009 (P.L. 111-8)	American Recovery and Reinvestment Act of 2009 (ARRA) (P.L. 111-5)
Amount (Part B 611 Only)	\$11.5 billion	\$11.3 billion
Availability to States	25% July 1, 2009 75% October 1, 2009	50% April 1, 2009 50% by September 30, 2009
Conditions	State assurances as required by IDEA [20 U.S.C. §1412]	<ul style="list-style-type: none"> • First 50%: No additional information or application required • Second 50%: Contingent on States submission and approval of information that addresses how the state will meet the accountability and reporting requirements of Section 1512 of the ARRA
Allocations to States	<ul style="list-style-type: none"> ▪ Base Payment – Amount equal to the STATE allocation for 1999 ▪ Any remaining Funds – <ul style="list-style-type: none"> - 85% - relative share of children within the jurisdiction ages 3-21 - 15% - relative share of children living in poverty 	
State Reserve	Set aside for carrying out state-level activities no more than 10% of the state's FY 2006 allocation adjusted for inflation. 20 U.S.C. 1411(e)(2)	No reserve for state activities allowed
Allocations to LEAs	<ul style="list-style-type: none"> ▪ Base Payment – Amount equal to the LEA allocation for 1999 ▪ Any remaining funds – <ul style="list-style-type: none"> - 85% - relative number of children within the jurisdiction - 15% - relative number of children living in poverty 	
Availability	<ul style="list-style-type: none"> • States and LEAs can obligate from July 1, 2009 to Sept. 30, 2011 	<ul style="list-style-type: none"> • LEA should obligate the majority of ARRA funds during school years 2008-09 and 2009-10 and the remainder during school year 2010-11 • LEAs must obligate all ARRA funds by Sept. 30, 2011 • Costs are allowable beginning Feb. 17, 2009
Accountability	None	Quarterly Reports of all revenue and expenditures due to USED no later than 10 days after the end of each calendar quarter.

Flexibility –
Use of IDEA Part B funds for Coordinated Early Intervening Services (CEIS)[(618 (d))]

LEAs may choose to use up to 15 percent of the total of the LEA's FY09 and ARRA Part B Grants to States and Preschool Grants (619) to implement CEIS to students in kindergarten through grade 12 who have not been identified as needing special education and related services, but who need additional academic and behavioral support to succeed in a general education environment. The funds set aside for CEIS may be used by the LEA in FY 2009 or in both FYs 2009 and 2010, as long as the FY 2009 funds are obligated by September 30, 2011.

REPORTING: Each LEA that implements CEIS must report to the State on the number of children who received CEIS and the number who subsequently receive special education and related services under Part B of IDEA within two years after receiving CEIS.

LIMITATIONS TO ABOVE:

If an LEA seeks both to set aside funds for CEIS and to take advantage of the flexibility to reduce its local expenditures for special education under section 613(a)(2)(C) (BELOW), the LEA must ensure that the amount it uses for CEIS does not exceed the maximum amount that could be set aside for CEIS (i.e., 15 percent of the total of its Part B allocations) minus the amount by which it seeks to reduce its MOE. Alternatively, the LEA may choose to take full advantage of the flexibility to reduce its MOE and use the freed-up local funds for early intervening services for children at risk of school failure without additional support.

In any fiscal year that an LEA's grant allocation exceeds the amount that the LEA received in the previous fiscal year, that LEA may reduce the level of local, or state and local, expenditures otherwise required by the LEA MOE requirements (in IDEA, section 613(a)(2)) by up to 50 percent of the increase in the LEA's subgrant allocation. The LEA must spend the 'freed-up' local or, state and local, funds on activities that are authorized under the Elementary and Secondary Education Act (ESEA) of 1965.

LIMITATIONS TO ABOVE:

- LEAs that have received a determination by the state as "Needs assistance," "Needs Intervention" or "Need Substantial Intervention" under the OSEP monitoring system cannot reduce their maintenance of effort as provided under IDEA section 613(a)(2)(C).
- LEAs that are required to use 15 percent of its IDEA Part B allocation on Coordinated Early Intervening Services (CEIS) because the SEA identified the LEA as having significant disproportionality under 34 CFR §300.646, will not be able to reduce local MOE under IDEA section 613(a)(2)(C). LEAs must use the CEIS funds to particularly, but not exclusively, serve children in the over identified group.
- If the SEA has taken responsibility for providing a FAPE in the LEA because the LEA is unable to establish and maintain programs of FAPE, or the SEA has taken action against the LEA under IDEA section 616, no reduction is allowed.

Reduction in local level of special education expenditures – "Maintenance of Effort" or "MOE" [613(a)(2)(C)]



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A not-for-profit organization dedicated to services and projects that work to improve the lives of children, youth and adults with disabilities.

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State Performance Plan (SPP)

Key Facts

- Under IDEA 2004, each state was required to develop and submit a 6 yr SPP (2005-2011) to the Sec'y US ED to improve educational outcomes of children w. disabilities. [sec 616]
- SPP must set "rigorous and measurable" targets to address monitoring indicators set by OSEP.
- SPP must be developed with broad stakeholder input and public dissemination.
- States must annually report to the Sec'y and to the public on the performance of each LEA in meeting benchmarks and other compliance standards linked to outcomes.

Performance Indicators

US ED's OSEP has identified 20 performance indicators for Part B that are associated with the 5 monitoring priorities w/in the SPP:

1. Free Appropriate Public Education in the Least Restrictive Environment;
2. Disproportionality;
3. Child Find;
4. Effective Transition; and
5. General Supervision.

Minimal Requirements

At a minimum, the SPP must include:

- Improvement activities that are designed to meet targets.
- Targets aligned with the indicator that are measurable and reflect improvement.
- Baseline data that is present, clear, and measurable.
- Data that are valid and reliable.
- Required information, i.e., the state's definition of significant discrepancy, accounting for untimely evaluations and how the state will correct non-compliance and deficiencies, etc.

State and Local Accountability:

SPP, APR & State & Local Status Determinations

- Each state submits Annual Performance Report (APR) to US ED to report progress or slippage in meeting measurable, rigorous targets established in SPP
- OSEP annually issues one of four determination of State's status based in large part on data in APR.
 - (1) meets requirements and purposes of IDEA; (2) needs assistance in implementing IDEA; (3) needs intervention; or (4) needs substantial intervention
- SEA must use same 4 categories to assess LEA implementation of IDEA based on performance on SPP indicators; validity and reliability of data timely submitted by LEA; evidence of uncorrected noncompliance; any audit findings.

2008 ARP Rating and 2007 CHILD COUNT (AGES 6-21)

STATE	Meets Requirements	Needs Assistance	Needs Assistance 2nd Yr	Needs Intervention
Alabama			77,661	
Alaska	15,581			
Arizona			117,039	
Arkansas	54,170			
California			602,902	
Colorado				72,275
Connecticut		61,327		
Delaware	17,171			
District of Columbia				10,296
Florida			358,273	
Georgia			170,970	
Hawaii	17,964			
Idaho			24,013	
Illinois			284,711	
Indiana				159,546
Iowa	63,332			
Kansas	56,104			
Kentucky			88,596	
Louisiana			78,002	
Maine			30,536	
Maryland			92,833	
Massachusetts			150,827	
Michigan		212,479		
Minnesota			105,046	
Mississippi				57,295
Missouri	122,663			
Montana			16,187	
Nebraska			40,508	
Nevada			42,617	
New Hampshire			29,751	
New Jersey			230,519	
New Mexico			40,047	
New York			390,675	
North Carolina		171,754		
North Dakota		12,056		
Ohio			246,605	
Oklahoma	87,706			
Oregon		69,692		
Pennsylvania	265,720			
Rhode Island				26,066
South Carolina			93,259	
South Dakota	15,288			
Tennessee		108,661		
Texas				435,221

2008 ARP Rating and 2007 CHILD COUNT (AGES 6-21)

STATE	Meets Requirements	Needs Assistance	Needs Assistance 2nd Yr	Needs Intervention
Utah	55,043			
Vermont (meets req)				
Virginia	151,651			
Washington		110,169		
West Virginia			42,006	
Wisconsin			111,629	
Wyoming		11,412		
BIE schools				6,732
50 states, D.C., BIE	922,393	757,550	3,465,212	757,431
% of Total >>	15.6	12.8	58.7	12.8

IDEA Regulations Related to Determinations

Monitoring, Technical Assistance, and Enforcement

§300.600 State monitoring and enforcement.

(a) The State must monitor the implementation of this part, enforce this part in accordance with §300.604(a)(1) and (a)(3), (b)(2)(i) and (b)(2)(v), and (c)(2), and annually report on performance under this part.

(b) The primary focus of the State's monitoring activities must be on--

(1) Improving educational results and functional outcomes for all children with disabilities; and

(2) Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

(c) As a part of its responsibilities under paragraph (a) of this section, the State must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in paragraph (d) of this section, and the indicators established by the Secretary for the State performance plans.

(d) The State must monitor the LEAs located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

(1) Provision of FAPE in the least restrictive environment.

(2) State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in §300.43 and in 20 U.S.C. 1437(a)(9).

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

(Approved by the Office of Management and Budget under control number 1820-0624)

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

§300.601 State performance plans and data collection.

(a) General. Not later than December 3, 2005, each State must have in place a performance plan that evaluates the State's efforts to implement the requirements and purposes of Part B of the Act, and describes how the State will improve such implementation.

(1) Each State must submit the State's performance plan to the Secretary for approval in accordance with the approval process described in section 616(c) of the Act.

(2) Each State must review its State performance plan at least once every six years, and submit any amendments to the Secretary.

(3) As part of the State performance plan, each State must establish measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in §300.600(d).

(b) Data collection. (1) Each State must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the State performance plans.

(2) If the Secretary permits States to collect data on specific indicators through State monitoring or sampling, and the State collects the data through State monitoring or sampling, the State must collect data on those indicators for each LEA at least once during the period of the State performance plan.

(3) Nothing in Part B of the Act shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part B of the Act.

(Approved by the Office of Management and Budget under control number 1820-0624)

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

§300.602 State use of targets and reporting.

(a) General. Each State must use the targets established in the State's performance plan under §300.601 and the priority areas described in §300.600(d) to analyze the performance of each LEA.

(b) Public reporting and privacy. (1) Public report. (i) Subject to paragraph (b)(1)(ii) of this section, the State must--

(A) Report annually to the public on the performance of each LEA located in the State on the targets in the State's performance plan; and

(B) Make the State's performance plan available through public means, including by posting on the Web site of the SEA, distribution to the media, and distribution through public agencies.

(ii) If the State, in meeting the requirements of paragraph (b)(1)(i) of this section, collects performance data through State monitoring or sampling, the State must include in its report under paragraph (b)(1)(i)(A) of this section the most recently available performance data on each LEA, and the date the data were obtained.

(2) State performance report. The State must report annually to the Secretary on the performance of the State under the State's performance plan.

(3) Privacy. The State must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information.

(Approved by the Office of Management and Budget under control number 1820-0624)

(Authority: 20 U.S.C. 1416(b)(2)(C))

§300.603 Secretary's review and determination regarding State performance.

(a) Review. The Secretary annually reviews the State's performance report submitted pursuant to §300.602(b)(2).

(b) Determination. (1) General. Based on the information provided by the State in the State's annual performance report, information obtained through monitoring visits, and any other public information made available, the Secretary determines if the State--

(i) Meets the requirements and purposes of Part B of the Act;

(ii) Needs assistance in implementing the requirements of Part B of the Act;

(iii) Needs intervention in implementing the requirements of Part B of the Act; or

(iv) Needs substantial intervention in implementing the requirements of Part B of the Act.

(2) Notice and opportunity for a hearing. (i) For determinations made under paragraphs (b)(1)(iii) and (b)(1)(iv) of this section, the Secretary provides reasonable notice and an opportunity for a hearing on those determinations.

(ii) The hearing described in paragraph (b)(2) of this section consists of an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should not make the determination described in paragraph (b)(1) of this section.

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

§300.604 Enforcement.

(a) Needs assistance. If the Secretary determines, for two consecutive years, that a State needs assistance under §300.603(b)(1)(ii) in implementing the requirements of Part B of the Act, the Secretary takes one or more of the following actions:

(1) Advises the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, and requires the State to work with appropriate entities. Such technical assistance may include--

(i) The provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the area for concern within a specified period of time;

(ii) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(iii) Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

(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) Directs the use of State-level funds under section 611(e) of the Act on the area or areas in which the State needs assistance.

(3) Identifies the State as a high-risk grantee and impose special conditions on the State's grant under Part B of the Act.

(b) Needs intervention. If the Secretary determines, for three or more consecutive years, that a State needs intervention under §300.603(b)(1)(iii) in implementing the requirements of Part B of the Act, the following shall 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, 20 U.S.C. 1221 et seq.

(GEPA), if the Secretary has reason to believe that the State cannot correct the problem within one year.

(iii) For each year of the determination, withholds not less than 20 percent and not more than 50 percent of the State's funds under section 611(e) of the Act, until the Secretary determines the State has sufficiently addressed the areas in which the State needs intervention.

(iv) Seeks to recover funds under section 452 of GEPA.

(v) Withholds, in whole or in part, any further payments to the State under Part B of the Act.

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

(c) Needs substantial intervention. Notwithstanding paragraph (a) or (b) of this section, at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of Part B of the Act or that there is a substantial failure to comply with any condition of an SEA's or LEA's eligibility under Part B of the Act, the Secretary takes one or more of the following actions:

(1) Recovers funds under section 452 of GEPA.

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

(3) Refers the case to the Office of the Inspector General at 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 the Workforce 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)-(e)(3), (e)(5))

§300.605 Withholding funds.

(a) Opportunity for hearing. Prior to withholding any funds under Part B of the Act, the Secretary provides reasonable notice and an opportunity for a hearing to the SEA involved, pursuant to the procedures in §§300.180 through 300.183.

(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.