amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary or the Secretary of Health and Human Services, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any grant under this chapter that are pertinent to any such grant.

(Pub. L. 91–596, § 25, Dec. 29, 1970, 84 Stat. 1615; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 675. Annual reports by Secretary of Labor and Secretary of Health and Human Services; contents

Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health and Human Services shall each prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this chapter, the progress toward achievement of the purpose of this chapter, the needs and requirements in the field of occupational safety and health, and any other relevant information. Such reports shall include information regarding occupational safety and health standards, and criteria for such standards, developed during the preceding year; evaluation of standards and criteria previously developed under this chapter, defining areas of emphasis for new criteria and standards; an evaluation of the degree of observance of applicable occupational safety and health standards, and a summary of inspection and enforcement activity undertaken; analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship; an analysis of major occupational diseases; evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year; description of cooperative efforts undertaken between Government agencies and other interested parties in the implementation of this chapter during the preceding year; a progress report on the development of an adequate supply of trained manpower in the field of occupational safety and health, including estimates of future needs and the efforts being made by Government and others to meet those needs; listing of all toxic substances in industrial usage for which labeling requirements, criteria, or standards have not yet been established; and such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this chapter.

(Pub. L. 91–596, § 26, Dec. 29, 1970, 84 Stat. 1615; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted in text for ''Secretary of Health, Education, and Welfare'' in text pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to the transmittal to Congress of reports prepared by the Secretary of Labor and the Secretary of Health and Human Services, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 98 and 124 of House Document No. 103–7.

STUDY OF OCCUPATIONALLY RELATED PULMONARY AND RESPIRATORY DISEASES; STUDY TO BE COMPLETED AND REPORT SUBMITTED BY SEPTEMBER 1, 1979

Pub. L. 95–239, § 17, Mar. 1, 1978, 92 Stat. 105, authorized Secretary of Labor, in cooperation with Director of National Institute for Occupational Safety and Health, to conduct a study of occupationally related pulmonary and respiratory diseases and to complete such study and report findings to President and Congress not later than 18 months after Mar. 1, 1978.

§ 676. Omitted

CODIFICATION

Section, Pub. L. 91–596, § 27, Dec. 29, 1970, 84 Stat. 1616, provided for establishment of a National Commission on State Workmen's Compensation Laws to make an effective study and evaluation of State workmen's compensation laws to determine whether such laws provide an adequate, prompt, and equitable system of compensation for injury or death, with a final report to be transmitted to President and Congress not later than July 31, 1972, ninety days after which the Commission ceased to exist.

§ 677. Separability

If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Pub. L. 91–596, § 32, Dec. 29, 1970, 84 Stat. 1619.)

§ 678. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter for each fiscal year such sums as the Congress shall deem necessary.

(Pub. L. 91–596, § 33, Dec. 29, 1970, 84 Stat. 1620.)

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GENERAL PROVISIONS

§ 701. Findings; purpose; policy

(a) Findings

Congress finds that—

(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

(A) live independently;

(B) enjoy self-determination;

(C) make choices;

(D) contribute to society;

(E) pursue meaningful careers; and

(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

(4) increased employment of individuals with disabilities can be achieved through implementation of statewide workforce investment systems under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under subchapter I of this chapter, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

(A) make informed choices and decisions; and

(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

(b) Purpose

The purposes of this chapter are—

(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

(A) statewide workforce investment systems implemented in accordance with title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

(B) independent living centers and services;

(C) research;

(D) training;

(E) demonstration projects; and

(F) the guarantee of equal opportunity; and

(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

(c) Policy

It is the policy of the United States that all programs, projects, and activities receiving assistance under this chapter shall be carried out in a manner consistent with the principles of—

(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

(3) inclusion, integration, and full participation of the individuals;

(4) support for the involvement of an individual's representative if an individual with a disability requests, desires, or needs such support; and

(5) support for individual and systemic advocacy and community involvement.

(Pub. L. 93–112, § 2, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1095; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–413.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsecs. (a)(4) and (b)(1)(A), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

PRIOR PROVISIONS

A prior section 701, Pub. L. 93–112, § 2, Sept. 26, 1973, 87 Stat. 357; Pub. L. 95–602, title I, § 122(a)(1), Nov. 6, 1978, 92 Stat. 2984; Pub. L. 99–506, title I, § 101, Oct. 21, 1986, 100 Stat. 1808; Pub. L. 102–569, title I, § 101, Oct. 29, 1992, 106 Stat. 4346, related to findings, purpose, and policy, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment in original to section designation and catchline.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–220, title IV, § 401, Aug. 7, 1998, 112 Stat. 1092, provided that: "This title [see Tables for classification] may be cited as the 'Rehabilitation Act Amendments of 1998'."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–73, § 1, Aug. 11, 1993, 107 Stat. 718, provided that: "This Act [enacting sections 753 and 753a of this title, amending sections 706, 718 to 718b, 721 to 723, 725, 730 to 732, 744, 761a, 762, 771a, 777, 777a, 777f, 783, 791, 792, 794e, 795*l*, 796, 796c, 796d to 796e–2, 796f to 796f–4, and 796k of this title, sections 1431, 4301 to 4305, 4331, 4332, 4351, 4353 to 4357, 4359, 4359a, and 4360 of Title 20, Education, and section 46 of Title 41, Public Contracts, enacting provisions set out as notes under section 725 of this title and section 4301 of Title 20, and amending provi-

sions set out as a note under this section] may be cited as the 'Rehabilitation Act Amendments of 1993'.''

SHORT TITLE OF 1992 AMENDMENT

Section 1(a) of Pub. L. 102–569 provided that: ''This Act [see Tables for classification] may be cited as the 'Rehabilitation Act Amendments of 1992'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–52, § 1, June 6, 1991, 105 Stat. 260, provided that: ''This Act [amending sections 720, 732, 741, 761, 771, 772, 774, 775, 777, 777a, 777f, 785, 792, 795f, 795i, 795q, 796i, and 1904 of this title and section 1475 of Title 20, Education] may be cited as the 'Rehabilitation Act Amendments of 1991'.''

SHORT TITLE OF 1986 AMENDMENT

Section 1(a) of Pub. L. 99–506 provided that: ''This Act [enacting sections 716, 717, 752, 794d, 795j to 795q, and 796d–1 of this title and section 2000d–7 of Title 42, The Public Health and Welfare, amending this section and sections 702, 705, 706, 711 to 715, 720 to 724, 730 to 732, 740, 741, 750, 751, 760 to 761b, 762, 762a, 770 to 777b, 777f, 780, 781, 783, 785, 791 to 794, 794c, 795, 795d to 795i, 796a, 796b, 796d to 796i, and 1904 of this title, and section 155a of former Title 36, Patriotic Societies and Observances, repealing section 751 of this title, and enacting provisions set out as notes under this section and sections 706, 730, 761a, and 795m of this title and section 1414 of Title 20, Education] may be cited as the 'Rehabilitation Act Amendments of 1986'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–221, § 1, Feb. 22, 1984, 98 Stat. 17, provided: ''That this Act [enacting sections 780a and 1901 to 1906 of this title, amending sections 706, 712 to 714, 720 to 722, 730, 732, 741, 761 to 762a, 771, 772, 774, 775, 777, 777a, 777f, 780, 781, 783, 791, 792, 794c, 795a, 795c, 795f, 795g, 795i, 796e, and 796i of this title and sections 6001, 6012, 6033, 6061, and 6081 of Title 42, The Public Health and Welfare, repealing section 777c of this title, enacting provisions set out as a note under section 1901 of this title and amending provisions set out as a note under section 713 of this title] may be cited as the 'Rehabilitation Amendments of 1984'.''

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95–602 provided that: ''This Act [enacting sections 710 to 715, 751, 761a, 761b, 762a, 775, 777 to 777f, 780 to 785, 794a to 794c, 795 to 795i, and 796 to 796i of this title and section 6000 of Title 42, The Public Health and Welfare, amending this section, sections 702, 706, 709, 720 to 724, 730 to 732, 740, 741, 750, 760 to 762, 770 to 774, 776, and 792 to 794 of this title, section 1904 [now 3904] of Title 38, Veterans' Benefits, and sections 6001, 6008 to 6012, 6031 to 6033, 6061 to 6065, 6067, 6081, and 6862 of Title 42, repealing sections 764, 786, and 787 of this title and section 6007 of Title 42, omitting sections 6041 to 6043 of Title 42, enacting provisions set out as notes under sections 713 and 795 of this title and sections 6000 and 6001 of Title 42, and repealing a provision set out as a note under section 6001 of Title 42] may be cited as the 'Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978'.''

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–230, § 1, Mar. 15, 1976, 90 Stat. 211, provided that: ''This Act [amending sections 720, 732, 741, 761, 771, 772, 774, 775, 783, 785, and 792 of this title and enacting provisions set out as a note under section 720 of this title] may be cited as the 'Rehabilitation Act Extension of 1976'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–516, title I, § 100, Dec. 7, 1974, 88 Stat. 1617, provided that: ''This title [amending sections 702, 706, 720 to 722, 732, 741, 750, 761, 762, 771, 772, 774 to 776, 783, 785, and 792 of this title and enacting provisions set out as a note under section 702 of this title] shall be known as the 'Rehabilitation Act Amendments of 1974'.''

An identical provision is contained in Pub. L. 93–651, title I, § 100, Nov. 21, 1974, 89 Stat. 2–3.

SHORT TITLE

Pub. L. 93–112, § 1(a), as added by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093, and amended by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412, provided that: ''This Act [enacting this chapter] may be cited as the 'Rehabilitation Act of 1973'.''

Pub. L. 93–112, title VI, § 601, as added by Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1210, provided that: ''This title [enacting subchapter VI of this chapter] may be cited as the 'Employment Opportunities for Individuals With Disabilities Act'.''

Pub. L. 93–112, § 1, Sept. 26, 1973, 87 Stat. 355, provided in part that Pub. L. 93–112, which enacted this chapter and repealed sections 31 to 41c and 42–1 to 42b of this title, could be cited as the ''Rehabilitation Act of 1973'', prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093.

Pub. L. 93–112, title VI, § 601, as added by Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2989, and amended by Pub. L. 102–569, title I, § 102(p)(34), Oct. 29, 1992, 106 Stat. 4360, provided that title VI of Pub. L. 93–112, enacting former subchapter VI of this chapter, could be cited as the ''Employment Opportunities for Handicapped Individuals Act'', prior to the general amendment of title VI of Pub. L. 93–112 by Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1210.

EX. ORD. NO. 11758. DELEGATION OF AUTHORITY OF THE PRESIDENT

Ex. Ord. No. 11758, Jan. 15, 1974, 39 F.R. 2075, as amended by Ex. Ord. No. 11784, May 30, 1974, 39 F.R. 19443; Ex. Ord. No. 11867, June 19, 1975, 40 F.R. 26253; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Director of the Office of Management and Budget is hereby designated and empowered to exercise, without approval, ratification, or other action of the President, the authority of the President under section 500(a) of the Rehabilitation Act of 1973 (87 Stat. 390, 29 U.S.C. 790) with respect to the transfer of unexpended appropriations.

SEC. 2. The Secretary of Labor is hereby designated and empowered to exercise, without approval, ratification, or other action of the President, the authority of the President (1) under section 503(a) of the Rehabilitation Act of 1973 [29 U.S.C. 793(a)] to prescribe regulations, after consultation with the Secretary of Defense and the Administrator of General Services, with respect to the employment of qualified handicapped individuals under Federal procurement contracts, and (2) under section 503(c) of that act [29 U.S.C. 793(c)] with respect to prescribing, by regulation, guidelines for waiving the requirements of section 503 of the act [29 U.S.C. 793]. Changes in any regulations prescribed by the Secretary pursuant to the preceding sentence shall be made only after consultation with the Secretary of Defense and the Administrator of General Services.

SEC. 3. The head of a Federal agency may, in conformity with the provisions of section 503(c) of the Rehabilitation Act of 1973 [29 U.S.C. 793(c)], and regulations issued by the Secretary of Labor pursuant to section 2 of this order, exempt any contract and, following consultation with the Secretary of Labor, any class of contracts, from the requirements of section 503 of the act [29 U.S.C. 793].

SEC. 4. The Federal Acquisition Regulations and, to the extent necessary, any supplemental or comparable regulation issued by any agency of the executive branch shall, following consultation with the Secretary of Labor, be amended to require, as a condition of en-

tering into, renewing or extending any contract subject to the provisions of section 503 of the Rehabilitation Act of 1973 [29 U.S.C. 793], inclusion of a provision requiring compliance with that section and regulations issued by the Secretary pursuant to section 2 of this order.

EX. ORD. NO. 13078. INCREASING EMPLOYMENT OF ADULTS WITH DISABILITIES

Ex. Ord. No. 13078, Mar. 13, 1998, 63 F.R. 13111, as amended by Ex. Ord. No. 13172, Oct. 25, 2000, 65 F.R. 64577; Ex. Ord. No. 13187, § 4(b), Jan. 10, 2001, 66 F.R. 3858, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to increase the employment of adults with disabilities to a rate that is as close as possible to the employment rate of the general adult population and to support the goals articulated in the findings and purpose section of the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], it is hereby ordered as follows:

SECTION 1. Establishment of National Task Force on Employment of Adults with Disabilities.

(a) There is established the ''National Task Force on Employment of Adults with Disabilities'' (''Task Force''). The Task Force shall comprise the Secretary of Labor, Secretary of Education, Secretary of Veterans Affairs, Secretary of Health and Human Services, Commissioner of Social Security, Secretary of the Treasury, Secretary of Commerce, Secretary of Transportation, Director of the Office of Personnel Management, Administrator of the Small Business Administration, the Chair of the Equal Employment Opportunity Commission, the Chairperson of the National Council on Disability, the Chairperson of the President's Disability Employment Partnership Board., [sic] and such other senior executive branch officials as may be determined by the Chair of the Task Force.

(b) The Secretary of Labor shall be the Chair of the Task Force; the Chairperson of the President's Disability Employment Partnership Board. [sic] shall be the Vice Chair of the Task Force.

(c) The purpose of the Task Force is to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate that is as close as possible to that of the general adult population. The Task Force shall develop and recommend to the President, through the Chair of the Task Force, a coordinated Federal policy to reduce employment barriers for persons with disabilities. Policy recommendations may cover such areas as discrimination, reasonable accommodations, inadequate access to health care, lack of consumer-driven, long-term supports and services, transportation, accessible and integrated housing, telecommunications, assistive technology, community services, child care, education, vocational rehabilitation, training services, job retention, on-the-job supports, and economic incentives to work. Specifically, the Task Force shall:

(1) analyze the existing programs and policies of Task Force member agencies to determine what changes, modifications, and innovations may be necessary to remove barriers to work faced by people with disabilities;

(2) develop and recommend options to address health insurance coverage as a barrier to employment for people with disabilities;

(3) subject to the availability of appropriations, analyze State and private disability systems (e.g., workers' compensation, unemployment insurance, private insurance, and State mental health and mental retardation systems) and their effect on Federal programs and employment of adults with disabilities;

(4) consider statistical and data analysis, cost data, research, and policy studies on public subsidies, employment, employment discrimination, and rates of return-to-work for individuals with disabilities;

(5) evaluate and, where appropriate, coordinate and collaborate on, research and demonstration priorities of Task Force member agencies related to employment of adults with disabilities;

(6) evaluate whether Federal studies related to employment and training can, and should, include a statistically significant sample of adults with disabilities;

(7) subject to the availability of appropriations, analyze youth programs related to employment (e.g., Employment and Training Administration programs, special education, vocational rehabilitation, school-to-work transition, vocational education, and Social Security Administration work incentives and other programs, as may be determined by the Chair and Vice Chair of the Task Force) and the outcomes of those programs for young people with disabilities;

(8) evaluate whether a single governmental entity or program should be established to provide computer and electronic accommodations for Federal employees with disabilities;

(9) consult with the President's Committee on Mental Retardation on policies to increase the employment of people with mental retardation and cognitive disabilities; and

(10) recommend to the President any additional steps that can be taken to advance the employment of adults with disabilities, including legislative proposals, regulatory changes, and program and budget initiatives.

(d)(1) The members of the Task Force shall make the activities and initiatives set forth in this order a high priority within their respective agencies within the levels provided in the President's budget.

(2) The Task Force shall issue its first report to the President by November 15, 1998. The Task Force shall issue a report to the President on November 15, 1999, November 15, 2000, and a final report on July 26, 2002, the 10th anniversary of the initial implementation of the employment provisions of the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.]. The reports shall describe the actions taken by, and progress of, each member of the Task Force in carrying out this order. The Task Force shall terminate 30 days after submitting its final report.

(e) As used herein, an adult with a disability is a person with a physical or mental impairment that substantially limits at least one major life activity.

SEC. 2. Specific activities by Task Force members and other agencies.

(a) To ensure that the Federal Government is a model employer of adults with disabilities, by November 15, 1998, the Office of Personnel Management, the Department of Labor, and the Equal Employment Opportunity Commission shall submit to the Task Force a review of Federal Government personnel laws, regulations, and policies and, as appropriate, shall recommend or implement changes necessary to improve Federal employment policy for adults with disabilities. This review shall include personnel practices and actions such as: hiring, promotion, benefits, retirement, workers' compensation, retention, accessible facilities, job accommodations, layoffs, and reductions in force.

(b) The Departments of Justice, Labor, Education, and Health and Human Services shall report to the Task Force by November 15, 1998, on their work with the States and others to ensure that the Personal Responsibility and Work Opportunity Reconciliation Act [probably means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, see Tables for classification] is carried out in accordance with section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], as amended, and the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], so that individuals with disabilities and their families can realize the full promise of welfare reform by having an equal opportunity for employment.

(c) The Departments of Education, Labor, Commerce, and Health and Human Services, the Small Business Administration, and the President's Committee on Employment of People with Disabilities shall work together and report to the Task Force by November 15,

1998, on their work to develop small business and entrepreneurial opportunities for adults with disabilities and strategies for assisting low-income adults, including those with disabilities[,] to create small businesses and micro-enterprises. These same agencies, in consultation with the Committee for Purchase from People Who Are Blind or Severely Disabled, shall assess the impact of the Randolph-Sheppard Act [20 U.S.C. 107 et seq.] vending program and the Javits-Wagner-O'Day Act [41 U.S.C. 46 et seq.] on employment and small business opportunities for people with disabilities.

(d) The Departments of Transportation and Housing and Urban Development shall report to the Task Force by November 15, 1998, on their examination of their programs to see if they can be used to create new work incentives and to remove barriers to work for adults with disabilities.

(e) The Departments of Justice, Education, and Labor, the Equal Employment Opportunity Commission, and the Social Security Administration shall work together and report to the Task Force by November 15, 1998, on their work to propose remedies to the prevention of people with disabilities from successfully exercising their employment rights under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] because of the receipt of monetary benefits based on their disability and lack of gainful employment.

(f) The Bureau of Labor Statistics of the Department of Labor and the Census Bureau of the Department of Commerce, in cooperation with the Departments of Education and Health and Human Services, the National Council on Disability, and the President's Committee on Employment of People with Disabilities shall design and implement a statistically reliable and accurate method to measure the employment rate of adults with disabilities as soon as possible, but no later than the date of termination of the Task Force. Data derived from this methodology shall be published on as frequent a basis as possible.

(g) All executive agencies that are not members of the Task Force shall: (1) coordinate and cooperate with the Task Force; and (2) review their programs and policies to ensure that they are being conducted and delivered in a manner that facilitates and promotes the employment of adults with disabilities. Each agency shall file a report with the Task Force on the results of its review on November 15, 1998.

(h) To improve employment outcomes for persons with disabilities by addressing, among other things, the education, transition, employment, health and rehabilitation, and independent living issues affecting young people with disabilities, executive departments and agencies shall coordinate and cooperate with the Task Force to: (1) strengthen interagency research, demonstration, and training activities relating to young people with disabilities; (2) create a public awareness campaign focused on access to equal opportunity for young people with disabilities; (3) promote the views of young people with disabilities through collaboration with the Youth Councils authorized under the Workforce Investment Act of 1998 [Pub. L. 105–220, see Short Title note set out under section 9201 of Title 20, Education]; (4) increase access to and utilization of health insurance and health care for young people with disabilities through the formalization of the Federal Healthy and Ready to Work Interagency Council; (5) increase participation by young people with disabilities in postsecondary education and training programs; and (6) create a nationally representative Youth Advisory Council, to be funded and chaired by the Department of Labor, to advise the Task Force in conducting these and other appropriate activities.

SEC. 3. Cooperation. All efforts taken by executive departments and agencies under sections 1 and 2 of this order shall, as appropriate, further partnerships and cooperation with public and private sector employers, organizations that represent people with disabilities, organized labor, veteran service organizations, and State and local governments whenever such partnerships and cooperation are possible and would promote the employment and gainful economic activities of individuals with disabilities.

SEC. 4. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13187. THE PRESIDENT'S DISABILITY EMPLOYMENT PARTNERSHIP BOARD

Ex. Ord. No. 13187, Jan. 10, 2001, 66 F.R. 3857, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to promote the employment of people with disabilities, it is hereby ordered as follows:

SECTION 1. *Establishment and Composition of the Board.* (a) There is hereby established the President's Disability Employment Partnership Board (Board).

(b) The Board shall be composed of not more than 15 members who shall be appointed by the President for terms of 2 years. The membership shall include individuals who are representatives of business (including small business), labor organizations, State or local government, disabled veterans, people with disabilities, organizations serving people with disabilities, and researchers or academicians focusing on issues relating to the employment of people with disabilities, and may include other individuals representing entities involved in issues relating to the employment of people with disabilities as the President finds appropriate.

(c) The President shall designate a Chairperson from among the members of the Board to serve a term of two years.

(d) Members and the Chairperson may be reappointed for subsequent terms and may continue to serve until their successors have been appointed.

SEC. 2. *Functions.* (a) The Board shall provide advice and information to the President, the Vice President, the Secretary of Labor, and other appropriate Federal officials with respect to facilitating the employment of people with disabilities, and shall assist in other activities that promote the formation of public-private partnerships, the use of economic incentives, the provision of technical assistance regarding entrepreneurship, and other actions that may enhance employment opportunities for people with disabilities.

(b) In carrying out paragraph (a) of this section, the Board shall:

(i) develop and submit to the Office of Disability Employment Policy in the Department of Labor a comprehensive written plan for joint public-private efforts to promote employment opportunities for people with disabilities and improve their access to financial institutions and commercial and business enterprises;

(ii) identify strategies that may be used by employers, labor unions, national and international organizations, and Federal, State, and local officials to increase employment opportunities for people with disabilities; and

(iii) coordinate with the Office of Disability Employment Policy in the Department of Labor in promoting the collaborative use of public and private resources to assist people with disabilities in forming and expanding small business concerns and in enhancing their access to Federal procurement and other relevant business opportunities. Public resources include those of the Department of Labor, the Small Business Administration, the Department of Commerce, the Department of Education, the Department of Defense, the Department of Treasury, the Department of Veterans Affairs, the Federal Communications Commission, and of executive departments and agency offices responsible for small, disadvantaged businesses utilization.

(c) The Board shall submit annual written reports to the President, who may apprise the Congress and other

interested organizations and individuals on its activities, progress, and problems relating to maximizing employment opportunities for people with disabilities.

(d) The Chairperson of the Board shall serve as a member and Vice Chair of the National Task Force on Employment of Adults with Disabilities established under Executive Order 13078 of March 13, 1998 [set out above].

SEC. 3. *Administration*. (a) The Board shall meet when called by the Chairperson, at a time and place designated by the Chairperson. The Chairperson shall call at least two meetings per calendar year. The Chairperson may form subcommittees or working groups within the Board to address particular matters.

(b) The Chairperson may from time to time prescribe such rules, procedures, and policies relating to the activities of the Board as are not inconsistent with law or with the provisions of this order.

(c) Members of the Board shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Federal service (5 U.S.C. 5701–5707).

(d) The Department of Labor shall provide funding and appropriate support to assist the Board in carrying out the activities described in section 2 of this order, including necessary office space, equipment, supplies, services, and staff. The functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, that are applicable to the Commission, shall be performed by the Department of Labor in accordance with guidelines that have been issued by the Administrator of General Services.

(e) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Board such information as it may need for purposes of carrying out the functions described in section 2 of this order.

SEC. 4. *Prior Orders and Transition*. (a) Executive Order 12640 of May 10, 1988, as amended, relating to the establishment of the President's Committee on Employment of People with Disabilities, is hereby revoked. The employees, records, property, and funds of the Committee shall become the employees, records, property, and funds of the Department of Labor.

(b) Executive Order 13078 of March 13, 1998 [set out above], is amended in sections 1(a) and (b) by striking ''Chair of the President's Committee on Employment of People with Disabilities'' and inserting ''Chairperson of the President's Disability Employment Partnership Board.''

WILLIAM J. CLINTON.

§ 702. Rehabilitation Services Administration

(a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this chapter referred to as the ''Commissioner'') appointed by the President by and with the advice and consent of the Senate. Except for subchapters IV and V of this chapter and as otherwise specifically provided in this chapter, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this chapter. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this chapter to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this chapter, the Commissioner shall be guided by general policies of the National Council on Disability established under subchapter IV of this chapter.

(b) The Secretary shall take whatever action is necessary to ensure that funds appropriated pursuant to this chapter are expended only for the programs, personnel, and administration of programs carried out under this chapter.

(Pub. L. 93–112, § 3, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1096.)

PRIOR PROVISIONS

A prior section 702, Pub. L. 93–112, § 3, Sept. 26, 1973, 87 Stat. 357; Pub. L. 93–516, title I, § 101(a), Dec. 7, 1974, 88 Stat. 1617; Pub. L. 93–651, title I, § 101(a), Nov. 21, 1974, 89 Stat. 2–3; Pub. L. 95–602, title I, § 122(a)(2), (3), Nov. 6, 1978, 92 Stat. 2984; Pub. L. 99–506, title I, § 102, title X, § 1001(a)(1), Oct. 21, 1986, 100 Stat. 1808, 1841; Pub. L. 100–630, title II, § 201(a), Nov. 7, 1988, 102 Stat. 3303, related to the Rehabilitation Services Administration, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093.

ADDITIONAL PERSONNEL FOR OFFICE FOR THE BLIND AND VISUALLY HANDICAPPED

Pub. L. 93–516, title II, § 208(a), Dec. 7, 1974, 88 Stat. 1629, provided that: ''The Secretary of Health, Education, and Welfare [now Secretary of Education] is directed to assign to the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration of the Department of Health, Education, and Welfare [now Department of Education] ten additional full-time personnel (or their equivalent), five of whom shall be supportive personnel, to carry out duties related to the administration of the Randolph-Sheppard Act [section 107 et seq. of Title 20, Education].''

An identical provision is contained in Pub. L. 93–651, title II, § 208(a), Nov. 21, 1974, 89 Stat. 2–14.

PREFERENCE TO BLIND IN SELECTING PERSONNEL

Pub. L. 93–516, title II, § 208(c), Dec. 7, 1974, 88 Stat. 1629, provided that: ''In selecting personnel to fill any position under this section [authorizing assignment of 11 additional full-time personnel to the Office for the Blind and Visually Handicapped of the Rehabilitation Service Administration of the Department of Health, Education, and Welfare under subsecs. (a) and (b) of Pub. L. 93–516], the Secretary of Health, Education, and Welfare [now Secretary of Education] shall give preference to blind individuals.''

An identical provision is contained in Pub. L. 93–651, title II, § 208(c), Nov. 21, 1974, 89 Stat. 2–14.

§ 703. Advance funding

(a) For the purpose of affording adequate notice of funding available under this chapter, appropriations under this chapter are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same ap-

propriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(Pub. L. 93–112, § 4, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1097.)

PRIOR PROVISIONS

A prior section 703, Pub. L. 93–112, § 4, Sept. 26, 1973, 87 Stat. 358, related to advance funding, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093.

§ 704. Joint funding

Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this chapter, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this chapter, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this chapter, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this chapter.

(Pub. L. 93–112, § 5, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1097.)

PRIOR PROVISIONS

A prior section 704, Pub. L. 93–112, § 5, Sept. 26, 1973, 87 Stat. 359, related to joint funding, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093.

DELEGATION OF FUNCTIONS

Authority of the President under this section delegated to Director of Office of Management and Budget by section 1 of Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 7103 of Title 31, Money and Finance.

§ 705. Definitions

For the purposes of this chapter:

(1) Administrative costs

The term ''administrative costs'' means expenditures incurred in the performance of administrative functions under the vocational rehabilitation program carried out under subchapter I of this chapter, including expenses related to program planning, development, monitoring, and evaluation, including expenses for—

(A) quality assurance;

(B) budgeting, accounting, financial management, information systems, and related data processing;

(C) providing information about the program to the public;

(D) technical assistance and support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in section 723(b)(5) of this title;

(E) the State Rehabilitation Council and other advisory committees;

(F) professional organization membership dues for designated State unit employees;

(G) the removal of architectural barriers in State vocational rehabilitation agency offices and State operated rehabilitation facilities;

(H) operating and maintaining designated State unit facilities, equipment, and grounds;

(I) supplies;

(J) administration of the comprehensive system of personnel development described in section 721(a)(7) of this title, including personnel administration, administration of affirmative action plans, and training and staff development;

(K) administrative salaries, including clerical and other support staff salaries, in support of these administrative functions;

(L) travel costs related to carrying out the program, other than travel costs related to the provision of services;

(M) costs incurred in conducting reviews of rehabilitation counselor or coordinator determinations under section 722(c) of this title; and

(N) legal expenses required in the administration of the program.

(2) Assessment for determining eligibility and vocational rehabilitation needs

The term ''assessment for determining eligibility and vocational rehabilitation needs'' means, as appropriate in each case—

(A)(i) a review of existing data—

(I) to determine whether an individual is eligible for vocational rehabilitation services; and

(II) to assign priority for an order of selection described in section 721(a)(5)(A) of this title in the States that use an order of selection pursuant to section 721(a)(5)(A) of this title; and

(ii) to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make such determination and assignment;

(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the nature and scope of vocational rehabilitation services, to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—

(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan for employment of the eligible individual;

(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

(I) existing information obtained for the purposes of determining the eligi-

bility of the individual and assigning priority for an order of selection described in section 721(a)(5)(A) of this title for the individual; and

(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

(iv) may include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

(C) referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

(D) an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which shall be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

(3) Assistive technology device

The term ''assistive technology device'' has the meaning given such term in section 3002 of this title, except that the reference in such section to the term ''individuals with disabilities'' shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

(4) Assistive technology service

The term ''assistive technology service'' has the meaning given such term in section 3002 of this title, except that the reference in such section—

(A) to the term ''individual with a disability'' shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

(B) to the term ''individuals with disabilities'' shall be deemed to mean more than one such individual.

(5) Community rehabilitation program

The term ''community rehabilitation program'' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

(C) recreational therapy;

(D) physical and occupational therapy;

(E) speech, language, and hearing therapy;

(F) psychiatric, psychological, and social services, including positive behavior management;

(G) assessment for determining eligibility and vocational rehabilitation needs;

(H) rehabilitation technology;

(I) job development, placement, and retention services;

(J) evaluation or control of specific disabilities;

(K) orientation and mobility services for individuals who are blind;

(L) extended employment;

(M) psychosocial rehabilitation services;

(N) supported employment services and extended services;

(O) services to family members when necessary to the vocational rehabilitation of the individual;

(P) personal assistance services; or

(Q) services similar to the services described in one of subparagraphs (A) through (P).

(6) Construction; cost of construction

(A) Construction

The term ''construction'' means—

(i) the construction of new buildings;

(ii) the acquisition, expansion, remodeling, alteration, and renovation of existing buildings; and

(iii) initial equipment of buildings described in clauses (i) and (ii).

(B) Cost of construction

The term ''cost of construction'' includes architects' fees and the cost of acquisition of land in connection with construction but does not include the cost of offsite improvements.

(7) Repealed. Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(c)(1)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–415

(8) Designated State agency; designated State unit

(A) Designated State agency

The term ''designated State agency'' means an agency designated under section 721(a)(2)(A) of this title.

(B) Designated State unit

The term ''designated State unit'' means—

(i) any State agency unit required under section 721(a)(2)(B)(ii) of this title; or

(ii) in cases in which no such unit is so required, the State agency described in section 721(a)(2)(B)(i) of this title.

(9) Disability

The term ''disability'' means—

(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

(B) for purposes of sections 701, 711, and 712 of this title, and subchapters II, IV, V, and VII of this chapter, the meaning given it in section 12102 of title 42.

(10) Drug and illegal use of drugs

(A) Drug

The term ''drug'' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

(B) Illegal use of drugs

The term ''illegal use of drugs'' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(11) Employment outcome

The term ''employment outcome'' means, with respect to an individual—

(A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

(B) satisfying the vocational outcome of supported employment; or

(C) satisfying any other vocational outcome the Secretary may determine to be appropriate (including satisfying the vocational outcome of self-employment, telecommuting, or business ownership),

in a manner consistent with this chapter.

(12) Establishment of a community rehabilitation program

The term ''establishment of a community rehabilitation program'' includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

(13) Extended services

The term ''extended services'' means ongoing support services and other appropriate services, needed to support and maintain an individual with a most significant disability in supported employment, that—

(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

(14) Federal share

(A) In general

Subject to subparagraph (B), the term ''Federal share'' means 78.7 percent.

(B) Exception

The term ''Federal share'' means the share specifically set forth in section 731(a)(3) of this title, except that with respect to payments pursuant to part B of subchapter I of this chapter to any State that are used to meet the costs of construction of those rehabilitation facilities identified in section 723(b)(2) of this title in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 731(a)(3) of this title applicable with respect to the State.

(C) Relationship to expenditures by a political subdivision

For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

(15) Governor

The term ''Governor'' means a chief executive officer of a State.

(16) Impartial hearing officer

(A) In general

The term ''impartial hearing officer'' means an individual—

(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

(ii) who is not a member of the State Rehabilitation Council described in section 725 of this title;

(iii) who has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 721 of this title, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

(B) Construction

An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the in-

dividual is paid by the agency to serve as a hearing officer.

(17) Independent living core services

The term ''independent living core services'' means—

(A) information and referral services;

(B) independent living skills training;

(C) peer counseling (including cross-disability peer counseling); and

(D) individual and systems advocacy.

(18) Independent living services

The term ''independent living services'' includes—

(A) independent living core services; and

(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this chapter and of the subchapters of this chapter, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

(iii) rehabilitation technology;

(iv) mobility training;

(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

(vi) personal assistance services, including attendant care and the training of personnel providing such services;

(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

(viii) consumer information programs on rehabilitation and independent living services available under this chapter, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this chapter;

(ix) education and training necessary for living in a community and participating in community activities;

(x) supported living;

(xi) transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

(xii) physical rehabilitation;

(xiii) therapeutic treatment;

(xiv) provision of needed prostheses and other appliances and devices;

(xv) individual and group social and recreational services;

(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

(xvii) services for children;

(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

(xix) appropriate preventive services to decrease the need of individuals assisted under this chapter for similar services in the future;

(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

(xxi) such other services as may be necessary and not inconsistent with the provisions of this chapter.

(19) Indian; American Indian; Indian American; Indian tribe

(A) In general

The terms ''Indian'', ''American Indian'', and ''Indian American'' mean an individual who is a member of an Indian tribe.

(B) Indian tribe

The term ''Indian tribe'' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]).

(20) Individual with a disability

(A) In general

Except as otherwise provided in subparagraph (B), the term ''individual with a disability'' means any individual who—

(i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

(ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to subchapter I, III, or VI of this chapter.

(B) Certain programs; limitations on major life activities

Subject to subparagraphs (C), (D), (E), and (F), the term ''individual with a disability'' means, for purposes of sections 701, 711, and 712 of this title, and subchapters II, IV, V, and VII of this chapter, any person who has a disability as defined in section 12102 of title 42.

(C) Rights and advocacy provisions

(i) In general; exclusion of individuals engaging in drug use

For purposes of subchapter V of this chapter, the term ''individual with a disability'' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

(ii) Exception for individuals no longer engaging in drug use

Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of

drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

(iii) Exclusion for certain services

Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under subchapters I, II, and III of this chapter, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

(iv) Disciplinary action

For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at section 104.36 of title 34, Code of Federal Regulations (or any corresponding similar regulation or ruling) shall not apply to such disciplinary actions.

(v) Employment; exclusion of alcoholics

For purposes of sections 793 and 794 of this title as such sections relate to employment, the term ''individual with a disability'' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

(D) Employment; exclusion of individuals with certain diseases or infections

For the purposes of sections 793 and 794 of this title, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

(E) Rights provisions; exclusion of individuals on basis of homosexuality or bisexuality

For the purposes of sections 791, 793, and 794 of this title—

(i) for purposes of the application of subparagraph (B) to such sections, the term ''impairment'' does not include homosexuality or bisexuality; and

(ii) therefore the term ''individual with a disability'' does not include an individual on the basis of homosexuality or bisexuality.

(F) Rights provisions; exclusion of individuals on basis of certain disorders

For the purposes of sections 791, 793, and 794 of this title, the term ''individual with a disability'' does not include an individual on the basis of—

(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) compulsive gambling, kleptomania, or pyromania; or

(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

(G) Individuals with disabilities

The term ''individuals with disabilities'' means more than one individual with a disability.

(21) Individual with a significant disability

(A) In general

Except as provided in subparagraph (B) or (C), the term ''individual with a significant disability'' means an individual with a disability—

(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subpara-

graphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

(B) Independent living services and centers for independent living

For purposes of subchapter VII of this chapter, the term ''individual with a significant disability'' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

(C) Research and training

For purposes of subchapter II of this chapter, the term ''individual with a significant disability'' includes an individual described in subparagraph (A) or (B).

(D) Individuals with significant disabilities

The term ''individuals with significant disabilities'' means more than one individual with a significant disability.

(E) Individual with a most significant disability

(i) In general

The term ''individual with a most significant disability'', used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section 721(a)(5)(C) of this title.

(ii) Individuals with the most significant disabilities

The term ''individuals with the most significant disabilities'' means more than one individual with a most significant disability.

(22) Individual's representative; applicant's representative

The terms ''individual's representative'' and ''applicant's representative'' mean a parent, a family member, a guardian, an advocate, or an authorized representative of an individual or applicant, respectively.

(23) Institution of higher education

The term ''institution of higher education'' has the meaning given the term in section 1001 of title 20.

(24) Local agency

The term ''local agency'' means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 721 of this title. Nothing in the preceding sentence of this paragraph or in section 721 of this title shall be construed to prevent the local agency from arranging to utilize another local public or nonprofit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

(25) Local workforce investment board

The term ''local workforce investment board'' means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998 [29 U.S.C. 2832].

(26) Nonprofit

The term ''nonprofit'', when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of title 26.

(27) Ongoing support services

The term ''ongoing support services'' means services—

(A) provided to individuals with the most significant disabilities;

(B) provided, at a minimum, twice monthly—

(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

(C) consisting of—

(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the worksite;

(iii) job development, job retention, and placement services;

(iv) social skills training;

(v) regular observation or supervision of the individual;

(vi) followup services such as regular contact with the employers, the individuals, the individuals' representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

(vii) facilitation of natural supports at the worksite;

(viii) any other service identified in section 723 of this title; or

(ix) a service similar to another service described in this subparagraph.

(28) Personal assistance services

The term ''personal assistance services'' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual

would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

(29) Public or nonprofit

The term ''public or nonprofit'', used with respect to an agency or organization, includes an Indian tribe.

(30) Rehabilitation technology

The term ''rehabilitation technology'' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(31) Secretary

The term ''Secretary'', except when the context otherwise requires, means the Secretary of Education.

(32) State

The term ''State'' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(33) State workforce investment board

The term ''State workforce investment board'' means a State workforce investment board established under section 111 of the Workforce Investment Act of 1998 [29 U.S.C. 2821].

(34) Statewide workforce investment system

The term ''statewide workforce investment system'' means a system described in section 111(d)(2) of the Workforce Investment Act of 1998 [29 U.S.C. 2821(d)(2)].

(35) Supported employment

(A) In general

The term ''supported employment'' means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities—

(i)(I) for whom competitive employment has not traditionally occurred; or

(II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (36)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

(B) Certain transitional employment

Such term includes transitional employment for persons who are individuals with the most significant disabilities due to mental illness.

(36) Supported employment services

The term ''supported employment services'' means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that—

(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator involved jointly agree to extend the time in order to achieve the employment outcome identified in the individualized plan for employment.

(37) Transition services

The term ''transition services'' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(38) Vocational rehabilitation services

The term ''vocational rehabilitation services'' means those services identified in section 723 of this title which are provided to individuals with disabilities under this chapter.

(39) Workforce investment activities

The term ''workforce investment activities'' means workforce investment activities, as defined in section 101 of the Workforce Investment Act of 1998 [29 U.S.C. 2801], that are carried out under that Act.

(Pub. L. 93–112, § 7, formerly § 6, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1097; amended Pub. L. 105–244, title I, § 102(a)(9)(A), Oct. 7, 1998, 112 Stat. 1619; renumbered § 7 and amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1), (b)(3), (c)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412, 2681–413, 2681–415; Pub. L. 105–394, title IV, § 402(a), Nov. 13, 1998, 112 Stat. 3661; Pub. L. 110–325, § 7, Sept. 25, 2008, 122 Stat. 3558.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in par. (10)(B), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (19)(B), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Workforce Investment Act of 1998, referred to in par. (39), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 706 of this title prior to repeal by Pub. L. 105–220.

A prior section 705, Pub. L. 93–112, § 6, Sept. 26, 1973, 87 Stat. 359; Pub. L. 99–506, title X, § 1001(a)(2), Oct. 21, 1986, 100 Stat. 1841; Pub. L. 100–630, title II, § 201(b), Nov. 7, 1988, 102 Stat. 3303; Pub. L. 102–569, title I, § 128(b)(1), Oct. 29, 1992, 106 Stat. 4388, related to consolidated rehabilitation plan, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093.

A prior section 7 of Pub. L. 93–112 was renumbered section 8 and is classified to section 706 of this title.

Another prior section 7 of Pub. L. 93–112 was classified to section 706 of this title prior to repeal by Pub. L. 105–220.

AMENDMENTS

2008—Par. (9)(B). Pub. L. 110–325, § 7(1), substituted ''the meaning given it in section 12102 of title 42'' for ''a physical or mental impairment that substantially limits one or more major life activities''.

Par. (20)(B). Pub. L. 110–325, § 7(2), substituted ''any person who has a disability as defined in section 12102 of title 42.'' for ''any person who—

''(i) has a physical or mental impairment which substantially limits one or more of such person's major life activities;

''(ii) has a record of such an impairment; or

''(iii) is regarded as having such an impairment.''

1998—Pub. L. 105–277, § 101(f) [title VIII, § 402(b)(3)], made technical amendment to section designation and catchline in the original and inserted par. (1) heading.

Par. (2)(B). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(1)(A)], substituted ''nature'' for ''objectives, nature,''.

Par. (3). Pub. L. 105–394, § 402(a)(1), which directed the amendment of section 6 of the Rehabilitation Act of 1973 by substituting ''3002'' for ''2202(2)'', was executed to this section, which is section 7 of that act, to reflect the probable intent of Congress and the renumbering of section 6 as 7 by Pub. L. 105–277, § 101(f) [title VIII, § 402(a)(1)].

Par. (4). Pub. L. 105–394, § 402(a)(2), which directed the amendment of section 6 of the Rehabilitation Act of 1973 by substituting ''3002'' for ''2202(3)'', was executed to this section, which is section 7 of that act, to reflect the probable intent of Congress and the renumbering of section 6 as 7 by Pub. L. 105–277, § 101(f) [title VIII, § 402(a)(1)].

Par. (7). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(1)(B)], struck out heading and text of par. (7). Text read as follows: ''The term 'criminal act' means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, or intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.''

Par. (16)(A)(iii). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(1)(C)], substituted ''eligible individual'' for ''client''.

Par. (23). Pub. L. 105–244 substituted ''section 1001 of title 20'' for ''section 1141(a) of title 20''.

Par. (36)(C). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(1)(D)], substituted ''employment outcome'' for ''rehabilitation objectives''.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–325, § 8, Sept. 25, 2008, 122 Stat. 3559, provided that: ''This Act [enacting sections 12103 and 12205a of Title 42, The Public Health and Welfare, amending this section, former section 706 of this title, and sections 12101, 12102, 12111 to 12114, 12201, and 12206 to 12213 of Title 42, and enacting provisions set out as notes under section 12101 of Title 42] and the amendments made by this Act shall become effective on January 1, 2009.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

§ 706. Allotment percentage

(a)(1) For purposes of section 730 of this title, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that—

(A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum; and

(B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Secretary between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the 2 fiscal years in the period beginning on the October 1 next succeeding such promulgation.

(3) The term ''United States'' means (but only for purposes of this subsection) the 50 States and the District of Columbia.

(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

(Pub. L. 93–112, § 8, formerly § 7, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1110; renumbered § 8, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 707 of this title prior to repeal by Pub. L. 105–220.

A prior section 706, Pub. L. 93–112, § 7, Sept. 26, 1973, 87 Stat. 359; Pub. L. 93–516, title I, § 111(a), Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93–651, title I, § 111(a), Nov. 21, 1974, 89 Stat. 2–5; Pub. L. 95–602, title I, § 122(a)(4)–(8), Nov. 6, 1978, 92 Stat. 2984, 2985; Pub. L. 98–221, title I, § 101, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99–506, title I, § 103(a), (b), (c)(1), (d)(1), (2)(A), (C), (e)–(h)(1), (i), (j), title X, §§ 1001(a)(3), 1002(a), Oct. 21, 1986, 100 Stat. 1809–1811, 1841, 1844; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–259, § 9, Mar. 22, 1988, 102 Stat. 31; Pub. L. 100–630, title II, § 201(c), Nov. 7, 1988, 102 Stat. 3303; Pub. L. 101–336, title V, § 513, formerly § 512, July 26, 1990, 104 Stat. 376, renumbered § 513, Pub. L. 110–325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558; Pub. L. 102–569, title I, § 102(a)–(n), (p)(3), Oct. 29, 1992, 106 Stat. 4347–4350, 4356; Pub. L. 103–73, title I, §§ 102(1), 103, Aug. 11, 1993, 107 Stat. 718; Pub. L. 103–218, title IV, § 404, Mar. 9, 1994, 108 Stat. 97, defined terms for purposes of this chapter, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 705 of this title.

A prior section 8 of Pub. L. 93–112 was renumbered section 10 and is classified to section 707 of this title.

Another prior section 8 of Pub. L. 93–112 was classified to section 707 of this title prior to repeal by Pub. L. 105–220.

§ 707. Nonduplication

In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 721 of this title, there shall be disregarded—

(1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law; and

(2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

No payment may be made from funds provided under one provision of this chapter relating to any cost with respect to which any payment is made under any other provision of this chapter, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

(Pub. L. 93–112, § 10, formerly § 8, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1110; renumbered § 10 and amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1), (c)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412, 2681–415.)

Prior Provisions

Provisions similar to this section were contained in section 709 of this title prior to repeal by Pub. L. 105–220.

A prior section 707, Pub. L. 93–112, § 8, Sept. 26, 1973, 87 Stat. 362; Pub. L. 94–273, § 10, Apr. 21, 1976, 90 Stat. 378; Pub. L. 102–569, title I, § 103, Oct. 29, 1992, 106 Stat. 4361, related to allotment percentage, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 706 of this title.

A prior section 10 of Pub. L. 93–112 was renumbered section 12 and is classified to section 709 of this title.

Another prior section 10 of Pub. L. 93–112 was classified to section 709 of this title prior to repeal by Pub. L. 105–220.

Amendments

1998—Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(2)], substituted a dash for a colon after "disregarded" and amended text to set out cls. (1) and (2) as indented pars. and last sentence as flush provision.

§ 708. Application of other laws

The provisions of chapter 71 of title 31 and of title V of the Act of October 15, 1977 (Public Law 95–134) shall not apply to the administration of the provisions of this chapter or to the administration of any program or activity under this chapter.

(Pub. L. 93–112, § 11, formerly § 9, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1110; renumbered § 11, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

References in Text

Act of October 15, 1977, referred to in text, is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended, popularly known as the Omnibus Territories Act of 1977. Title V of the Act enacted section 4368b of Title 42, The Public Health and Welfare, and section 1469a of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

Codification

"Chapter 71 of title 31" substituted in text for "the Act of December 5, 1974 (Public Law 93–510) on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Prior Provisions

Provisions similar to this section were contained in section 710 of this title prior to repeal by Pub. L. 105–220.

A prior section 708, Pub. L. 93–112, § 9, Sept. 26, 1973, 87 Stat. 362, related to audit and examination of records, scope of disclosure, and access to representatives, prior to repeal by Pub. L. 103–382, title II, § 272, Oct. 20, 1994, 108 Stat. 3931.

A prior section 11 of Pub. L. 93–112 was renumbered section 13 and is classified to section 710 of this title.

Another prior section 11 of Pub. L. 93–112 was classified to section 710 of this title prior to repeal by Pub. L. 105–220.

§ 709. Administration

(a) Technical assistance; short-term traineeships; special projects; dissemination of information; monitoring and evaluations

In carrying out the purposes of this chapter, the Commissioner may—

(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations, including assistance to enable such agencies and organizations to facilitate meaningful and effective participation by individuals with disabilities in workforce investment activities;

(2) provide short-term training and technical instruction, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

(3) conduct special projects and demonstrations;

(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this chapter; and

(5) provide monitoring and conduct evaluations.

(b) Utilization of services and facilities; information task forces

(1) In carrying out the duties under this chapter, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

(2) In carrying out the provisions of this chapter, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this chapter.

(c) Rules and regulations

The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner's duties under this chapter.

(d) Regulations for implementation of order of selection for vocational rehabilitation services

The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 721(a)(5)(A) of this title if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

(e) Regulations to implement amendments

Not later than 180 days after August 7, 1998, the Secretary shall receive public comment and promulgate regulations to implement the amendments made by the Rehabilitation Act Amendments of 1998.

(f) Limitation on regulations

In promulgating regulations to carry out this chapter, the Secretary shall promulgate only regulations that are necessary to administer and ensure compliance with the specific requirements of this chapter.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 93–112, § 12, formerly § 10, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1111; renumbered § 12, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

REFERENCES IN TEXT

The Rehabilitation Act Amendments of 1998, referred to in subsec. (e), is title IV of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1092. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 711 of this title prior to repeal by Pub. L. 105–220.

A prior section 709, Pub. L. 93–112, § 10, Sept. 26, 1973, 87 Stat. 363; Pub. L. 95–602, title I, § 122(a)(9), Nov. 6, 1978, 92 Stat. 2985; Pub. L. 100–630, title II, § 201(d), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102–569, title I, § 104, Oct. 29, 1992, 106 Stat. 4361, related to nonduplication prohibition, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 707 of this title.

A prior section 12 of Pub. L. 93–112 was renumbered section 14 and is classified to section 711 of this title.

Another prior section 12 of Pub. L. 93–112 was classified to section 711 of this title prior to repeal by Pub. L. 105–220.

§ 710. Reports

(a) Annual reports required

Not later than one hundred and eighty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this chapter, including the activities and staffing of the information clearinghouse under section 712 of this title.

(b) Collection of information

The Commissioner shall collect information to determine whether the purposes of this chapter are being met and to assess the performance of programs carried out under this chapter. The Commissioner shall take whatever action is necessary to assure that the identity of each individual for which information is supplied under this section is kept confidential, except as otherwise required by law (including regulation).

(c) Information to be included in reports

In preparing the report, the Commissioner shall annually collect and include in the report information based on the information submitted by States in accordance with section 721(a)(10) of this title, including information on administrative costs as required by section 721(a)(10)(D) of this title. The Commissioner shall, to the maximum extent appropriate, include in the report all information that is required to be submitted in the reports described in section 2871(d) of this title and that pertains to the employment of individuals with disabilities.

(Pub. L. 93–112, § 13, formerly § 11, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1111; renumbered § 13, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 712 of this title prior to repeal by Pub. L. 105–220.

A prior section 710, Pub. L. 93–112, § 11, as added Pub. L. 95–602, title I, § 121, Nov. 6, 1978, 92 Stat. 2984, related to application of other laws, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 708 of this title.

A prior section 13 of Pub. L. 93–112 was renumbered section 15 and is classified to section 712 of this title.

Another prior section 13 of Pub. L. 93–112 was classified to section 712 of this title prior to repeal by Pub. L. 105–220.

EXCHANGE OF DATA

Pub. L. 102–569, title I, § 137, Oct. 29, 1992, 106 Stat. 4397, provided that: "The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Re-

habilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973 ([former] 29 U.S.C. 712), and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.''

§ 711. Evaluation

(a) Statement of purpose; standards; persons eligible to conduct evaluations

For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this chapter, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. Such an evaluation shall be conducted by a person not immediately involved in the administration of the program evaluated.

(b) Opinions of program and project participants

In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

(c) Data as property of United States

The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds under this chapter shall become the property of the United States.

(d) Information from other departments and agencies

Such information as the Secretary may determine to be necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

(e) Longitudinal study

(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

(3) The study shall be planned to cover the period beginning on the application of individuals with disabilities for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.

(f) Information on exemplary practices

(1) The Commissioner shall identify and disseminate information on exemplary practices concerning vocational rehabilitation.

(2) To facilitate compliance with paragraph (1), the Commissioner shall conduct studies and analyses that identify exemplary practices concerning vocational rehabilitation, including studies in areas relating to providing informed choice in the rehabilitation process, promoting consumer satisfaction, promoting job placement and retention, providing supported employment, providing services to particular disability populations, financing personal assistance services, providing assistive technology devices and assistive technology services, entering into cooperative agreements, establishing standards and certification for community rehabilitation programs, converting from nonintegrated to integrated employment, and providing caseload management.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 93–112, § 14, formerly § 12, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1110; renumbered § 14, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 713 of this title prior to repeal by Pub. L. 105–220.

A prior section 711, Pub. L. 93–112, § 12, as added Pub. L. 95–602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2985; amended Pub. L. 99–506, title I, § 104, title X, § 1001(a)(4), Oct. 21, 1986, 100 Stat. 1811, 1841; Pub. L. 100–630, title II, § 201(e), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102–569, title I, § 105, Oct. 29, 1992, 106 Stat. 4361, related to administration of this chapter, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 709 of this title.

A prior section 14 of Pub. L. 93–112 was renumbered section 16 and is classified to section 713 of this title.

Another prior section 14 of Pub. L. 93–112 was classified to section 713 of this title prior to repeal by Pub. L. 105–220.

§ 712. Information clearinghouse

(a) Establishment; information and resources for individuals with disabilities

The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding—

(1) the location, provision, and availability of services and programs for individuals with disabilities, including such information and data provided by State workforce investment boards regarding such services and programs authorized under title I of such Act;[1]

(2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures); and

(3) the current numbers of individuals with disabilities and their needs.

[1] See References in Text note below.

The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

(b) Information and data retrieval system

The Commissioner may assist the Secretary to develop within the Department of Education a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

(c) Office of Information and Resources for Individuals with Disabilities

The office established to carry out the provisions of this section shall be known as the ''Office of Information and Resources for Individuals with Disabilities''.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 93–112, § 15, formerly § 13, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1113; renumbered § 15, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

REFERENCES IN TEXT

Such Act, referred to in subsec. (a)(1), probably means the Workforce Investment Act of 1998, which is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 714 of this title prior to repeal by Pub. L. 105–220.

A prior section 712, Pub. L. 93–112, § 13, as added Pub. L. 95–602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2985; amended Pub. L. 98–221, title I, § 102, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99–506, title I, § 105, Oct. 21, 1986, 100 Stat. 1812; Pub. L. 102–569, title I, §§ 102(p)(4), 106, Oct. 29, 1992, 106 Stat. 4356, 4362; Pub. L. 104–66, title I, § 1042(c), Dec. 21, 1995, 109 Stat. 715, related to reports to President and Congress, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 710 of this title.

A prior section 15 of Pub. L. 93–112 was renumbered section 17 and is classified to section 714 of this title.

Another prior section 15 of Pub. L. 93–112 was classified to section 714 of this title prior to repeal by Pub. L. 105–220.

§ 713. Transfer of funds

(a) Except as provided in subsection (b) of this section, no funds appropriated under this chapter for any program or activity may be used for any purpose other than that for which the funds were specifically authorized.

(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this chapter may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

(Pub. L. 93–112, § 16, formerly § 14, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1113; renumbered § 16, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 715 of this title prior to repeal by Pub. L. 105–220.

A prior section 713, Pub. L. 93–112, § 14, as added Pub. L. 95–602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2986; amended Pub. L. 98–221, title I, § 103, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99–506, title I, §§ 103(d)(2)(C), 106, title X, § 1001(a)(5), Oct. 21, 1986, 100 Stat. 1810, 1812, 1841; Pub. L. 100–630, title II, § 201(f), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102–569, title I, §§ 102(p)(5), 107, Oct. 29, 1992, 106 Stat. 4356, 4362, related to program and project evaluation, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 711 of this title.

A prior section 16 of Pub. L. 93–112 was renumbered section 18 and is classified to section 715 of this title.

Another prior section 16 of Pub. L. 93–112 was classified to section 715 of this title prior to repeal by Pub. L. 105–220.

§ 714. State administration

The application of any State rule or policy relating to the administration or operation of programs funded by this chapter (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

(Pub. L. 93–112, § 17, formerly § 15, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1114; renumbered § 17, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 716 of this title prior to repeal by Pub. L. 105–220.

A prior section 714, Pub. L. 93–112, § 15, as added Pub. L. 95–602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2986; amended Pub. L. 96–374, title XIII, § 1322, Oct. 3, 1980, 94 Stat. 1499; Pub. L. 98–221, title I, § 104(a)(1), Feb. 22, 1984, 98 Stat. 18; Pub. L. 99–506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810; Pub. L. 102–569, title I, § 102(p)(6), Oct. 29, 1992, 106 Stat. 4356, related to information clearinghouse, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 712 of this title.

A prior section 17 of Pub. L. 93–112 was renumbered section 19 and is classified to section 716 of this title.

Another prior section 17 of Pub. L. 93–112 was classified to section 716 of this title prior to repeal by Pub. L. 105–220.

§ 715. Review of applications

Applications for grants in excess of $100,000 in the aggregate authorized to be funded under this chapter, other than grants primarily for the purpose of conducting dissemination or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5.

(Pub. L. 93–112, § 18, formerly § 16, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1114; renumbered § 18, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 717 of this title prior to repeal by Pub. L. 105–220.

A prior section 715, Pub. L. 93–112, § 16, as added Pub. L. 95–602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2987; amended Pub. L. 99–506, title I, § 107, Oct. 21, 1986, 100 Stat. 1812; Pub. L. 102–569, title I, § 108(a), Oct. 29, 1992, 106 Stat. 4363, related to transfer of funds, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 713 of this title.

A prior section 18 of Pub. L. 93–112 was renumbered section 20 and is classified to section 717 of this title.

Another prior section 18 of Pub. L. 93–112 was classified to section 717 of this title prior to repeal by Pub. L. 105–220.

§ 716. Carryover

(a) In general

Except as provided in subsection (b) of this section, and notwithstanding any other provision of law—

(1) any funds appropriated for a fiscal year to carry out any grant program under part B of subchapter I of this chapter, section 794e of this title (except as provided in section 794e(b) of this title), part B of subchapter VI of this chapter, subpart 2 or 3 of part A of subchapter VII of this chapter, or part B of subchapter VII of this chapter (except as provided in section 796k(b) of this title), including any funds reallotted under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,

shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

(b) Non-Federal share

Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) of this section only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

(Pub. L. 93–112, § 19, formerly § 17, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1114; renumbered § 19 and amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1), (b)(4)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412, 2681–413.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 718 of this title prior to repeal by Pub. L. 105–220.

A prior section 716, Pub. L. 93–112, § 17, as added Pub. L. 99–506, title I, § 108(a), Oct. 21, 1986, 100 Stat. 1812, related to State administration, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 714 of this title.

A prior section 19 of Pub. L. 93–112 was renumbered section 21 and is classified to section 718 of this title.

Another prior section 19 of Pub. L. 93–112 was classified to section 718 of this title prior to repeal by Pub. L. 105–220.

AMENDMENTS

1998—Pub. L. 105–277, § 101(f) [title VIII, § 402(b)(4)], made technical amendment in the original to section designation and catchline.

§ 717. Client assistance information

All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this chapter shall advise such individuals who are applicants for or recipients of the services, or the applicants' representatives or individuals' representatives, of the availability and purposes of the client assistance program under section 732 of this title, including information on means of seeking assistance under such program.

(Pub. L. 93–112, § 20, formerly § 18, as added Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1114; renumbered § 20 and amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(a)(1), (b)(5)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412, 2681–413.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 718a of this title prior to repeal by Pub. L. 105–220.

A prior section 717, Pub. L. 93–112, § 18, as added Pub. L. 99–506, title I, § 109(a), Oct. 21, 1986, 100 Stat. 1813; amended Pub. L. 100–630, title II, § 201(g), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102–569, title I, § 108(b), Oct. 29, 1992, 106 Stat. 4363, related to review of applications, prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093. See section 715 of this title.

A prior section 20 of Pub. L. 93–112 was classified to section 718a of this title prior to repeal by Pub. L. 105–220.

AMENDMENTS

1998—Pub. L. 105–277, § 101(f) [title VIII, § 402(b)(5)], made technical amendment to section designation and catchline in the original.

§ 718. Traditionally underserved populations

(a) Findings

With respect to the programs authorized in subchapters II through VII of this chapter, the Congress finds as follows:

(1) Racial profile

The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for Af-

rican-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

(2) Rate of disability

Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled.

(3) Inequitable treatment

Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

(4) Recruitment

Recruitment efforts within vocational rehabilitation at the level of preservice training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

(b) Outreach to minorities

(1) In general

For each fiscal year, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research (referred to in this subsection as the ''Director'') shall reserve 1 percent of the funds appropriated for the fiscal year for programs authorized under subchapters II, III, VI, and VII of this chapter to carry out this subsection. The Commissioner and the Director shall use the reserved funds to carry out one or more of the activities described in paragraph (2) through a grant, contract, or cooperative agreement.

(2) Activities

The activities carried out by the Commissioner and the Director shall include one or more of the following:

(A) Making awards to minority entities and Indian tribes to carry out activities under the programs authorized under subchapters II, III, VI, and VII of this chapter.

(B) Making awards to minority entities and Indian tribes to conduct research, training, technical assistance, or a related activity, to improve services provided under this chapter, especially services provided to individuals from minority backgrounds.

(C) Making awards to entities described in paragraph (3) to provide outreach and technical assistance to minority entities and Indian tribes to promote their participation in activities funded under this chapter, including assistance to enhance their capacity to carry out such activities.

(3) Eligibility

To be eligible to receive an award under paragraph (2)(C), an entity shall be a State or a public or private nonprofit agency or organization, such as an institution of higher education or an Indian tribe.

(4) Report

In each fiscal year, the Commissioner and the Director shall prepare and submit to Congress a report that describes the activities funded under this subsection for the preceding fiscal year.

(5) Definitions

In this subsection:

(A) Historically Black college or university

The term ''historically Black college or university'' means a part B institution, as defined in section 1061(2) of title 20.

(B) Minority entity

The term ''minority entity'' means an entity that is a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent.

(c) Demonstration

In awarding grants, or entering into contracts or cooperative agreements under subchapters I, II, III, VI, and VII of this chapter, and section 794e of this title, the Commissioner and the Director, in appropriate cases, shall require applicants to demonstrate how the applicants will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

(Pub. L. 93–112, §21, formerly §19, as added Pub. L. 105–220, title IV, §403, Aug. 7, 1998, 112 Stat. 1115; renumbered §21 and amended Pub. L. 105–277, div. A, §101(f) [title VIII, §402(a)(1), (b)(6), (c)(3)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412, 2681–413, 2681–415.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 718b of this title prior to repeal by Pub. L. 105–220.

Prior sections 718 to 718b were repealed by Pub. L. 105–220, title IV, §403, Aug. 7, 1998, 112 Stat. 1093.

Section 718, Pub. L. 93–112, §19, as added Pub. L. 102–569, title I, §109(a), Oct. 29, 1992, 106 Stat. 4363; amended Pub. L. 103–73, title I, §104, Aug. 11, 1993, 107 Stat. 719, related to carryover of funds. See section 716 of this title.

Section 718a, Pub. L. 93–112, §20, as added Pub. L. 102–569, title I, §110(a), Oct. 29, 1992, 106 Stat. 4363; amended Pub. L. 103–73, title I, §105, Aug. 11, 1993, 107 Stat. 719, related to client assistance information. See section 717 of this title.

Section 718b, Pub. L. 93–112, §21, as added Pub. L. 102–569, title I, §111(a), Oct. 29, 1992, 106 Stat. 4363; amended Pub. L. 103–73, title I, §106, Aug. 11, 1993, 107 Stat. 719, related to traditionally underserved populations.

AMENDMENTS

1998—Pub. L. 105–277, § 101(f) [title VIII, § 402(b)(6)], made technical amendment in original to section designation and catchline.

Subsec. (a)(3). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(3)], substituted ''is denied'' for ''are denied'' and ''is closed'' for ''are closed''.

SUBCHAPTER I—VOCATIONAL REHABILITATION SERVICES

CODIFICATION

Title I of the Rehabilitation Act of 1973, comprising this subchapter, was originally enacted by Pub. L. 93–112, title I, Sept. 26, 1973, 87 Stat. 363, and amended by Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617; Pub. L. 93–651, Nov. 21, 1974, 89 Stat. 2–3; Pub. L. 94–230, Mar. 15, 1976, 90 Stat. 211; Pub. L. 95–602, Nov. 6, 1978, 92 Stat. 2955; Pub. L. 97–375, Dec. 21, 1982, 96 Stat. 1819; Pub. L. 98–221, Feb. 22, 1984, 98 Stat. 17; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 99–506, Oct. 21, 1986, 100 Stat. 1807; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 102–52, June 6, 1991, 105 Stat. 260; Pub. L. 102–54, June 13, 1991, 105 Stat. 267; Pub. L. 102–119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103–73, Aug. 11, 1993, 107 Stat. 718; Pub. L. 104–66, Dec. 21, 1995, 109 Stat. 707; Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 186. Title I is shown herein, however, as having been added by Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1116, without reference to those intervening amendments because of the extensive revision of title I by Pub. L. 105–220.

PART A—GENERAL PROVISIONS

§ 720. Declaration of policy; authorization of appropriations

(a) Findings; purpose; policy

(1) Findings

Congress finds that—

(A) work—

(i) is a valued activity, both for individuals and society; and

(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States;

(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

(C) individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

(D) reasons for significant numbers of individuals with disabilities not working, or working at levels not commensurate with their abilities and capabilities, include—

(i) discrimination;

(ii) lack of accessible and available transportation;

(iii) fear of losing health coverage under the medicare and medicaid programs carried out under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing private health insurance; and

(iv) lack of education, training, and supports to meet job qualification standards necessary to secure, retain, regain, or advance in employment;

(E) enforcement of subchapter V of this chapter and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities;

(F) the provision of workforce investment activities and vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities; and

(G) linkages between the vocational rehabilitation programs established under this subchapter and other components of the statewide workforce investment systems are critical to ensure effective and meaningful participation by individuals with disabilities in workforce investment activities.

(2) Purpose

The purpose of this subchapter is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is—

(A) an integral part of a statewide workforce investment system; and

(B) designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment.

(3) Policy

It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

(A) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

(C) Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners in the vocational rehabilitation process, making meaningful and informed choices—

(i) during assessments for determining eligibility and vocational rehabilitation needs; and

(ii) in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services.

(D) Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability involved requests, desires, or needs such supports.

(E) Vocational rehabilitation counselors that are trained and prepared in accordance

with State policies and procedures as described in section 721(a)(7)(B) of this title (referred to individually in this subchapter as a ''qualified vocational rehabilitation counselor''), other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment outcomes and objectives of an individual.

(F) Individuals with disabilities and the individuals' representatives are full partners in a vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

(G) Accountability measures must facilitate the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most significant disabilities.

(b) Authorization of appropriations

(1) In general

For the purpose of making grants to States under part B of this subchapter to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 721 of this title, there are authorized to be appropriated such sums as may be necessary for fiscal years 1999 through 2003, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this paragraph for the immediately preceding fiscal year, increased by the percentage change in the Consumer Price Index determined under subsection (c) of this section for the immediately preceding fiscal year.

(2) Reference

The reference in paragraph (1) to grants to States under part B of this subchapter shall not be considered to refer to grants under section 732 of this title.

(c) Consumer Price Index

(1) Percentage change

No later than November 15 of each fiscal year (beginning with fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the Consumer Price Index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

(2) Application

(A) Increase

If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) of this section for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) of this section for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

(B) No increase or decrease

If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) of this section for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) of this section for the fiscal year in which the publication is made under paragraph (1).

(3) Definition

For purposes of this section, the term ''Consumer Price Index'' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

(d) Extension

(1) In general

(A) Authorization or duration of program

Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this subchapter; or

(ii) of the duration of the program authorized by the State grant program under part B of this subchapter;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization or duration is automatically extended for 1 additional year for the program authorized by this subchapter.

(B) Calculation

The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 2003, increased by the percentage change in the Consumer Price Index determined under subsection (c) of this section for the immediately preceding fiscal year, if the percentage change indicates an increase.

(2) Construction

(A) Passage of legislation

For the purposes of paragraph (1)(A), Congress shall not be deemed to have passed legislation unless such legislation becomes law.

(B) Acts or determinations of Commissioner

In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this subchapter, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which the extension described in that part of paragraph (1) that follows clause (ii) of paragraph (1)(A) is in effect.

(Pub. L. 93–112, title I, § 100, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1116.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(1)(D)(iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as

amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(1)(E), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 720, Pub. L. 93–112, title I, § 100, Sept. 26, 1973, 87 Stat. 363; Pub. L. 93–516, title I, § 102(a), Dec. 7, 1974, 88 Stat. 1618; Pub. L. 93–651, title I, § 102(a), Nov. 21, 1974, 89 Stat. 2–3; Pub. L. 94–230, §§ 2(a), 11(b)(2), (3), Mar. 15, 1976, 90 Stat. 211, 213; Pub. L. 95–602, title I, § 101(a), (b), Nov. 6, 1978, 92 Stat. 2955; Pub. L. 98–221, title I, § 111(a)–(d), Feb. 22, 1984, 98 Stat. 19; Pub. L. 99–506, title I, § 103(d)(2)(C), title II, § 201, Oct. 21, 1986, 100 Stat. 1810, 1813; Pub. L. 100–630, title II, § 202(a), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102–52, § 2(a), (b)(1), June 6, 1991, 105 Stat. 260; Pub. L. 102–569, title I, § 121(a), (b), Oct. 29, 1992, 106 Stat. 4365, 4367, related to congressional findings, purpose, policy, authorization of appropriations, change in Consumer Price Index, and extension of program, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 721. State plans

(a) Plan requirements

(1) In general

(A) Submission

To be eligible to participate in programs under this subchapter, a State shall submit to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of this section, on the same date that the State submits a State plan under section 112 of the Workforce Investment Act of 1998 [29 U.S.C. 2822].

(B) Nonduplication

The State shall not be required to submit, in the State plan for vocational rehabilitation services, policies, procedures, or descriptions required under this subchapter that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this subchapter, including any policies, procedures, or descriptions submitted under this subchapter as in effect on the day before August 7, 1998.

(C) Duration

The State plan shall remain in effect subject to the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this chapter by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this chapter, until the State submits and receives approval of a new State plan.

(2) Designated State agency; designated State unit

(A) Designated State agency

The State plan shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.

(B) Designated State unit

The State agency designated under subparagraph (A) shall be—

(i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

(I) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

(II) has a full-time director;

(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work; and

(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.

(C) Responsibility for services for the blind

If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

(3) Non-Federal share

The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B of this subchapter.

(4) Statewideness

The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that—

(A) in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner, but only if the non-Federal share of the cost of the vocational rehabilitation services involved is met from funds made available by a local agency (including funds contributed to such agency by a private agency, organization, or individual); and

(B) in a case in which earmarked funds are used toward the non-Federal share and such funds are earmarked for particular geographic areas within the State, the earmarked funds may be used in such areas if the State notifies the Commissioner that the State cannot provide the full non-Federal share without such funds.

(5) Order of selection for vocational rehabilitation services

In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

(B) provide the justification for the order of selection;

(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

(D) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

(6) Methods for administration

(A) In general

The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

(B) Employment of individuals with disabilities

The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this subchapter shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 793 of this title.

(C) Facilities

The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled ''An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped'', approved on August 12, 1968 (commonly known as the ''Architectural Barriers Act of 1968'') [42 U.S.C. 4151 et seq.], with section 794 of this title, and with the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.].

(7) Comprehensive system of personnel development

The State plan shall—

(A) include a description (consistent with the purposes of this chapter) of a comprehensive system of personnel development, which shall include—

(i) a description of the procedures and activities the designated State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

(I) the number and type of personnel that are employed by the designated State unit in the provision of vocational rehabilitation services, including ratios of qualified vocational rehabilitation counselors to clients; and

(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the vocational rehabilitation field, and other relevant factors;

(ii) where appropriate, a description of the manner in which activities will be

undertaken under this section to coordinate the system of personnel development with personnel development activities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the programs of institutions of higher education within the State that are preparing rehabilitation professionals, including—

(I) the numbers of students enrolled in such programs; and

(II) the number of such students who graduated with certification or licensure, or with credentials to qualify for certification or licensure, as a rehabilitation professional during the past year;

(iv) a description of the development, updating, and implementation of a plan that—

(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

(II) provides for the coordination and facilitation of efforts between the designated State unit, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

(v) a description of the procedures and activities the designated State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and

(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to this chapter made by the Rehabilitation Act Amendments of 1998;

(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including rehabilitation professionals and paraprofessionals, needed within the designated State unit to carry out this part are appropriately and adequately prepared and trained, including—

(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

(ii) to the extent that such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated State unit that meet appropriate professional requirements in the State; and

(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual.

(8) Comparable services and benefits

(A) Determination of availability

(i) In general

The State plan shall include an assurance that, prior to providing any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 723(a) of this title, the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this subchapter) unless such a determination would interrupt or delay—

(I) the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment of the individual in accordance with section 722(b) of this title;

(II) an immediate job placement; or

(III) the provision of such service to any individual at extreme medical risk.

(ii) Awards and scholarships

For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

(B) Interagency agreement

The State plan shall include an assurance that the Governor of the State, in consultation with the entity in the State responsible for the vocational rehabilitation program and other appropriate agencies, will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including the State entity responsible for administering the State medicaid program, a public institution of higher education, and a component of the statewide workforce investment system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in subparagraph (A) (other than those services specified in paragraph (5)(D), and in paragraphs (1) through (4) and (14) of section 723(a) of this title), that are included in the individualized plan for employment of an eligible individual, including the provision of such vocational rehabilitation services during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

(i) Agency financial responsibility

An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating the financial responsibility of such public entity for providing such services.

(ii) Conditions, terms, and procedures of reimbursement

Information specifying the conditions, terms, and procedures under which a designated State unit shall be reimbursed by other public entities for providing such services, based on the provisions of such agreement or mechanism.

(iii) Interagency disputes

Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other public entities or otherwise implement the provisions of the agreement or mechanism).

(iv) Coordination of services procedures

Information specifying policies and procedures for public entities to determine and identify the interagency coordination responsibilities of each public entity to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 723(a) of this title).

(C) Responsibilities of other public entities

(i) Responsibilities under other law

Notwithstanding subparagraph (B), if any public entity other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 723(a) of this title), such public entity shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

(ii) Reimbursement

If a public entity other than the designated State unit fails to provide or pay for the services described in clause (i) for an eligible individual, the designated State unit shall provide or pay for such services to the individual. Such designated State unit may claim reimbursement for the services from the public entity that failed to provide or pay for such services. Such public entity shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism described in this paragraph according to the procedures established in such agreement or mechanism pursuant to subparagraph (B)(ii).

(D) Methods

The Governor of a State may meet the requirements of subparagraph (B) through—

(i) a State statute or regulation;

(ii) a signed agreement between the respective officials of the public entities that clearly identifies the responsibilities of each public entity relating to the provision of services; or

(iii) another appropriate method, as determined by the designated State unit.

(9) Individualized plan for employment

(A) Development and implementation

The State plan shall include an assurance that an individualized plan for employment meeting the requirements of section 722(b) of this title will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this subchapter, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

(B) Provision of services

The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized plan for employment.

(10) Reporting requirements

(A) In general

The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this subchapter.

(B) Annual reporting

In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998 [29 U.S.C. 2871(d)(2)] that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this subchapter.

(C) Additional data

In specifying the information required to be submitted in the reports, the Commissioner shall require additional data with regard to applicants and eligible individuals related to—

(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this subchapter, including—

(I) the number of individuals determined to be ineligible because they did not require vocational rehabilitation services, as provided in section 722(a) of this title; and

(II) the number of individuals determined, on the basis of clear and convincing evidence, to be too severely disabled to benefit in terms of an employment outcome from vocational rehabilitation services;

(ii) the number of individuals who received vocational rehabilitation services through the program, including—

(I) the number who received services under paragraph (5)(D), but not assistance under an individualized plan for employment;

(II) of those recipients who are individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 722(b) of this title; and

(III) of those recipients who are not individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 722(b) of this title;

(iii) of those applicants and eligible recipients who are individuals with significant disabilities—

(I) the number who ended their participation in the program carried out under this subchapter and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

(bb) the number who received employment benefits from an employer during such employment; and

(iv) of those applicants and eligible recipients who are not individuals with significant disabilities—

(I) the number who ended their participation in the program carried out under this subchapter and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

(bb) the number who received employment benefits from an employer during such employment.

(D) Costs and results

The Commissioner shall also require that the designated State agency include in the reports information on—

(i) the costs under this subchapter of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized plans for employment, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, providing other services to groups, and facilitating use of other programs under this chapter and title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] by eligible individuals; and

(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

(E) Additional information

The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

(i) information on—

(I) age, gender, race, ethnicity, education, category of impairment, severity of disability, and whether the individuals are students with disabilities;

(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized plan for employment, and termination of participation in the program;

(III) earnings at the time of application for the program and termination of participation in the program;

(IV) work status and occupation;

(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

(VI) types of public or private programs or agencies that furnished services under the program; and

(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

(ii) information necessary to determine the success of the State in meeting—

(I) the State performance measures established under section 136(b) of the Workforce Investment Act of 1998 [29 U.S.C. 2871(b)], to the extent the meas-

ures are applicable to individuals with disabilities; and

(II) the standards and indicators established pursuant to section 726 of this title.

(F) Completeness and confidentiality

The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

(11) Cooperation, collaboration, and coordination

(A) Cooperative agreements with other components of statewide workforce investment systems

The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of the statewide workforce investment system of the State, regarding the system, which agreement may provide for—

(i) provision of intercomponent staff training and technical assistance with regard to—

(I) the availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and

(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce investment activities in the State through the promotion of program accessibility, the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

(ii) use of information and financial management systems that link all components of the statewide workforce investment system, that link the components to other electronic networks, including nonvisual electronic networks, and that relate to such subjects as employment statistics, and information on job vacancies, career planning, and workforce investment activities;

(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

(iv) establishment of cooperative efforts with employers to—

(I) facilitate job placement; and

(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce investment system with regard to paying for necessary services (consistent with State law and Federal requirements); and

(vi) specification of procedures for resolving disputes among such components.

(B) Replication of cooperative agreements

The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce investment system.

(C) Interagency cooperation with other agencies

The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including programs carried out by the Under Secretary for Rural Development of the Department of Agriculture and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system.

(D) Coordination with education officials

The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities, that are designed to facilitate the transition of the students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under this subchapter, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

(i) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;

(ii) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act [20 U.S.C. 1414(d)];

(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

(iv) procedures for outreach to and identification of students with disabilities who need the transition services.

(E) Coordination with Statewide Independent Living Councils and independent living centers

The State plan shall include an assurance that the designated State unit, the State-

wide Independent Living Council established under section 796d of this title, and the independent living centers described in subpart 3[1] of part A of subchapter VII of this chapter within the State have developed working relationships and coordinate their activities.

(F) Cooperative agreement with recipients of grants for services to American Indians

In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C of this subchapter. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized plans for employment;

(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living near a reservation or tribal service area are provided vocational rehabilitation services; and

(iii) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

(12) Residency

The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

(13) Services to American Indians

The State plan shall include an assurance that, except as otherwise provided in part C of this subchapter, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

(14) Annual review of individuals in extended employment or other employment under special certificate provisions of the Fair Labor Standards Act of 1938

The State plan shall provide for—

(A) an annual review and reevaluation of the status of each individual with a disability served under this subchapter who has achieved an employment outcome either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the achievement of the outcome (and thereafter if requested by the individual or, if appropriate, the individual's representative), to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment;

(B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative; and

(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individuals described in subparagraph (A) in engaging in competitive employment.

(15) Annual State goals and reports of progress

(A) Assessments and estimates

The State plan shall—

(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

(I) individuals with the most significant disabilities, including their need for supported employment services;

(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this subchapter; and

(III) individuals with disabilities served through other components of the statewide workforce investment system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components;

(ii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

(iii) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for any year in which the State updates the assessments.

(B) Annual estimates

The State plan shall include, and shall provide that the State shall annually submit a report to the Commissioner that includes, State estimates of—

(i) the number of individuals in the State who are eligible for services under this subchapter;

(ii) the number of such individuals who will receive services provided with funds provided under part B of this subchapter and under part B of subchapter VI of this chapter, including, if the designated State agency uses an order of selection in ac-

[1] See References in Text note below.

cordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order; and

(iii) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

(C) Goals and priorities

(i) In general

The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

(ii) Basis

The State goals and priorities shall be based on an analysis of—

(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

(II) the performance of the State on the standards and indicators established under section 726 of this title; and

(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 725(c) of this title and the findings and recommendations from monitoring activities conducted under section 727 of this title.

(iii) Service and outcome goals for categories in order of selection

If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

(D) Strategies

The State plan shall contain a description of the strategies the State will use to address the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

(ii) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

(iii) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

(iv) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 726 of this title; and

(v) strategies for assisting entities carrying out other components of the statewide workforce investment system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

(E) Evaluation and reports of progress

The State plan shall—

(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program, and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

(II) a description of strategies that contributed to achieving the goals;

(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 726 of this title; and

(ii) provide that the designated State unit and the State Rehabilitation Council, if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

(16) Public comment

The State plan shall—

(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 732 of this title, and, as appropriate,

Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

(B) provide that the designated State agency (or each designated State agency if two agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals' representatives;

(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

(iii) providers of vocational rehabilitation services to individuals with disabilities;

(iv) the director of the client assistance program; and

(v) the State Rehabilitation Council, if the State has such a Council.

(17) Use of funds for construction of facilities

The State plan shall provide that if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs—

(A) the Federal share of the cost of construction for the facilities for a fiscal year will not exceed an amount equal to 10 percent of the State's allotment under section 730 of this title for such year;

(B) the provisions of section 776 of this title (as in effect on the day before August 7, 1998) shall be applicable to such construction and such provisions shall be deemed to apply to such construction; and

(C) there shall be compliance with regulations the Commissioner shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of facilities for community rehabilitation programs) because the plan includes such provisions for construction.

(18) Innovation and expansion activities

The State plan shall—

(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 730 of this title—

(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this subchapter, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

(ii) to support the funding of—

(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 725(d)(1) of this title; and

(II) the Statewide Independent Living Council, consistent with the plan prepared under section 796d(e)(1) of this title;

(B) include a description of how the reserved funds will be utilized; and

(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds were utilized during the preceding year.

(19) Choice

The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants' representatives or individuals' representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 722(d) of this title.

(20) Information and referral services

(A) In general

The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program carried out under this subchapter), including other components of the statewide workforce investment system in the State.

(B) Referrals

An appropriate referral made through the system shall—

(i) be to the Federal or State programs, including programs carried out by other components of the statewide workforce investment system in the State, best suited to address the specific employment needs of an individual with a disability; and

(ii) include, for each of these programs, provision to the individual of—

(I) a notice of the referral by the designated State agency to the agency carrying out the program;

(II) information identifying a specific point of contact within the agency carrying out the program; and

(III) information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

(21) State independent consumer-controlled commission; State Rehabilitation Council

(A) Commission or Council

The State plan shall provide that either—

(i) the designated State agency is an independent commission that—

(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

(II) is consumer-controlled by persons who—

(aa) are individuals with physical or mental impairments that substantially limit major life activities; and

(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

(IV) undertakes the functions set forth in section 725(c)(4) of this title; or

(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 725 of this title and the designated State unit—

(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 725(c)(5) of this title, the review and analysis of consumer satisfaction described in section 725(c)(4) of this title, and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

(IV) transmits to the Council—

(aa) all plans, reports, and other information required under this subchapter to be submitted to the Secretary;

(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this subchapter; and

(cc) copies of due process hearing decisions issued under this subchapter, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

(B) More than one designated State agency

In the case of a State that, under subsection (a)(2) of this section, designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the two agencies that does not meet the requirements in subparagraph (A)(i), or establish one State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

(22) Supported employment State plan supplement

The State plan shall include an assurance that the State has an acceptable plan for carrying out part B of subchapter VI of this chapter, including the use of funds under that part to supplement funds made available under part B of this subchapter to pay for the cost of services leading to supported employment.

(23) Annual updates

The plan shall include an assurance that the State will submit to the Commissioner reports containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

(24) Certain contracts and cooperative agreements

(A) Contracts with for-profit organizations

The State plan shall provide that the designated State agency has the authority to enter into contracts with for-profit organizations for the purpose of providing, as vocational rehabilitation services, on-the-job training and related programs for individuals with disabilities under part A of subchapter VI of this chapter, upon a determination by such agency that such for-profit organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations.

(B) Cooperative agreements with private nonprofit organizations

The State plan shall describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established.

(b) Approval; disapproval of the State plan

(1) Approval

The Commissioner shall approve any plan that the Commissioner finds fulfills the conditions specified in this section, and shall disapprove any plan that does not fulfill such conditions.

(2) Disapproval

Prior to disapproval of the State plan, the Commissioner shall notify the State of the intention to disapprove the plan and shall afford the State reasonable notice and opportunity for a hearing.

(Pub. L. 93–112, title I, § 101, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1119;

amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(c)(4)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–415; Pub. L. 108–446, title III, § 305(h)(1), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

The Architectural Barriers Act of 1968, referred to in subsec. (a)(6)(C), is Pub. L. 90–480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(6)(C), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(7)(A)(ii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Rehabilitation Act Amendments of 1998, referred to in subsec. (a)(7)(A)(v)(II), is title IV of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1092. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 701 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (a)(10)(D)(i), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

Subpart 3 of part A of subchapter VII of this chapter, referred to in subsec. (a)(11)(E), was in the original a reference to ''part C of title VII'', meaning part C of title VII of the Rehabilitation Act of 1973, and was translated as if it referred to part C of chapter I of title VII of the Act to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 721, Pub. L. 93–112, title I, § 101, Sept. 26, 1973, 87 Stat. 363; Pub. L. 93–516, title I, § 111(b)–(d), Dec. 7, 1974, 88 Stat. 1619, 1620; Pub. L. 93–651, title I, § 111(b)–(d), Nov. 21, 1974, 89 Stat. 2–5; Pub. L. 95–602, title I, §§ 102, 122(b)(1), Nov. 6, 1978, 92 Stat. 2957, 2987; Pub. L. 98–221, title I, § 104(a)(2), Feb. 22, 1984, 98 Stat. 18; Pub. L. 98–524, § 4(f), Oct. 19, 1984, 98 Stat. 2489; Pub. L. 99–506, title I, § 103(d)(2), title II, § 202, title X, § 1001(b)(1)–(4), Oct. 21, 1986, 100 Stat. 1810, 1814, 1841, 1842; Pub. L. 100–630, title II, § 202(b), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102–54, § 13(k)(1)(A), June 13, 1991, 105 Stat. 276; Pub. L. 102–119, § 26(e), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–569, title I, §§ 102(*o*), (p)(7), 122, Oct. 29, 1992, 106 Stat. 4355, 4356, 4367; Pub. L. 103–73, title I, §§ 102(2), 107(a), Aug. 11, 1993, 107 Stat. 718, 719; Pub. L. 104–106, div. D, title XLIII, § 4321(i)(7), Feb. 10, 1996, 110 Stat. 676, related to State plans, prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

2004—Subsec. (a)(11)(D)(ii). Pub. L. 108–446 struck out ''(as added by section 101 of Public Law 105–17)'' before semicolon at end.

1998—Subsec. (a)(18)(C). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(4)(A)], substituted ''were utilized during the preceding year'' for ''will be utilized''.

Subsec. (a)(21)(A)(i)(II)(bb). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(4)(B)], substituted ''commission'' for ''Commission''.

§ 722. Eligibility and individualized plan for employment

(a) Eligibility

(1) Criterion for eligibility

An individual is eligible for assistance under this subchapter if the individual—

(A) is an individual with a disability under section 705(20)(A) of this title; and

(B) requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

(2) Presumption of benefit

(A) Demonstration

For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 705(20)(A) of this title, unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

(B) Methods

In making the demonstration required under subparagraph (A), the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 705(2)(D) of this title, with appropriate supports provided through the designated State unit, except under limited circumstances when an individual cannot take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

(3) Presumption of eligibility

(A) In general

For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

(i) considered to be an individual with a significant disability under section 705(21)(A) of this title; and

(ii) presumed to be eligible for vocational rehabilitation services under this subchapter (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of bene-

fiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

(B) Construction

Nothing in this paragraph shall be construed to create an entitlement to any vocational rehabilitation service.

(4) Use of existing information

(A) In general

To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this subchapter and developing the individualized plan for employment described in subsection (b) of this section for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized plan for employment), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

(B) Determinations by officials of other agencies

Determinations made by officials of other agencies, particularly education officials described in section 721(a)(11)(D) of this title, regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 705(20)(A) of this title or an individual with a significant disability under section 705(21)(A) of this title shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

(C) Basis

The determination of eligibility for vocational rehabilitation services shall be based on—

(i) the review of existing data described in section 705(2)(A)(i) of this title; and

(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 705(2)(A)(ii) of this title.

(5) Determination of ineligibility

If an individual who applies for services under this subchapter is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 705(2)(A)(ii) of this title, not to be eligible for the services, or if an eligible individual receiving services under an individualized plan for employment is determined to be no longer eligible for the services—

(A) the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

(B) the individual or, as appropriate, the individual's representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

(i) the reasons for the determination; and

(ii) a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c) of this section;

(C) the individual shall be provided with a description of services available from the client assistance program under section 732 of this title and information on how to contact that program; and

(D) any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

(i) within 12 months; and

(ii) thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative.

(6) Timeframe for making an eligibility determination

The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this subchapter within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

(A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

(B) the designated State unit is exploring an individual's abilities, capabilities, and capacity to perform in work situations under paragraph (2)(B).

(b) Development of an individualized plan for employment

(1) Options for developing an individualized plan for employment

If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a) of this section, the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs, as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized plan for employment, including—

(A) information on the availability of assistance, to the extent determined to be ap-

propriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized plan for employment for the individual, and the availability of technical assistance in developing all or part of the individualized plan for employment for the individual;

(B) a description of the full range of components that shall be included in an individualized plan for employment;

(C) as appropriate—

(i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized plan for employment;

(ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

(iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized plan for employment; and

(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c) of this section; and

(ii) a description of the availability of a client assistance program established pursuant to section 732 of this title and information about how to contact the client assistance program.

(2) Mandatory procedures

(A) Written document

An individualized plan for employment shall be a written document prepared on forms provided by the designated State unit.

(B) Informed choice

An individualized plan for employment shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services, consistent with subsection (d) of this section.

(C) Signatories

An individualized plan for employment shall be—

(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

(D) Copy

A copy of the individualized plan for employment for an eligible individual shall be provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, of the individual's representative.

(E) Review and amendment

The individualized plan for employment shall be—

(i) reviewed at least annually by—

(I) a qualified vocational rehabilitation counselor; and

(II) the eligible individual or, as appropriate, the individual's representative; and

(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit).

(3) Mandatory components of an individualized plan for employment

Regardless of the approach selected by an eligible individual to develop an individualized plan for employment, an individualized plan for employment shall, at a minimum, contain mandatory components consisting of—

(A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;

(B)(i) a description of the specific vocational rehabilitation services that are—

(I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and

(II) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and

(ii) timelines for the achievement of the employment outcome and for the initiation of the services;

(C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;

(D) a description of criteria to evaluate progress toward achievement of the employment outcome;

(E) the terms and conditions of the individualized plan for employment, including, as appropriate, information describing—

(i) the responsibilities of the designated State unit;

(ii) the responsibilities of the eligible individual, including—

(I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;

(II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and

(III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 721(a)(8) of this title; and

(iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 721(a)(8) of this title;

(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

(i) the extended services needed by the eligible individual; and

(ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized plan for employment, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and

(G) as determined to be necessary, a statement of projected need for post-employment services.

(c) Procedures

(1) In general

Each State shall establish procedures for mediation of, and procedures for review through an impartial due process hearing of, determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.

(2) Notification

(A) Rights and assistance

The procedures shall provide that an applicant or an eligible individual or, as appropriate, the applicant's representative or individual's representative shall be notified of—

(i) the right to obtain review of determinations described in paragraph (1) in an impartial due process hearing under paragraph (5);

(ii) the right to pursue mediation with respect to the determinations under paragraph (4); and

(iii) the availability of assistance from the client assistance program under section 732 of this title.

(B) Timing

Such notification shall be provided in writing—

(i) at the time an individual applies for vocational rehabilitation services provided under this subchapter;

(ii) at the time the individualized plan for employment for the individual is developed; and

(iii) upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

(3) Evidence and representation

The procedures required under this subsection shall, at a minimum—

(A) provide an opportunity for an applicant or an eligible individual, or, as appropriate, the applicant's representative or individual's representative, to submit at the mediation session or hearing evidence and information to support the position of the applicant or eligible individual; and

(B) include provisions to allow an applicant or an eligible individual to be represented in the mediation session or hearing by a person selected by the applicant or eligible individual.

(4) Mediation

(A) Procedures

Each State shall ensure that procedures are established and implemented under this subsection to allow parties described in paragraph (1) to disputes involving any determination described in paragraph (1) to resolve such disputes through a mediation process that, at a minimum, shall be available whenever a hearing is requested under this subsection.

(B) Requirements

Such procedures shall ensure that the mediation process—

(i) is voluntary on the part of the parties;

(ii) is not used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this subchapter; and

(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(C) List of mediators

The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this subchapter, from which the mediators described in subparagraph (B) shall be selected.

(D) Cost

The State shall bear the cost of the mediation process.

(E) Scheduling

Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(F) Agreement

An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

(G) Confidentiality

Discussions that occur during the mediation process shall be confidential and may

not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

(H) Construction

Nothing in this subsection shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to proceedings under this paragraph or paragraph (5), if the informal process used is not used to deny or delay the right of the applicant or eligible individual to a hearing under this subsection or to deny any other right afforded under this subchapter.

(5) Hearings

(A) Officer

A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State plan, this chapter (including regulations implementing this chapter), and State regulations and policies that are consistent with the Federal requirements specified in this subchapter. The officer shall provide the decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit.

(B) List

The designated State unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this subchapter from which the officer described in subparagraph (A) shall be selected. For the purposes of maintaining such list, impartial hearing officers shall be identified jointly by—

(i) the designated State unit; and

(ii) members of the Council or commission, as appropriate, described in section 721(a)(21) of this title.

(C) Selection

Such an impartial hearing officer shall be selected to hear a particular case relating to a determination—

(i) on a random basis; or

(ii) by agreement between—

(I) the Director of the designated State unit and the individual with a disability; or

(II) in appropriate cases, the Director and the individual's representative.

(D) Procedures for seeking review

A State may establish procedures to enable a party involved in a hearing under this paragraph to seek an impartial review of the decision of the hearing officer under subparagraph (A) by—

(i) the chief official of the designated State agency if the State has established both a designated State agency and a designated State unit under section 721(a)(2) of this title; or

(ii) an official from the office of the Governor.

(E) Review request

If the State establishes impartial review procedures under subparagraph (D), either party may request the review of the decision of the hearing officer within 20 days after the decision.

(F) Reviewing official

The reviewing official described in subparagraph (D) shall—

(i) in conducting the review, provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review;

(ii) not overturn or modify the decision of the hearing officer, or part of the decision, that supports the position of the applicant or eligible individual unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, this chapter (including regulations implementing this chapter) or any State regulation or policy that is consistent with the Federal requirements specified in this subchapter;

(iii) make a final decision with respect to the matter in a timely manner and provide such decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit, including a full report of the findings and the grounds for such decision; and

(iv) not delegate the responsibility for making the final decision to any officer or employee of the designated State unit.

(G) Finality of hearing decision

A decision made after a hearing under subparagraph (A) shall be final, except that a party may request an impartial review if the State has established procedures for such review under subparagraph (D) and a party involved in a hearing may bring a civil action under subparagraph (J).

(H) Finality of review

A decision made under subparagraph (F) shall be final unless such a party brings a civil action under subparagraph (J).

(I) Implementation

If a party brings a civil action under subparagraph (J) to challenge a final decision of a hearing officer under subparagraph (A) or to challenge a final decision of a State reviewing official under subparagraph (F), the final decision involved shall be implemented pending review by the court.

(J) Civil action

(i) In general

Any party aggrieved by a final decision described in subparagraph (I), may bring a civil action for review of such decision. The action may be brought in any State

court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

(ii) Procedure

In any action brought under this subparagraph, the court—

(I) shall receive the records relating to the hearing under subparagraph (A) and the records relating to the State review under subparagraphs (D) through (F), if applicable;

(II) shall hear additional evidence at the request of a party to the action; and

(III) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

(6) Hearing board

(A) In general

A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations or decisions under this chapter, is authorized to carry out the responsibilities of the impartial hearing officer under this subsection.

(B) Application

The provisions of paragraphs (1), (2), and (3) that relate to due process hearings do not apply, and paragraph (5) (other than subparagraph (J)) does not apply, to any State to which subparagraph (A) applies.

(7) Impact on provision of services

Unless the individual with a disability so requests, or, in an appropriate case, the individual's representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual's representative.

(8) Information collection and report

(A) In general

The Director of the designated State unit shall collect information described in subparagraph (B) and prepare and submit to the Commissioner a report containing such information. The Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 710 of this title. The Commissioner shall also collect copies of the final decisions of impartial hearing officers conducting hearings under this subsection and State officials conducting reviews under this subsection.

(B) Information

The information required to be collected under this subsection includes—

(i) a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers under this subsection;

(ii) information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;

(iii) information on the number of hearing decisions made under this subsection that were not reviewed by the State reviewing officials; and

(iv) information on the number of the hearing decisions that were reviewed by the State reviewing officials, and, based on such reviews, the number of hearing decisions that were—

(I) sustained in favor of an applicant or eligible individual;

(II) sustained in favor of the designated State unit;

(III) reversed in whole or in part in favor of the applicant or eligible individual; and

(IV) reversed in whole or in part in favor of the designated State unit.

(C) Confidentiality

The confidentiality of records of applicants and eligible individuals maintained by the designated State unit shall not preclude the access of the Commissioner to those records for the purposes described in subparagraph (A).

(d) Policies and procedures

Each designated State agency, in consultation with the State Rehabilitation Council, if the State has such a council, shall, consistent with section 720(a)(3)(C) of this title, develop and implement written policies and procedures that enable each individual who is an applicant for or eligible to receive vocational rehabilitation services under this subchapter to exercise informed choice throughout the vocational rehabilitation process carried out under this subchapter, including policies and procedures that require the designated State agency—

(1) to inform each such applicant and eligible individual (including students with disabilities who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process;

(2) to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this subchapter;

(3) to develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services, under this subchapter;

(4) to provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this subchapter in the selection of—

(A) the employment outcome;

(B) the specific vocational rehabilitation services needed to achieve the employment outcome;

(C) the entity that will provide the services;

(D) the employment setting and the settings in which the services will be provided; and

(E) the methods available for procuring the services; and

(5) to ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated State agency under this subchapter.

(Pub. L. 93–112, title I, § 102, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1138; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(c)(5)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–415.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVI of the Act are classified generally to subchapters II (§ 401 et seq.) and XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 722, Pub. L. 93–112, title I, § 102, Sept. 26, 1973, 87 Stat. 368; Pub. L. 93–516, title I, § 111(e), Dec. 7, 1974, 88 Stat. 1620; Pub. L. 93–651, title I, § 111(e), Nov. 21, 1974, 89 Stat. 2–5; Pub. L. 95–602, title I, §§ 103, 122(b)(1), Nov. 6, 1978, 92 Stat. 2959, 2987; Pub. L. 98–221, title I, §§ 104(a)(3), 112, Feb. 22, 1984, 98 Stat. 18, 20; Pub. L. 99–506, title I, § 103(d)(2)(A), (B), title II, § 203, title X, § 1001(b)(5), Oct. 21, 1986, 100 Stat. 1810, 1815, 1842; Pub. L. 100–630, title II, § 202(c), Nov. 7, 1988, 102 Stat. 3305; Pub. L. 102–569, title I, §§ 102(p)(8), 123, Oct. 29, 1992, 106 Stat. 4357, 4375; Pub. L. 103–73, title I, § 107(b), Aug. 11, 1993, 107 Stat. 720, related to individualized written rehabilitation program, prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

1998—Subsec. (c)(5)(F)(iv). Pub. L. 105–277 added cl. (iv).

§ 723. Vocational rehabilitation services

(a) Vocational rehabilitation services for individuals

Vocational rehabilitation services provided under this subchapter are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 722(d) of this title;

(3) referral and other services to secure needed services from other agencies through agreements developed under section 721(a)(11) of this title, if such services are not available under this subchapter;

(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this subchapter unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 721(a)(8)(A) of this title), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

(B) necessary hospitalization in connection with surgery or treatment;

(C) prosthetic and orthotic devices;

(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;

(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

(12) occupational licenses, tools, equipment, and initial stocks and supplies;

(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;

(16) supported employment services;

(17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

(18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

(b) Vocational rehabilitation services for groups of individuals

Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

(2)(A) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs shall be used to provide services that promote integration and competitive employment.

(B) The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any 1 individual with a disability.

(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

(C) Tactile materials for individuals who are deaf-blind.

(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.

(6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

(Pub. L. 93–112, title I, § 103, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1148.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(5), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended. Title I of the Act is classified generally to subchapter I (§ 12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 723, Pub. L. 93–112, title I, § 103, Sept. 26, 1973, 87 Stat. 368; Pub. L. 95–602, title I, § 104, Nov. 6, 1978, 92 Stat. 2960; Pub. L. 99–506, title I, § 103(d)(2), title II, § 204, Oct. 21, 1986, 100 Stat. 1810, 1817; Pub. L. 100–630, title II, § 202(d), Nov. 7, 1988, 102 Stat. 3305; Pub. L. 102–569, title I, §§ 102(p)(9), 124, Oct. 29, 1992, 106 Stat. 4357, 4379; Pub. L. 103–73, title I, § 107(c), Aug. 11, 1993, 107 Stat. 721, related to scope of vocational rehabilitation services, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 724. Non-Federal share for establishment of program or construction

For the purpose of determining the amount of payments to States for carrying out part B of this subchapter (or to an Indian tribe under part C of this subchapter), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program or construction of such a facility.

(Pub. L. 93–112, title I, § 104, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1151.)

PRIOR PROVISIONS

A prior section 724, Pub. L. 93–112, title I, § 104, Sept. 26, 1973, 87 Stat. 370; Pub. L. 95–602, title I, § 122(b)(1),

Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99–506, title II, § 205, Oct. 21, 1986, 100 Stat. 1817; Pub. L. 102–569, title I, § 125, Oct. 29, 1992, 106 Stat. 4381, related to non-Federal share for construction, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 725. State Rehabilitation Council

(a) Establishment

(1) In general

Except as provided in section 721(a)(21)(A)(i) of this title, to be eligible to receive financial assistance under this subchapter a State shall establish a State Rehabilitation Council (referred to in this section as the ''Council'') in accordance with this section.

(2) Separate agency for individuals who are blind

A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 721(a)(2)(A)(i) of this title may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

(b) Composition and appointment

(1) Composition

(A) In general

Except in the case of a separate Council established under subsection (a)(2) of this section, the Council shall be composed of—

(i) at least one representative of the Statewide Independent Living Council established under section 796d of this title, which representative may be the chairperson or other designee of the Council;

(ii) at least one representative of a parent training and information center established pursuant to section 671 of the Individuals with Disabilities Education Act [20 U.S.C. 1471];

(iii) at least one representative of the client assistance program established under section 732 of this title;

(iv) at least one qualified vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

(v) at least one representative of community rehabilitation program service providers;

(vi) four representatives of business, industry, and labor;

(vii) representatives of disability advocacy groups representing a cross section of—

(I) individuals with physical, cognitive, sensory, and mental disabilities; and

(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

(ix) in a State in which one or more projects are carried out under section 741 of this title, at least one representative of the directors of the projects;

(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this subchapter and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.]; and

(xi) at least one representative of the State workforce investment board.

(B) Separate Council

In the case of a separate Council established under subsection (a)(2) of this section, the Council shall be composed of—

(i) at least one representative described in subparagraph (A)(i);

(ii) at least one representative described in subparagraph (A)(ii);

(iii) at least one representative described in subparagraph (A)(iii);

(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

(v) at least one representative described in subparagraph (A)(v);

(vi) four representatives described in subparagraph (A)(vi);

(vii) at least one representative of a disability advocacy group representing individuals who are blind;

(viii) at least one individual's representative, of an individual who—

(I) is an individual who is blind and has multiple disabilities; and

(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

(ix) applicants or recipients described in subparagraph (A)(viii);

(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

(xi) at least one representative described in subparagraph (A)(x); and

(xii) at least one representative described in subparagraph (A)(xi).

(C) Exception

In the case of a separate Council established under subsection (a)(2) of this section, any Council that is required by State law, as in effect on October 29, 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

(ii) includes at least—

(I) one representative described in subparagraph (B)(vi); and

(II) one applicant or recipient described in subparagraph (B)(ix).

(2) Ex officio member

The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

(3) Appointment

Members of the Council shall be appointed by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the appointing authority shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

(4) Qualifications

(A) In general

A majority of Council members shall be persons who are—

(i) individuals with disabilities described in section 705(20)(B) of this title; and

(ii) not employed by the designated State unit.

(B) Separate Council

In the case of a separate Council established under subsection (a)(2) of this section, a majority of Council members shall be persons who are—

(i) blind; and

(ii) not employed by the designated State unit.

(5) Chairperson

(A) In general

Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

(B) Designation by chief executive officer

In States in which the chief executive officer does not have veto power pursuant to State law, the appointing authority described in paragraph (3) shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

(6) Terms of appointment

(A) Length of term

Each member of the Council shall serve for a term of not more than 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority described in paragraph (3)) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(B) Number of terms

No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

(7) Vacancies

(A) In general

Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(B) Delegation

The appointing authority described in paragraph (3) may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

(c) Functions of Council

The Council shall, after consulting with the State workforce investment board—

(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this subchapter, particularly responsibilities relating to—

(A) eligibility (including order of selection);

(B) the extent, scope, and effectiveness of services provided; and

(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this subchapter;

(2) in partnership with the designated State unit—

(A) develop, agree to, and review State goals and priorities in accordance with section 721(a)(15)(C) of this title; and

(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 721(a)(15)(E) of this title;

(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this subchapter, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this subchapter;

(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

(A) the functions performed by the designated State agency;

(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this chapter; and

(C) employment outcomes achieved by eligible individuals receiving services under this subchapter, including the availability of health and other employment benefits in connection with such employment outcomes;

(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 796d of this title, the advisory panel established under section 612(a)(20) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(20)], the State Council on Developmental Disabilities established under section 15025 of title 42, the State mental health planning council established under section 300x–3(a) of title 42, and the State workforce investment board;

(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

(8) perform such other functions, consistent with the purpose of this subchapter, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

(d) Resources

(1) Plan

The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(2) Resolution of disagreements

To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

(3) Supervision and evaluation

Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

(4) Personnel conflict of interest

While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

(e) Conflict of interest

No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

(f) Meetings

The Council shall convene at least four meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

(g) Compensation and expenses

The Council may use funds allocated to the Council by the designated State unit under this subchapter (except for funds appropriated to carry out the client assistance program under section 732 of this title and funds reserved pursuant to section 730(c) of this title to carry out part C of this subchapter) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

(h) Hearings and forums

The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

(Pub. L. 93–112, title I, § 105, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1151; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(c)(6)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–415; Pub. L. 106–402, title IV, § 401(b)(3)(A), Oct. 30, 2000, 114 Stat. 1737; Pub. L. 108–446, title III, § 305(h)(2), (3), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(1)(A)(x), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 725, Pub. L. 93–112, title I, § 105, as added Pub. L. 102–569, title I, § 126(a), Oct. 29, 1992, 106 Stat. 4381; amended Pub. L. 103–73, title I, § 107(d)(1), Aug. 11, 1993, 107 Stat. 721, related to State Rehabilitation Advisory Council, prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

2004—Subsec. (b)(1)(A)(ii). Pub. L. 108–446, § 305(h)(2), substituted ''671 of the Individuals with Disabilities Education Act'' for ''682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17)''.

Subsec. (c)(6). Pub. L. 108–446, § 305(h)(3), substituted ''section 612(a)(20)'' for ''section 612(a)(21)'' and ''Individuals with'' for ''Individual with'' and struck out ''(as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17)'' before '', the State Council''.

2000—Subsec. (c)(6). Pub. L. 106–402 substituted ''the State Council on Developmental Disabilities established under section 15025 of title 42'' for ''the State Developmental Disabilities Council described in section 6024 of title 42''.

1998—Subsec. (b)(3). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(6)(A)], substituted ''Governor or, in the case of

a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity'' for ''Governor'' in first sentence and ''appointing authority'' for ''Governor'' in second and third sentences.

Subsec. (b)(4)(A)(i). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(6)(B)], substituted ''section 705(20)(B)'' for ''section 705(20)(A)''.

Subsec. (b)(5)(B). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(6)(C)], substituted ''chief executive officer'' for ''Governor'' in heading and ''appointing authority described in paragraph (3) shall'' for ''Governor shall'' in text.

Subsec. (b)(6)(A)(ii), (7)(B). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(6)(D)], substituted ''appointing authority described in paragraph (3)'' for ''Governor''.

§ 726. Evaluation standards and performance indicators

(a) Establishment

(1) In general

(A) Establishment of standards and indicators

The Commissioner shall, not later than July 1, 1999, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program carried out under this subchapter.

(B) Review and revision

Effective July 1, 1999, the Commissioner shall review and, if necessary, revise the evaluation standards and performance indicators every 3 years. Any revisions of the standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. Any revisions of the standards and indicators shall be subject to the publication, review, and comment provisions of paragraph (3).

(C) Bases

Effective July 1, 1999, to the maximum extent practicable, the standards and indicators shall be consistent with the core indicators of performance established under section 2871(b) of this title.

(2) Measures

The standards and indicators shall include outcome and related measures of program performance that facilitate the accomplishment of the purpose and policy of this subchapter.

(3) Comment

The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

(b) Compliance

(1) State reports

In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

(2) Program improvement

(A) Plan

If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

(B) Review

The Commissioner shall—

(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

(c) Withholding

If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 727 of this title, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

(d) Report to Congress

Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 710 of this title an analysis of program performance, including relative State performance, based on the standards and indicators.

(Pub. L. 93–112, title I, § 106, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1156.)

PRIOR PROVISIONS

A prior section 726, Pub. L. 93–112, title I, § 106, as added Pub. L. 102–569, title I, § 127(a), Oct. 29, 1992, 106 Stat. 4385, related to evaluation standards and performance indicators, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 727. Monitoring and review

(a) In general

(1) Duties

In carrying out the duties of the Commissioner under this subchapter, the Commissioner shall—

(A) provide for the annual review and periodic onsite monitoring of programs under this subchapter; and

(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 726 of this title.

(2) Procedures for reviews

In conducting reviews under this section the Commissioner shall consider, at a minimum—

(A) State policies and procedures;

(B) guidance materials;

(C) decisions resulting from hearings conducted in accordance with due process;

(D) State goals established under section 721(a)(15) of this title and the extent to which the State has achieved such goals;

(E) plans and reports prepared under section 726(b) of this title;

(F) consumer satisfaction reviews and analyses described in section 725(c)(4) of this title;

(G) information provided by the State Rehabilitation Council established under section 725 of this title, if the State has such a Council, or by the commission described in section 721(a)(21)(A)(i) of this title, if the State has such a commission;

(H) reports; and

(I) budget and financial management data.

(3) Procedures for monitoring

In conducting monitoring under this section the Commissioner shall conduct—

(A) onsite visits, including onsite reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 721(a)(5)(A) of this title;

(B) public hearings and other strategies for collecting information from the public;

(C) meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 721(a)(21)(A)(i) of this title, if the State has such a commission;

(D) reviews of individual case files, including individualized plans for employment and ineligibility determinations; and

(E) meetings with qualified vocational rehabilitation counselors and other personnel.

(4) Areas of inquiry

In conducting the review and monitoring, the Commissioner shall examine—

(A) the eligibility process;

(B) the provision of services, including, if applicable, the order of selection;

(C) such other areas as may be identified by the public or through meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 721(a)(21)(A)(i) of this title, if the State has such a commission; and

(D) such other areas of inquiry as the Commissioner may consider appropriate.

(5) Reports

If the Commissioner issues a report detailing the findings of an annual review or onsite monitoring conducted under this section, the report shall be made available to the State Rehabilitation Council, if the State has such a Council, for use in the development and modification of the State plan described in section 721 of this title.

(b) Technical assistance

The Commissioner shall—

(1) provide technical assistance to programs under this subchapter regarding improving the quality of vocational rehabilitation services provided; and

(2) provide technical assistance and establish a corrective action plan for a program under this subchapter if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 726 of this title, in order to ensure that such failure is corrected as soon as practicable.

(c) Failure to comply with plan

(1) Withholding payments

Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 721 of this title, finds that—

(A) the plan has been so changed that it no longer complies with the requirements of section 721(a) of this title; or

(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 726 of this title,

the Commissioner shall notify such State agency that no further payments will be made to the State under this subchapter (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

(2) Period

Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this subchapter (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

(3) Disbursal of withheld funds

The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 721(a) of this title. The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contrib-

ute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

(d) Review

(1) Petition

Any State that is dissatisfied with a final determination of the Commissioner under section 721(b) of this title or subsection (c) of this section may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

(2) Submissions and determinations

If, in an action under this subsection to review a final determination of the Commissioner under section 721(b) of this title or subsection (c) of this section, the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

(3) Standards of review

(A) In general

Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

(i) to grant appropriate relief as provided in chapter 7 of title 5, except for interim relief with respect to a determination under subsection (c) of this section; and

(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5.

(B) Substantial evidence

Section 706 of title 5 shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

(Pub. L. 93–112, title I, § 107, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1157.)

PRIOR PROVISIONS

A prior section 727, Pub. L. 93–112, title I, § 107, as added Pub. L. 102–569, title I, § 128(a), Oct. 29, 1992, 106 Stat. 4386, related to monitoring and review, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 728. Expenditure of certain amounts

(a) Expenditure

Amounts described in subsection (b) of this section may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this subchapter, under part B of subchapter VI of this chapter, or under subchapter VII of this chapter.

(b) Amounts

The amounts referred to in subsection (a) of this section are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 730 of this title.

(Pub. L. 93–112, title I, § 108, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1160.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 728, Pub. L. 93–112, title I, § 108, as added Pub. L. 102–569, title I, § 129(a), Oct. 29, 1992, 106 Stat. 4389, related to expenditure of certain amounts, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 728a. Training of employers with respect to Americans with Disabilities Act of 1990

A State may expend payments received under section 731 of this title—

(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

(2) to inform employers of the existence of the program and the availability of the services of the program.

(Pub. L. 93–112, title I, § 109, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1160.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in par. (1), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended. Title I of the Act is classified generally to subchapter I (§ 12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. For complete

classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 728a, Pub. L. 93–112, title I, § 109, as added Pub. L. 102–569, title I, § 130(a), Oct. 29, 1992, 106 Stat. 4389, related to training of employers with respect to Americans with Disabilities Act of 1990, prior to the general amendment of this subchapter by Pub. L. 105–220.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

§ 730. State allotments

(a) Computation; additional amount; minimum amount; adjustments

(1) Subject to the provisions of subsection (c) of this section, for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 720(b)(1) of this title for allotment under this section as the product of—

(A) the population of the State; and

(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all the States.

(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 720(b)(1) of this title for allotment under this section in excess of the amount appropriated under section 720(b)(1)(A)[1] of this title for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) under this subsection for any fiscal year which is less than ⅓ of 1 percent of the amount appropriated under section 720(b)(1) of this title, or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.

(b) Unused funds; redistribution; increase in amount

(1) Not later than 45 days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this subchapter, that any payment of an allotment to a State under section 731(a) of this title for any fiscal year will not be utilized by such State in carrying out the purposes of this subchapter.

(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this subchapter to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

(c) Funds for American Indian vocational rehabilitation services

(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 720(b)(1) of this title for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C of this subchapter.

(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1999; and

(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 2000 through 2003.

(Pub. L. 93–112, title I, § 110, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1160; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(7)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–413.)

REFERENCES IN TEXT

Section 720(b)(1)(A) of this title, referred to in subsec. (a)(2)(B), means section 720(b)(1)(A) prior to the general amendment of section 720(b) by Pub. L. 102–569, title I, § 121(b)(1), Oct. 29, 1992, 106 Stat. 4367, which restated subsec. (b)(1) without a subpar. (A). Section 720 was subsequently omitted, and a new section 720 added, in the general amendment of this subchapter by Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1116.

[1] See References in Text note below.

PRIOR PROVISIONS

A prior section 730, Pub. L. 93–112, title I, § 110, Sept. 26, 1973, 87 Stat. 370; Pub. L. 95–602, title I, §§ 101(c), (d), 122(b)(1), Nov. 6, 1978, 92 Stat. 2956, 2957, 2987; Pub. L. 98–221, title I, § 111(e), Feb. 22, 1984, 98 Stat. 20; Pub. L. 99–506, title I, § 103(c)(2), title II, §§ 206, 207, Oct. 21, 1986, 100 Stat. 1810, 1817, 1818; Pub. L. 102–569, title I, § 131, Oct. 29, 1992, 106 Stat. 4389; Pub. L. 103–73, title I, § 107(e), Aug. 11, 1993, 107 Stat. 723, related to State allotments, prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to section designation and catchline in original.

§ 731. Payments to States

(a) Amount

(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 721 of this title, including expenditures for the administration of the State plan.

(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 730 of this title for such year.

(B) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this subchapter for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

(C) The Commissioner may waive or modify any requirement or limitation under subparagraph (B) or section 721(a)(17) of this title if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 291*o*(g) of title 42), in such State.

(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 291*o*(b)(2) of title 42, the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.

(b) Method of computation and payment

The method of computing and paying amounts pursuant to subsection (a) of this section shall be as follows:

(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the Government Accountability Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

(Pub. L. 93–112, title I, § 111, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1162; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(8)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–413; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 731, Pub. L. 93–112, title I, § 111, Sept. 26, 1973, 87 Stat. 371; Pub. L. 95–602, title I, § 122(b)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99–506, title II, § 208, title X, § 1001(b)(6), Oct. 21, 1986, 100 Stat. 1818, 1842; Pub. L. 100–630, title II, § 202(e)(1), (2)(A), (3), Nov. 7, 1988, 102 Stat. 3306; Pub. L. 102–569, title I, § 132, Oct. 29, 1992, 106 Stat. 4390; Pub. L. 103–73, title I, § 107(f), Aug. 11, 1993, 107 Stat. 723, related to payments to States, prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

2004—Subsec. (b)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

1998—Pub. L. 105–277 made technical amendment to section designation and catchline in original.

§ 732. Client assistance program

(a) Establishment of grant program

From funds appropriated under subsection (h) of this section, the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this chapter, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this chapter, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this chapter and to facilitate access to the services funded under this chapter through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this chapter and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabil-

ities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this subchapter, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

(b) Existence of State program as requisite to receiving payments

No State may receive payments from its allotment under this chapter in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which—

(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this chapter within the State; and

(2) meets the requirements of designation under subsection (c) of this section.

(c) Designation of agency to conduct program

(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this chapter. If there is an agency in the State which has, or had, prior to February 22, 1984, served as a client assistance agency under this section and which received Federal financial assistance under this chapter, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this chapter.

(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

(ii) If, after August 7, 1998—

(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of one or more new State agencies or departments or results in the merger of the designated State agency with one or more other State agencies or departments; and

(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this chapter.

(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

(d) Class action by designated agency prohibited

The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

(e) Allotment and reallotment of funds

(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than $50,000.

(B) The Secretary shall allot $30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(C) For the purpose of this paragraph, the term ''State'' does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed $7,500,000, the minimum allotment shall be $100,000 for States and $45,000 for territories.

(ii) For any fiscal year in which the total amount appropriated under subsection (h) of this section exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause (i) by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any such amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) of this section the amount specified in the application approved under subsection (f) of this section.

(f) Application by State for grant funds

No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

(g) Regulations; minimum requirements

The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this chapter in the State.

(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

(3)(A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

(B) In subparagraph (A), the term ''alternative means of dispute resolution'' means any procedure, including good faith negotiation, conciliation, facilitation, mediation, factfinding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

(h) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for fiscal years 1999 through 2003 to carry out the provisions of this section.

(Pub. L. 93–112, title I, § 112, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1163; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(9)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–413.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended. Title I of the Act is classified generally to subchapter I (§ 12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

Prior sections 732 and 740 were omitted in the general amendment of this subchapter by Pub. L. 105–220.

Section 732, Pub. L. 93–112, title I, § 112, Sept. 26, 1973, 87 Stat. 371; Pub. L. 93–516, title I, §§ 102(b), 111(f), Dec. 7, 1974, 88 Stat. 1618, 1620; Pub. L. 93–651, title I, §§ 102(b), 111(f), Nov. 21, 1974, 89 Stat. 2–3, 2–5; Pub. L. 94–230, §§ 2(b), 11(b)(4), Mar. 15, 1976, 90 Stat. 211, 213; Pub. L. 95–602, title I, §§ 105, 122(b)(1), Nov. 6, 1978, 92 Stat. 2960, 2987; Pub. L. 97–375, title I, § 105, Dec. 21, 1982, 96 Stat. 1820; Pub. L. 98–221, title I, § 113(a), Feb. 22, 1984, 98 Stat. 20; Pub. L. 99–506, title I, § 103(d)(2)(C), title II, § 209, title X, § 1001(b)(7), Oct. 21, 1986, 100 Stat. 1810, 1818, 1842; Pub. L. 100–630, title II, § 202(f), Nov. 7, 1988, 102 Stat. 3306; Pub. L. 102–52, § 2(c), June 6, 1991, 105 Stat. 260; Pub. L. 102–569, title I, §§ 102(p)(10), 133, Oct. 29, 1992, 106 Stat. 4357, 4391; Pub. L. 103–73, title I, § 107(g), Aug. 11, 1993, 107 Stat. 723; Pub. L. 104–66, title I, § 1041(c), Dec. 21, 1995, 109 Stat. 714, related to client assistance program.

Section 740, Pub. L. 93–112, title I, § 120, as added Pub. L. 102–569, title I, § 134(a), Oct. 29, 1992, 106 Stat. 4392, related to State eligibility for grants.

Another prior section 740, Pub. L. 93–112, title I, § 120, Sept. 26, 1973, 87 Stat. 372; Pub. L. 95–602, title I, §§ 101(e)(1), 122(b)(1), Nov. 6, 1978, 92 Stat. 2957, 2987; Pub. L. 99–506, title X, § 1001(b)(8), Oct. 21, 1986, 100 Stat. 1842; Pub. L. 100–630, title II, § 202(g), Nov. 7, 1988, 102 Stat. 3306, provided for State allotments to assist in meeting the cost of vocational rehabilitation services, prior to the general amendment of part C of former subchapter I of this chapter by Pub. L. 102–569.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to section designation and catchline in original.

PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

§ 741. Vocational rehabilitation services grants

(a) Governing bodies of Indian tribes; amount; non-Federal share

The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on or near such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this chapter.

(b) Application; effective period; continuation of programs and services; separate service delivery systems

(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities residing on or near a reservation

in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this subchapter to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; and

(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

(2) The provisions of sections 450c, 450d, 450e, and 450f(a) of title 25 shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Education or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

(3) Any application approved under this part shall be effective for not more than 60 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on or near a reservation whenever such State includes any such American Indians in its State population under section 730(a)(1) of this title.

(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.

(c) "Reservation" defined

The term ''reservation'' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.].

(Pub. L. 93–112, title I, § 121, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1166; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(10)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–413.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (c), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

Prior sections 741 to 744 and 750 were omitted in the general amendment of this subchapter by Pub. L. 105–220.

Section 741, Pub. L. 93–112, title I, § 121, as added Pub. L. 102–569, title I, § 134(a), Oct. 29, 1992, 106 Stat. 4392, related to contents of strategic plans.

Another prior section 741, Pub. L. 93–112, title I, § 121, Sept. 26, 1973, 87 Stat. 373; Pub. L. 93–516, title I, § 102(c), Dec. 7, 1974, 88 Stat. 1618; Pub. L. 93–651, title I, § 102(c), Nov. 21, 1974, 89 Stat. 2–3; Pub. L. 94–230, § 2(c), Mar. 15, 1976, 90 Stat. 211; Pub. L. 95–602, title I, §§ 101(e)(2), 122(b), Nov. 6, 1978, 92 Stat. 2957, 2987; Pub. L. 98–221, title I, § 114, Feb. 22, 1984, 98 Stat. 23; Pub. L. 99–506, title I, § 103(d)(2)(C), title II, § 210, Oct. 21, 1986, 100 Stat. 1810, 1819; Pub. L. 100–630, title II, § 202(h), Nov. 7, 1988, 102 Stat. 3306; Pub. L. 102–52, § 2(b)(2), June 6, 1991, 105 Stat. 260, related to payments to States for planning, preparing, and initiating special programs under approved State plans and payments for the costs of constructing facilities to be used in providing services under such State plans, prior to the general amendment of part C of former subchapter I of this chapter by Pub. L. 102–569.

Section 742, Pub. L. 93–112, title I, § 122, as added Pub. L. 102–569, title I, § 134(a), Oct. 29, 1992, 106 Stat. 4393, related to process for developing strategic plans.

Section 743, Pub. L. 93–112, title I, § 123, as added Pub. L. 102–569, title I, § 134(a), Oct. 29, 1992, 106 Stat. 4393, related to use of funds.

Section 744, Pub. L. 93–112, title I, § 124, as added Pub. L. 102–569, title I, § 134(a), Oct. 29, 1992, 106 Stat. 4395; amended Pub. L. 103–73, title I, § 107(h), Aug. 11, 1993, 107 Stat. 723, related to allotments among States.

Section 750, Pub. L. 93–112, title I, § 130, Sept. 26, 1973, 87 Stat. 374; Pub. L. 93–516, title I, § 111(g), Dec. 7, 1974, 88 Stat. 1621; Pub. L. 93–651, title I, § 111(g), Nov. 21, 1974, 89 Stat. 2–6; Pub. L. 95–602, title I, § 106, Nov. 6, 1978, 92 Stat. 2960; Pub. L. 99–506, title I, § 103(d)(2)(C), title II, § 211, title X, § 1002(b)(1), Oct. 21, 1986, 100 Stat. 1810, 1819, 1844; Pub. L. 100–630, title II, § 202(i), Nov. 7, 1988, 102 Stat. 3306; Pub. L. 102–569, title I, § 102(p)(11), Oct. 29, 1992, 106 Stat. 4357, related to American Indian vocational rehabilitation services grants.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to section designation and catchline in original.

PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

§ 751. Data sharing

(a) In general

(1) Memorandum of understanding

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

(A) that concern clients of designated State agencies; and

(B) that are data maintained either by—

(i) the Rehabilitation Services Administration, as required by section 710 of this title; or

(ii) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

(2) Employment statistics

The Secretary of Labor shall provide the Commissioner with employment statistics specified in section 49*l*–2 of this title, that facilitate evaluation by the Commissioner of the program carried out under part B of this subchapter, and allow the Commissioner to compare the progress of individuals with disabilities who are assisted under the program in securing, retaining, regaining, and advancing in employment with the progress made by individuals who are assisted under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.].

(b) Treatment of information

For purposes of the exchange described in subsection (a)(1) of this section, the data described in subsection (a)(1)(B)(ii) of this section shall

not be considered return information (as defined in section 6103(b)(2) of title 26) and, as appropriate, the confidentiality of all client information shall be maintained by the Rehabilitation Services Administration and the Social Security Administration.

(Pub. L. 93–112, title I, § 131, as added Pub. L. 105–220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1167.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (a)(2), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

PRIOR PROVISIONS

A prior section 751, Pub. L. 93–112, title I, § 131, as added Pub. L. 95–602, title I, § 106, Nov. 6, 1978, 92 Stat. 2961, and amended Pub. L. 99–506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810, directed Secretary to submit to Congress, not less than thirty months after Nov. 6, 1978, an evaluation of programs conducted under part D of former subchapter I of this chapter, prior to repeal by Pub. L. 99–506, title X, § 1002(b)(2)(A), Oct. 21, 1986, 100 Stat. 1844.

A prior section 752, Pub. L. 93–112, title I, § 131, formerly § 132, as added Pub. L. 99–506, title II, § 212(a), Oct. 21, 1986, 100 Stat. 1820; renumbered § 132, Pub. L. 100–630, title II, § 202(j), Nov. 7, 1988, 102 Stat. 3307, provided for study on special problems and needs of Indians with handicaps both on and off the reservation, prior to repeal by Pub. L. 102–569, title I, § 135(a), Oct. 29, 1992, 106 Stat. 4396.

Prior sections 753 and 753a were omitted in the general amendment of this subchapter by Pub. L. 105–220.

Section 753, Pub. L. 93–112, title I, § 140, as added Pub. L. 103–73, title I, § 108, Aug. 11, 1993, 107 Stat. 724, related to review of data collection and reporting system.

Section 753a, Pub. L. 93–112, title I, § 141, as added Pub. L. 103–73, title I, § 108, Aug. 11, 1993, 107 Stat. 725, related to exchange of data.

SUBCHAPTER II—RESEARCH AND TRAINING

CODIFICATION

Title II of the Rehabilitation Act of 1973, comprising this subchapter, was originally enacted by Pub. L. 93–112, title II, Sept. 26, 1973, 87 Stat. 374, and amended by Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617; Pub. L. 93–651, Nov. 21, 1974, 89 Stat. 2–3; Pub. L. 94–230, Mar. 15, 1976, 90 Stat. 211; Pub. L. 95–602, Nov. 6, 1978, 92 Stat. 2955; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 98–221, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99–506, Oct. 21, 1986, 100 Stat. 1807; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 102–52, June 6, 1991, 105 Stat. 260; Pub. L. 102–54, June 13, 1991, 105 Stat. 267; Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103–73, Aug. 11, 1993, 107 Stat. 718; Pub. L. 103–218, Mar. 9, 1994, 108 Stat. 50; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. Title II is shown herein, however, as having been added by Pub. L. 105–220, title IV, § 405, Aug. 7, 1998, 112 Stat. 1167, without reference to those intervening amendments because of the extensive revision of title II by Pub. L. 105–220.

§ 760. Declaration of purpose

The purpose of this subchapter is to—

(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this chapter;

(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the 5-year plan developed under section 762(h) of this title;

(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

(A) the procurement process for the purchase of rehabilitation technology;

(B) the utilization of rehabilitation technology on a national basis;

(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently; and

(D) the development or transfer of assistive technology;

(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

(A) generated by research, demonstration projects, training, and related activities; and

(B) regarding state-of-the-art practices, improvements in the services authorized under this chapter, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties, including the general public;

(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in employment, including employment involving telecommuting and self-employment; and

(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

(Pub. L. 93–112, title II, § 200, as added Pub. L. 105–220, title IV, § 405, Aug. 7, 1998, 112 Stat. 1167; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 401(16)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

PRIOR PROVISIONS

A prior section 760, Pub. L. 93–112, title II, § 200, Sept. 26, 1973, 87 Stat. 374; Pub. L. 95–602, title I, § 107, Nov. 6, 1978, 92 Stat. 2962; Pub. L. 99–506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810; Pub. L. 102–569, title II, § 201, Oct. 29, 1992, 106 Stat. 4398, contained congressional declaration of purpose, prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to directory language of Pub. L. 105–220, § 405, which enacted this section.

§ 761. Authorization of appropriations

(a) There are authorized to be appropriated—

(1) for the purpose of providing for the expenses of the National Institute on Disability

and Rehabilitation Research under section 762 of this title, which shall include the expenses of the Rehabilitation Research Advisory Council under section 765 of this title, and shall not include the expenses of such Institute to carry out section 764 of this title, such sums as may be necessary for each of fiscal years 1999 through 2003; and

(2) to carry out section 764 of this title, such sums as may be necessary for each of fiscal years 1999 through 2003.

(b) Funds appropriated under this subchapter shall remain available until expended.

(Pub. L. 93–112, title II, § 201, as added Pub. L. 105–220, title IV, § 405, Aug. 7, 1998, 112 Stat. 1168; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 401(16)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

PRIOR PROVISIONS

Prior sections 761 to 761b were omitted in the general amendment of this subchapter by Pub. L. 105–220.

Section 761, Pub. L. 93–112, title II, § 201, Sept. 26, 1973, 87 Stat. 374; Pub. L. 93–516, title I, § 103, Dec. 7, 1974, 88 Stat. 1618; Pub. L. 93–651, title I, § 103, Nov. 21, 1974, 89 Stat. 2–3; Pub. L. 94–230, §§ 3, 11(b)(5), (6), Mar. 15, 1976, 90 Stat. 211, 213; Pub. L. 95–602, title I, § 108, Nov. 6, 1978, 92 Stat. 2962; Pub. L. 98–221, title I, § 121, Feb. 22, 1984, 98 Stat. 23; Pub. L. 99–506, title III, § 301, Oct. 21, 1986, 100 Stat. 1820; Pub. L. 100–630, title II, § 203(a), Nov. 7, 1988, 102 Stat. 3307; Pub. L. 102–52, § 3, June 6, 1991, 105 Stat. 260; Pub. L. 102–569, title II, § 202, Oct. 29, 1992, 106 Stat. 4398, authorized appropriations.

Section 761a, Pub. L. 93–112, title II, § 202, as added Pub. L. 95–602, title I, § 109(4), Nov. 6, 1978, 92 Stat. 2963; amended Pub. L. 98–221, title I, §§ 104(a)(4), (b)(1), 122, Feb. 22, 1984, 98 Stat. 18, 23; Pub. L. 99–506, title I, § 103(d)(2)(C), title III, §§ 302, 303, title X, §§ 1001(c), 1002(c), Oct. 21, 1986, 100 Stat. 1810, 1820, 1821, 1842, 1844; Pub. L. 100–630, title II, § 203(b), Nov. 7, 1988, 102 Stat. 3307; Pub. L. 102–54, § 13(k)(1)(A), June 13, 1991, 105 Stat. 276; Pub. L. 102–569, title I, § 102(p)(12), title II, § 203, Oct. 29, 1992, 106 Stat. 4357, 4399; Pub. L. 103–73, title I, §§ 102(4), 109(a), Aug. 11, 1993, 107 Stat. 718, 725; Pub. L. 103–218, title IV, § 402(a), Mar. 9, 1994, 108 Stat. 96; Pub. L. 103–382, title III, § 394(i)(1), Oct. 20, 1994, 108 Stat. 4028, related to National Institute on Disability and Rehabilitation Research. See section 762 of this title.

Section 761b, Pub. L. 93–112, title II, § 203, as added Pub. L. 95–602, title I, § 109(4), Nov. 6, 1978, 92 Stat. 2965; amended Pub. L. 96–88, title V, § 508(m)(1), Oct. 17, 1979, 93 Stat. 694; Pub. L. 98–221, title I, § 104(b)(2), Feb. 22, 1984, 98 Stat. 18; Pub. L. 99–506, title I, § 103(d)(2)(C), title III, § 304, Oct. 21, 1986, 100 Stat. 1810, 1822; Pub. L. 100–630, title II, § 203(c), Nov. 7, 1988, 102 Stat. 3307; Pub. L. 102–54, § 13(k)(1)(B), June 13, 1991, 105 Stat. 276; Pub. L. 102–569, title I, § 102(p)(13), title II, § 204, Oct. 29, 1992, 106 Stat. 4358, 4403, related to Interagency Committee on Disability Research. See section 763 of this title.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to directory language of Pub. L. 105–220, § 405, which enacted this section.

§ 762. National Institute on Disability and Rehabilitation Research

(a) Establishment; Director as principal officer

(1) There is established within the Department of Education a National Institute on Disability and Rehabilitation Research (hereinafter in this subchapter referred to as the ''Institute''), which shall be headed by a Director (hereinafter in this subchapter referred to as the ''Director''), in order to—

(A) promote, coordinate, and provide for—

(i) research;

(ii) demonstration projects and training; and

(iii) related activities,

with respect to individuals with disabilities;

(B) more effectively carry out activities through the programs under section 764 of this title and activities under this section;

(C) widely disseminate information from the activities described in subparagraphs (A) and (B); and

(D) provide leadership in advancing the quality of life of individuals with disabilities.

(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 702(a) of this title.

(b) Duties of Director

The Director, through the Institute, shall be responsible for—

(1) administering the programs described in section 764 of this title and activities under this section;

(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, training, and related activities (referred to in this subchapter as ''covered activities'') funded by the Institute, to—

(A) other Federal, State, tribal, and local public agencies;

(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

(C) rehabilitation practitioners; and

(D) individuals with disabilities and the individuals' representatives;

(3) coordinating, through the Interagency Committee established by section 763 of this title, all Federal programs and policies relating to research in rehabilitation;

(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

(A) public and private entities, including—

(i) elementary and secondary schools (as defined in section 7801 of title 20;[1] and

(ii) institutions of higher education;

(B) rehabilitation practitioners;

(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this chapter); and

(D) the individuals' representatives for the individuals described in subparagraph (C);

(5)(A) conducting an education program to inform the public about ways of providing for

[1] So in original. A closing parenthesis probably should precede the semicolon.

the rehabilitation of individuals with disabilities, including information relating to—

(i) family care;

(ii) self-care; and

(iii) assistive technology devices and assistive technology services; and

(B) as part of the program, disseminating engineering information about assistive technology devices;

(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology (including advances concerning the selection and use of assistive technology devices and assistive technology services), pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;

(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this subchapter, including dissemination activities;

(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Centers for Medicare & Medicaid Services, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, self-employment, telecommuting, health, income, and other demographic characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations, and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the individuals' representatives, and others to assist in the planning, assessment, and evaluation of vocational and other rehabilitation services for individuals with disabilities;

(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

(10) conducting research to examine the relationship between the provision of specific services and successful, sustained employment outcomes, including employment outcomes involving self-employment and telecommuting; and

(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506[2] of such Act (42 U.S.C. 12206).

[2] See References in Text note below.

(c) Development and dissemination of models

(1) The Director, acting through the Institute or one or more entities funded by the Institute, shall provide for the development and dissemination of models to address consumer-driven information needs related to assistive technology devices and assistive technology services.

(2) The development and dissemination of models may include—

(A) convening groups of individuals with disabilities, family members and advocates of such individuals, commercial producers of assistive technology, and entities funded by the Institute to develop, assess, and disseminate knowledge about information needs related to assistive technology;

(B) identifying the types of information regarding assistive technology devices and assistive technology services that individuals with disabilities find especially useful;

(C) evaluating current models, and developing new models, for transmitting the information described in subparagraph (B) to consumers and to commercial producers of assistive technology; and

(D) disseminating through one or more entities funded by the Institute, the models described in subparagraph (C) and findings regarding the information described in subparagraph (B) to consumers and commercial producers of assistive technology.

(d) Appointment of Director; employment of technical and professional personnel; consultants

(1) The Director of the Institute shall be appointed by the Secretary. The Director shall be an individual with substantial experience in rehabilitation and in research administration.

(2) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5 governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director determines to be necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

(3) The Director may obtain the services of consultants, without regard to the provisions of title 5 governing appointments in the competitive service.

(e) Fellowships

The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

(f) Scientific peer review of research, training, and demonstration projects

(1) The Director shall provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The scientific peer review shall be conducted by individuals who are not Federal employees, who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals' representatives, and who are competent to review applications for the financial assistance.

(2) In providing for such scientific peer review, the Secretary shall provide for training, as necessary and appropriate, to facilitate the effective participation of those individuals selected to participate in such review.

(g) Use of funds

Not less than 90 percent of the funds appropriated under this subchapter for any fiscal year shall be expended by the Director to carry out activities under this subchapter through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this subchapter for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

(h) 5-year plan

(1) The Director shall—

(A) by October 1, 1998, and every fifth October 1 thereafter, prepare and publish in the Federal Register for public comment a draft of a 5-year plan that outlines priorities for rehabilitation research, demonstration projects, training, and related activities and explains the basis for such priorities;

(B) by June 1, 1999, and every fifth June 1 thereafter, after considering public comments, submit the plan in final form to the appropriate committees of Congress;

(C) at appropriate intervals, prepare and submit revisions in the plan to the appropriate committees of Congress; and

(D) annually prepare and submit progress reports on the plan to the appropriate committees of Congress.

(2) Such plan shall—

(A) identify any covered activity that should be conducted under this section and section 764 of this title respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

(B) determine the funding priorities for covered activities to be conducted under this section and section 764 of this title;

(C) specify appropriate goals and timetables for covered activities to be conducted under this section and section 764 of this title;

(D) be developed by the Director—

(i) after consultation with the Rehabilitation Research Advisory Council established under section 765 of this title;

(ii) in coordination with the Commissioner;

(iii) after consultation with the National Council on Disability established under subchapter IV of this chapter, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15001 et seq.], and the Interagency Committee on Disability Research established under section 763 of this title; and

(iv) after full consideration of the input of individuals with disabilities and the individuals' representatives, organizations representing individuals with disabilities, providers of services furnished under this chapter, researchers in the rehabilitation field, and any other persons or entities the Director considers to be appropriate;

(E) specify plans for widespread dissemination of the results of covered activities, in accessible formats, to rehabilitation practitioners, individuals with disabilities, and the individuals' representatives; and

(F) specify plans for widespread dissemination of the results of covered activities that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs carried out under this chapter.

(i) Cooperation and consultation with other agencies and departments on design of research programs

In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 763 of this title, regarding the design of research projects conducted by such entities and the results and applications of such research.

(j) Comprehensive and coordinated research program; interagency cooperation; research and training center

(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this subchapter. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this chapter shall consult, through the Interagency Committee established by section 763 of this title, with the Director as Chairperson of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 763 of this title, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this subchapter.

(3) The Director shall support, directly or by grant or contract, a center associated with an

institution of higher education, for research and training concerning the delivery of vocational rehabilitation services to rural areas.

(k) Grants for training

The Director shall make grants to institutions of higher education for the training of rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this chapter and that improve the effectiveness of services authorized under this chapter.

(Pub. L. 93–112, title II, § 202, as added Pub. L. 105–220, title IV, § 405, Aug. 7, 1998, 112 Stat. 1168; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 401(16)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412; Pub. L. 106–402, title IV, § 401(b)(3)(B), Oct. 30, 2000, 114 Stat. 1737; Pub. L. 107–110, title X, § 1076(u)(1), Jan. 8, 2002, 115 Stat. 2092; Pub. L. 108–173, title IX, § 900(e)(6)(A), Dec. 8, 2003, 117 Stat. 2373.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(11), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. Section 506 of the Act was renumbered section 507 by Pub. L. 110–325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (d)(2), (3), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (h)(2)(D)(iii), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677, which is classified principally to chapter 144 (§ 15001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 761a of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 762, Pub. L. 93–112, title II, § 204, formerly § 202, Sept. 26, 1973, 87 Stat. 375, amended Pub. L. 93–516, title I, § 111(h), Dec. 7, 1974, 88 Stat. 1621; Pub. L. 93–651, title I, § 111(h), Nov. 21, 1974, 89 Stat. 2–6; renumbered and amended Pub. L. 95–602, title I, §§ 109(3), 110, 111, Nov. 6, 1978, 92 Stat. 2963, 2966; Pub. L. 98–221, title I, §§ 104(a)(5), 123, Feb. 22, 1984, 98 Stat. 18, 24; Pub. L. 99–506, title I, § 103(d)(2)(C), (h)(2), title III, §§ 302(b), 305, Oct. 21, 1986, 100 Stat. 1810, 1811, 1821, 1822; Pub. L. 100–630, title II, § 203(d), Nov. 7, 1988, 102 Stat. 3308; Pub. L. 102–569, title I, § 102(p)(14), title II, § 205, Oct. 29, 1992, 106 Stat. 4358, 4403; Pub. L. 103–73, title I, § 109(b), Aug. 11, 1993, 107 Stat. 726, related to research, prior to the general amendment of this subchapter by Pub. L. 105–220. See section 764 of this title.

AMENDMENTS

2003—Subsec. (b)(8). Pub. L. 108–173 substituted ''Centers for Medicare & Medicaid Services'' for ''Health Care Financing Administration''.

2002—Subsec. (b)(4)(A)(i). Pub. L. 107–110 substituted ''7801'' for ''8801''.

2000—Subsec. (h)(2)(D)(iii). Pub. L. 106–402 substituted ''Developmental Disabilities Assistance and Bill of Rights Act of 2000'' for ''Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.)''.

1998—Pub. L. 105–277 made technical amendment to directory language of Pub. L. 105–220, § 405, which enacted this section.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

REFERENCES TO NATIONAL INSTITUTE OF HANDICAPPED RESEARCH AMENDED OR DEEMED TO BE REFERENCES TO NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

Pub. L. 99–506, title III, § 302(b), Oct. 21, 1986, 100 Stat. 1821, provided that: ''The Act [this chapter] is amended by striking out 'National Institute of Handicapped Research' each place it appears in the Act (including the table of contents) and inserting in lieu thereof 'National Institute on Disability and Rehabilitation Research'. Any reference in any other provision of law to the 'National Institute of Handicapped Research' shall be considered to be a reference to the 'National Institute on Disability and Rehabilitation Research'.''

§ 762a. Research and demonstration projects

(a) Multiple and interrelated service needs of individuals with handicaps; report to Congress

The Secretary of Education is authorized to make grants to, and to enter into contract with, public and nonprofit agencies and organizations for the purpose of research and demonstration projects specifically designed to address the multiple and interrelated service needs of individuals with handicaps, the elderly, and children, youths, adults, and families. A report evaluating each project funded under this section shall be submitted to appropriate committees of the Congress within four months after the date each such project is completed.

(b) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

No funds other than those appropriated pursuant to this subsection can be used for the conduct of research specifically authorized by this section.

(c) Study on impact of vocational rehabilitation services; transmittal to Congress

Within one year after the date appropriations are made under subsection (b) of this section for purposes of research and demonstration projects under subsection (a) of this section, the Secretary shall prepare and transmit to the Congress a study concerning the impact of vocational rehabilitation services provided under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] on recipients of disability payments under titles II and XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.]. The study shall examine the relationship between the vocational rehabilitation services provided under the Rehabilitation Act of 1973 and the programs under sections 222 and 1615 of the Social Security Act [42 U.S.C. 422, 1382d], and shall include—

(1) an analysis of the savings in disability benefit payments under titles II and XVI of the Social Security Act as a result of the provision of vocational rehabilitation services under the Rehabilitation Act of 1973;

(2) a specification of the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act;

(3) a specification of the total amount of expenditures, in the five fiscal years preceding the date of submission of the report, for vocational rehabilitation services under the Rehabilitation Act of 1973 and under sections 222 and 1615 of the Social Security Act, and recommendations for the coordinated presentation of such expenditures in the Budget submitted by the President pursuant to section 1105 of title 31; and

(4) recommendations to improve the coordination of services under the Rehabilitation Act of 1973 with programs under sections 222 and 1615 of the Social Security Act, including recommendations for increasing savings in disability benefits payments and the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act.

(Pub. L. 95–602, title IV, § 401, Nov. 6, 1978, 92 Stat. 3002; Pub. L. 98–221, title I, § 104(c)(1), Feb. 22, 1984, 98 Stat. 18; Pub. L. 99–506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (c), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to this chapter (§ 701 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVI of the Social Security Act are classified generally to subchapters II (§ 401 et seq.) and XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

In subsec. (c)(3), ''section 1105 of title 31'' was substituted for ''section 201 of the Budget and Accounting Act, 1921 [31 U.S.C. 11]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was enacted as part of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, and not as part of Rehabilitation Act of 1973 which comprises this chapter.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–506 substituted ''individuals with handicaps'' for ''handicapped individuals''.

1984—Subsec. (a). Pub. L. 98–221 substituted ''Secretary of Education'' for ''Secretary of Health, Education, and Welfare''.

§ 763. Interagency Committee

(a) Establishment; membership; meetings

(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, including programs relating to assistive technology research and research that incorporates the principles of universal design, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the ''Committee''), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service, and the Director of the National Science Foundation.

(2) The Committee shall meet not less than four times each year.

(b) Duties

(1) After receiving input from targeted individuals, the Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research (including assistive technology research and research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities.

(2) In carrying out its duties with respect to the conduct of Federal research (including assistive technology research and research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities, the Committee shall—

(A) share information regarding the range of assistive technology research, and research that incorporates the principles of universal design, that is being carried out by members of the Committee and other Federal departments and organizations;

(B) identify, and make efforts to address, gaps in assistive technology research and research that incorporates the principles of universal design that are not being adequately addressed;

(C) identify, and establish, clear research priorities related to assistive technology research and research that incorporates the principles of universal design for the Federal Government;

(D) promote interagency collaboration and joint research activities relating to assistive technology research and research that incorporates the principles of universal design at the Federal level, and reduce unnecessary duplication of effort regarding these types of research within the Federal Government; and

(E) optimize the productivity of Committee members through resource sharing and other cost-saving activities, related to assistive technology research and research that incorporates the principles of universal design.

(c) Annual report

Not later than December 31 of each year, the Committee shall prepare and submit, to the President and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that—

(1) describes the progress of the Committee in fulfilling the duties described in subsection (b) of this section;

(2) makes such recommendations as the Committee determines to be appropriate with respect to coordination of policy and develop-

ment of objectives and priorities for all Federal programs relating to the conduct of research (including assistive technology research and research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities; and

(3) describes the activities that the Committee recommended to be funded through grants, contracts, cooperative agreements, and other mechanisms, for assistive technology research and development and research and development that incorporates the principles of universal design.

(d) Recommendations

(1) In order to promote coordination and cooperation among Federal departments and agencies conducting assistive technology research programs, to reduce duplication of effort among the programs, and to increase the availability of assistive technology for individuals with disabilities, the Committee may recommend activities to be funded through grants, contracts or cooperative agreements, or other mechanisms—

(A) in joint research projects for assistive technology research and research that incorporates the principles of universal design; and

(B) in other programs designed to promote a cohesive, strategic Federal program of research described in subparagraph (A).

(2) The projects and programs described in paragraph (1) shall be jointly administered by at least 2 agencies or departments with representatives on the Committee.

(3) In recommending activities to be funded in the projects and programs, the Committee shall obtain input from targeted individuals, and other organizations and individuals the Committee determines to be appropriate, concerning the availability and potential of technology for individuals with disabilities.

(e) Definitions

In this section—

(1) the terms ''assistive technology'' and ''universal design'' have the meanings given the terms in section 3002 of this title; and

(2) the term ''targeted individuals'' has the meaning given the term ''targeted individuals and entities'' in section 3002 of this title.

(Pub. L. 93–112, title II, § 203, as added Pub. L. 105–220, title IV, § 405, Aug. 7, 1998, 112 Stat. 1173; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 401(16)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412; Pub. L. 105–394, title II, § 201, Nov. 13, 1998, 112 Stat. 3651; Pub. L. 108–364, § 3(b)(1), Oct. 25, 2004, 118 Stat. 1737.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 761b of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 763, Pub. L. 93–112, title II, § 203, Sept. 26, 1973, 87 Stat. 376, relating to making of grants and contracts for training of personnel involved in vocational services to handicapped individuals, was renumbered section 304 of Pub. L. 93–112 and transferred to section 774 of this title.

AMENDMENTS

2004—Subsec. (e). Pub. L. 108–364 added subsec. (e) and struck out former subsec. (e) which read as follows: ''In this section, the terms 'assistive technology', 'targeted individuals', and 'universal design' have the meanings given the terms in section 3002 of this title.''

1998—Pub. L. 105–277 made technical amendment to directory language of Pub. L. 105–220, § 405, which enacted this section.

Subsec. (a)(1). Pub. L. 105–394, § 201(1), inserted ''including programs relating to assistive technology research and research that incorporates the principles of universal design,'' after ''programs,''.

Subsec. (b). Pub. L. 105–394, § 201(2), designated existing provisions as par. (1), substituted ''targeted individuals'' for ''individuals with disabilities and the individuals' representatives'', inserted ''(including assistive technology research and research that incorporates the principles of universal design)'' after ''research'', and added par. (2).

Subsec. (c). Pub. L. 105–394, § 201(3), added subsec. (c) and struck out former subsec. (c) which read as follows: ''The Committee shall annually submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of individuals with disabilities.''

Subsecs. (d), (e). Pub. L. 105–394, § 201(4), added subsecs. (d) and (e).

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

§ 764. Research and other covered activities

(a) Federal grants and contracts for certain research projects and related activities

(1) To the extent consistent with priorities established in the 5-year plan described in section 762(h) of this title, the Director may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to pay part of the cost of projects for the purpose of planning and conducting research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most significant disabilities, and improve the effectiveness of services authorized under this chapter.

(2)(A) In carrying out this section, the Director shall emphasize projects that support the implementation of subchapters I, III, V, VI, and VII of this chapter, including projects addressing the needs described in the State plans submitted under section 721 or 796c of this title by State agencies.

(B) Such projects, as described in the State plans submitted by State agencies, may include—

(i) medical and other scientific, technical, methodological, and other investigations into

the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services;

(ii) studies and analysis of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities;

(iii) studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized;

(iv) studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities;

(v) studies, analyses, and other activities related to supported employment;

(vi) related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most significant disabilities, particularly individuals with disabilities, and individuals with the most significant disabilities, who are members of populations that are unserved or underserved by programs under this chapter; and

(vii) studies, analyses, and other activities related to job accommodations, including the use of rehabilitation engineering and assistive technology.

(b) Research grants

(1) In addition to carrying out projects under subsection (a) of this section, the Director may make grants under this subsection (referred to in this subsection as ''research grants'') to pay part or all of the cost of the research or other specialized covered activities described in paragraphs (2) through (18). A research grant made under any of paragraphs (2) through (18) may only be used in a manner consistent with priorities established in the 5-year plan described in section 762(h) of this title.

(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the individuals' representatives.

(B) The Centers shall conduct research and training activities by—

(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities, especially promoting the ability of the individuals to prepare for, secure, retain, regain, or advance in employment;

(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the individuals' representatives, through conferences, workshops, public education programs, in-service training programs, and similar activities.

(C) The research to be carried out at each such Center may include—

(i) basic or applied medical rehabilitation research;

(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

(iii) research related to vocational rehabilitation;

(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

(G) Grants made under this paragraph may be used to provide faculty support for teaching—

(i) rehabilitation-related courses of study for credit; and

(ii) other courses offered by the Centers, either directly or through another entity.

(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

(K) To be eligible to receive a grant under this paragraph, each such institution or provider described in subparagraph (A) shall—

(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate Federal and State law; and

(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

(i) the grant is made to a new recipient; or

(ii) the grant supports new or innovative research.

(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

(N) In conducting scientific peer review under section 762(f) of this title of an application for the renewal of a grant made under this paragraph, the peer review panel shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the individuals' representatives.

(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

(ii) demonstrating and disseminating—

(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

(II) other scientific research to assist in meeting the employment and independent living needs of individuals with significant disabilities; or

(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

(I) consumer responsive and individual and family-centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with significant disabilities.

(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

(i) cooperate with programs established under the Assistive Technology Act of 1998 [29 U.S.C. 3001 et seq.] and other regional and local programs to provide information to individuals with disabilities and the individuals' representatives to—

(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

(I) Early childhood services, including early intervention and family support.

(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and subchapter V of this chapter.

(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the workforce, self-help skills, and activities of daily living.

(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the individuals' representatives.

(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

(i) the grant is made to a new recipient; or

(ii) the grant supports new or innovative research.

(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

(G) Each Center established or supported through a grant made available under this paragraph shall—

(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Assistive Technology Act of 1998 [29 U.S.C. 3001 et seq.]; and

(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program of the Center in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the individuals' representatives, and organizations receiving financial assistance under this paragraph;

(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

(iii) demonstrate and evaluate existing, new, and improved methods and rehabilitation technology essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.

(5) Research grants may be used to conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals with such disease and which will—

(A) ensure dissemination of research findings;

(B) provide encouragement and support for initiatives and new approaches by individuals and institutional investigators; and

(C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts,

in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

(6) Research grants may be used to conduct a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of individuals with disabilities, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(7) Research grants may be used to conduct a research program concerning the use of existing

telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities.

(8) Research grants may be used to conduct a program of joint projects with the National Institutes of Health, the National Institute of Mental Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Department of Health and Human Services, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the workforce.

(10) Research grants may be used to conduct a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with disabilities, including individuals with significant disabilities.

(11) Research grants may be used to conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to individuals who are deaf or hard of hearing captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programming.

(12) Research grants may be used to conduct a model research and demonstration program to develop innovative methods of providing services for preschool age children who are individuals with disabilities, including—

(A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with significant disabilities up to the age of five, with a special emphasis on children who are individuals with significant disabilities up to the age of three;

(B) such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and

(C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.

(13) Research grants may be used to conduct a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and addressing the employment needs of individuals with disabilities, including programs that—

(A) provide training and continuing education for personnel involved with the employment of individuals with disabilities;

(B) develop model procedures for testing and evaluating the employment needs of individuals with disabilities;

(C) develop model training programs to teach individuals with disabilities skills which will lead to appropriate employment;

(D) develop new approaches for job placement of individuals with disabilities, including new followup procedures relating to such placement;

(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities; and

(F) develop new approaches and provide information regarding job accommodations, including the use of rehabilitation engineering and assistive technology.

(14) Research grants may be used to conduct a rehabilitation research program under which financial assistance is provided in order to—

(A) test new concepts and innovative ideas;

(B) demonstrate research results of high potential benefits;

(C) purchase prototype aids and devices for evaluation;

(D) develop unique rehabilitation training curricula; and

(E) be responsive to special initiatives of the Director.

No single grant under this paragraph may exceed $50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 percent of the amount available for this section to the National Institute on Disability and Rehabilitation Research in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited.

(15) Research grants may be used to conduct studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.

(16) Research grants may be used to conduct a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices, including technology transfer concerning such devices, designed to enable individuals with disabilities to achieve independence and access to gainful employment.

(17)(A) Research grants may be used to conduct a research program related to quality assurance in the area of rehabilitation technology.

(B) Activities carried out under the research program may include—

(i) the development of methodologies to evaluate rehabilitation technology products and services and the dissemination of the methodologies to consumers and other interested parties;

(ii) identification of models for service provider training and evaluation and certification of the effectiveness of the models;

(iii) identification and dissemination of outcome measurement models for the assessment

of rehabilitation technology products and services; and

(iv) development and testing of research-based tools to enhance consumer decision-making about rehabilitation technology products and services.

(18) Research grants may be used to provide for research and demonstration projects and related activities that explore the use and effectiveness of specific alternative or complementary medical practices for individuals with disabilities. Such projects and activities may include projects and activities designed to—

(A) determine the use of specific alternative or complementary medical practices among individuals with disabilities and the perceived effectiveness of the practices;

(B) determine the specific information sources, decisionmaking methods, and methods of payment used by individuals with disabilities who access alternative or complementary medical services;

(C) develop criteria to screen and assess the validity of research studies of such practices for individuals with disabilities; and

(D) determine the effectiveness of specific alternative or complementary medical practices that show promise for promoting increased functioning, prevention of secondary disabilities, or other positive outcomes for individuals with certain types of disabilities, by conducting controlled research studies.

(c) Site visits; grant limitations

(1) In carrying out evaluations of covered activities under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

(2) The Director shall not make a grant under this section that exceeds $500,000 unless the peer review of the grant application has included a site visit.

(Pub. L. 93–112, title II, § 204, as added Pub. L. 105–220, title IV, § 405, Aug. 7, 1998, 112 Stat. 1173; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 401(16)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412; Pub. L. 105–394, title IV, § 402(b), Nov. 13, 1998, 112 Stat. 3661.)

REFERENCES IN TEXT

The Assistive Technology Act of 1998, referred to in subsec. (b)(3)(C)(i), (G)(i), is Pub. L. 105–394, Nov. 13, 1998, 112 Stat. 3627, which is classified principally to chapter 31 (§ 3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(3)(D)(i)(III), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 762 of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 764, Pub. L. 93–112, title II, § 204, Sept. 26, 1973, 87 Stat. 376, provided that a full report on research and training activities be included in annual report to Congress, prior to repeal by Pub. L. 95–602, title I, § 109(3), Nov. 6, 1978, 92 Stat. 2963.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to directory language of Pub. L. 105–220, § 405, which enacted this section.

Subsec. (b)(3)(C)(i), (G)(i). Pub. L. 105–394 substituted ''the Assistive Technology Act of 1998'' for ''the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)''.

§ 765. Rehabilitation Research Advisory Council

(a) Establishment

Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the ''Council'') composed of 12 members appointed by the Secretary.

(b) Duties

The Council shall advise the Director with respect to research priorities and the development and revision of the 5-year plan required by section 762(h) of this title.

(c) Qualifications

Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the individuals' representatives. At least one-half of the members shall be individuals with disabilities or the individuals' representatives.

(d) Terms of appointment

(1) Length of term

Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(2) Number of terms

No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

(e) Vacancies

Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(f) Payment and expenses

(1) Payment

Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of

the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

(2) Travel expenses

Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(g) Detail of Federal employees

On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(h) Technical assistance

On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

(i) Termination

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.

(Pub. L. 93–112, title II, § 205, as added Pub. L. 105–220, title IV, § 405, Aug. 7, 1998, 112 Stat. 1182; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, §§ 401(16), 402(b)(11)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412, 2681–414.)

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (i), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 765, Pub. L. 93–112, title II, § 205, as added Pub. L. 102–569, title II, § 206(a), Oct. 29, 1992, 106 Stat. 4409, related to the Rehabilitation Research Advisory Council, prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 770, Pub. L. 93–112, title III, § 301, formerly § 300, Sept. 26, 1973, 87 Stat. 377; Pub. L. 95–602, title I, § 122(c)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99–506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810; Pub. L. 100–630, title II, § 204(a), Nov. 7, 1988, 102 Stat. 3308; renumbered § 301 and amended Pub. L. 102–569, title I, § 102(p)(15), title III, § 301(a), (b)(3), Oct. 29, 1992, 106 Stat. 4358, 4410, 4411, contained congressional declaration of purpose, prior to the general amendment of subchapter III of this chapter by Pub. L. 105–220.

AMENDMENTS

1998—Pub. L. 105–277, § 101(f) [title VIII, § 402(b)(11)], made technical amendment to section designation and catchline in original.

Pub. L. 105–277, § 101(f) [title VIII, § 401(16)], made technical amendment to directory language of Pub. L. 105–220, § 405, which enacted this section.

SUBCHAPTER III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

CODIFICATION

Title III of the Rehabilitation Act of 1973, comprising this subchapter, was originally enacted by Pub. L. 93–112, title III, Sept. 26, 1973, 87 Stat. 377, and amended by Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617; Pub. L. 93–651, Nov. 21, 1974, 89 Stat. 2–3; Pub. L. 94–230, Mar. 15, 1976, 90 Stat. 211; Pub. L. 94–273, Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–288, May 21, 1976, 90 Stat. 520; Pub. L. 95–602, Nov. 6, 1978, 92 Stat. 2955; Pub. L. 98–221, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99–506, Oct. 21, 1986, 100 Stat. 1807; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 102–52, June 6, 1991, 105 Stat. 260; Pub. L. 102–119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103–73, Aug. 11, 1993, 107 Stat. 718; Pub. L. 103–218, Mar. 9, 1994, 108 Stat. 50; Pub. L. 104–66, Dec. 21, 1995, 109 Stat. 707. Title III is shown herein, however, as having been added by Pub. L. 105–220, title IV, § 406, Aug. 7, 1998, 112 Stat. 1183, without reference to those intervening amendments because of the extensive revision of title III by Pub. L. 105–220.

§ 771. Declaration of purpose and competitive basis of grants and contracts

(a) Purpose

It is the purpose of this subchapter to authorize grants and contracts to—

(1)(A) provide academic training to ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs (including supported employment programs), through economic and business development programs, through independent living services programs, and through client assistance programs; and

(B) provide training to maintain and upgrade basic skills and knowledge of personnel (including personnel specifically trained to deliver services to individuals with disabilities whose employment outcome is self-employment or telecommuting) employed to provide state-of-the-art service delivery and rehabilitation technology services;

(2) conduct special projects and demonstrations that expand and improve the provision of rehabilitation and other services (including those services provided through community rehabilitation programs) authorized under this chapter, or that otherwise further the purposes of this chapter, including related research and evaluation;

(3) provide vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers;

(4) initiate recreational programs to provide recreational activities and related experiences for individuals with disabilities to aid such individuals in employment, mobility, socialization, independence, and community integration; and

(5) provide training and information to individuals with disabilities and the individuals' representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to gain access to the rehabilitation system and statewide workforce investment systems and to become active decision-makers in the rehabilitation process.

(b) Competitive basis of grants and contracts

The Secretary shall ensure that all grants and contracts are awarded under this subchapter on a competitive basis.

(Pub. L. 93–112, title III, § 301, as added Pub. L. 105–220, title IV, § 406, Aug. 7, 1998, 112 Stat. 1183.)

PRIOR PROVISIONS

A prior section 771, Pub. L. 93–112, title III, § 301, Sept. 26, 1973, 87 Stat. 377; Pub. L. 93–516, title I, § 104, Dec. 7, 1974, 88 Stat. 1618; Pub. L. 93–651, title I, § 104, Nov. 21, 1974, 89 Stat. 2–4; Pub. L. 94–230, §§ 4, 11(b)(7), Mar. 15, 1976, 90 Stat. 211, 213; Pub. L. 94–273, § 3(18), Apr. 21, 1976, 90 Stat. 377; Pub. L. 95–602, title I, §§ 112(a), 122(c)(2), Nov. 6, 1978, 92 Stat. 2967, 2987; Pub. L. 98–221, title I, § 131, Feb. 22, 1984, 98 Stat. 24; Pub. L. 99–506, title IV, § 401, title X, § 1002(d)(1), Oct. 21, 1986, 100 Stat. 1823, 1844; Pub. L. 102–52, § 4(a), June 6, 1991, 105 Stat. 261, related to grants for construction of rehabilitation facilities, staffing, and planning assistance, prior to repeal by Pub. L. 102–569, title III, § 301(b)(2), Oct. 29, 1992, 106 Stat. 4411.

A prior section 301 of Pub. L. 93–112 was classified to section 770 of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 771a, Pub. L. 93–112, title III, § 302, formerly title II, § 203, Sept. 26, 1973, 87 Stat. 376; renumbered title III, § 304, and amended Pub. L. 95–602, title I, §§ 109(2), 114, Nov. 6, 1978, 92 Stat. 2963, 2970; Pub. L. 98–221, title I, § 133, Feb. 22, 1984, 98 Stat. 24; Pub. L. 99–506, title I, § 103(d)(2)(C), title IV, § 403, title X, § 1002(d)(2), Oct. 21, 1986, 100 Stat. 1810, 1824, 1844; Pub. L. 100–630, title II, § 204(c), Nov. 7, 1988, 102 Stat. 3308; Pub. L. 102–52, § 4(c), June 6, 1991, 105 Stat. 261; Pub. L. 102–119, § 26(e), Oct. 7, 1991, 105 Stat. 607; renumbered § 302 and amended Pub. L. 102–569, title I, § 102(p)(18), title III, §§ 301(b)(3), (4), 302, Oct. 29, 1992, 106 Stat. 4358, 4411; Pub. L. 103–73, title I, § 110(a), Aug. 11, 1993, 107 Stat. 726; Pub. L. 103–218, title IV, § 402(b), Mar. 9, 1994, 108 Stat. 96; Pub. L. 104–66, title I, § 1042(d), Dec. 21, 1995, 109 Stat. 715, related to assistance for training, prior to the general amendment of this subchapter by Pub. L. 105–220. See section 772 of this title.

§ 772. Training

(a) Grants and contracts for personnel training

(1) Authority

The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the cost of projects to provide training, traineeships, and related activities, including the provision of technical assistance, that are designed to assist in increasing the numbers of, and upgrading the skills of, qualified personnel (especially rehabilitation counselors) who are trained in providing vocational, medical, social, and psychological rehabilitation services, who are trained to assist individuals with communication and related disorders, who are trained to provide other services provided under this chapter, to individuals with disabilities, and who may include—

(A) personnel specifically trained in providing employment assistance to individuals with disabilities through job development and job placement services;

(B) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with disabilities, including needs for rehabilitation technology;

(C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services;

(D) personnel specifically trained to deliver services in the client assistance programs;

(E) personnel specifically trained to deliver services, through supported employment programs, to individuals with a most significant disability; and

(F) personnel specifically trained to deliver services to individuals with disabilities pursuing self-employment, business ownership, and telecommuting; and

(G) personnel trained in performing other functions necessary to the provision of vocational, medical, social, and psychological rehabilitation services, and other services provided under this chapter.

(2) Authority to provide scholarships

Grants and contracts under paragraph (1) may be expended for scholarships and may include necessary stipends and allowances.

(3) Related Federal statutes

In carrying out this subsection, the Commissioner may make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training regarding provisions of Federal statutes, including section 794 of this title, title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.), and the provisions of titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.), that are related to work incentives for individuals with disabilities.

(4) Training for statewide workforce systems personnel

The Commissioner may make grants to and enter into contracts under this subsection with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training to personnel providing services to individuals with disabilities under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.]. Under this paragraph, personnel may be trained—

(A) in evaluative skills to determine whether an individual with a disability may be served by the State vocational rehabilitation program or another component of a statewide workforce investment system; or

(B) to assist individuals with disabilities seeking assistance through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998 [29 U.S.C. 2864(c)].

(5) Joint funding

Training and other activities provided under paragraph (4) for personnel may be jointly funded with the Department of Labor, using funds made available under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.].

(b) Grants and contracts for academic degrees and academic certificate granting training projects

(1) Authority

(A) In general

The Commissioner may make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the costs of academic training projects to provide training that leads to an academic degree or academic certificate. In making such grants or entering into such contracts, the Commissioner shall target funds to areas determined under subsection (e) of this section to have shortages of qualified personnel.

(B) Types of projects

Academic training projects described in this subsection may include—

(i) projects to train personnel in the areas of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting, and of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

(ii) projects to train personnel to provide—

(I) services to individuals with specific disabilities or individuals with disabilities who have specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this chapter;

(II) job development and job placement services to individuals with disabilities;

(III) supported employment services, including services of employment specialists for individuals with disabilities;

(IV) specialized services for individuals with significant disabilities; or

(V) recreation for individuals with disabilities;

(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities; and

(iv) projects to train personnel in the use, applications, and benefits of rehabilitation technology.

(2) Application

No grant shall be awarded or contract entered into under this subsection unless the applicant has submitted to the Commissioner an application at such time, in such form, in accordance with such procedures, and including such information as the Secretary may require, including—

(A) a description of how the designated State unit or units will participate in the project to be funded under the grant or contract, including, as appropriate, participation on advisory committees, as practicum sites, in curriculum development, and in other ways so as to build closer relationships between the applicant and the designated State unit and to encourage students to pursue careers in public vocational rehabilitation programs;

(B) the identification of potential employers that provide employment that meets the requirements of paragraph (5)(A)(i); and

(C) an assurance that data on the employment of graduates or trainees who participate in the project is accurate.

(3) Limitation

(A) In general

Except as provided in subparagraph (B), no grant or contract under this subsection may be used to provide any one course of study to an individual for a period of more than 4 years.

(B) Exception

If a grant or contract recipient under this subsection determines that an individual has a disability which seriously affects the completion of training under this subsection, the grant or contract recipient may extend the period referred to in subparagraph (A).

(4) Authority to provide scholarships

Grants and contracts under paragraph (1) may be expanded to provide services that include the provision of scholarships and necessary stipends and allowances.

(5) Agreements

(A) Contents

A recipient of a grant or contract under this subsection shall provide assurances to the Commissioner that each individual who receives a scholarship, for any academic year beginning after June 1, 1992, utilizing funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall—

(i) maintain employment—

(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

(II) on a full- or part-time basis; and

(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this section was received by the individual,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and

(ii) repay all or part of any scholarship received, plus interest, if the individual does not fulfill the requirements of clause (i),

except as the Commissioner by regulation may provide for repayment exceptions and deferrals.

(B) Enforcement

The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon completion of the training involved under such subparagraph.

(c) Grants to historically Black colleges and universities

The Commissioner, in carrying out this section, shall make grants to historically Black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent of the total enrollment of the institution.

(d) Application

A grant may not be awarded to a State or other organization under this section unless the State or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train individuals so as to reflect the diverse populations of the United States as part of the effort to increase the number of individuals with disabilities, and individuals who are from linguistically and culturally diverse backgrounds, who are available to provide rehabilitation services.

(e) Evaluation and collection of data

The Commissioner shall evaluate the impact of the training programs conducted under this section, and collect information on the training needs of, and data on shortages of qualified personnel necessary to provide services to individuals with disabilities. The Commissioner shall prepare and submit to Congress, by September 30 of each fiscal year, a report setting forth and justifying in detail how the funds made available for training under this section for the fiscal year prior to such submission are allocated by professional discipline and other program areas. The report shall also contain findings on such personnel shortages, how funds proposed for the succeeding fiscal year will be allocated under the President's budget proposal, and how the findings on personnel shortages justify the allocations.

(f) Grants for the training of interpreters

(1) Authority

(A) In general

For the purpose of training a sufficient number of qualified interpreters to meet the communications needs of individuals who are deaf or hard of hearing, and individuals who are deaf-blind, the Commissioner, acting through a Federal office responsible for deafness and communicative disorders, may award grants to public or private nonprofit agencies or organizations to pay part of the costs—

(i) for the establishment of interpreter training programs; or

(ii) to enable such agencies or organizations to provide financial assistance for ongoing interpreter training programs.

(B) Geographic areas

The Commissioner shall award grants under this subsection for programs in geographic areas throughout the United States that the Commissioner considers appropriate to best carry out the objectives of this section.

(C) Priority

In awarding grants under this subsection, the Commissioner shall give priority to public or private nonprofit agencies or organizations with existing programs that have a demonstrated capacity for providing interpreter training services.

(D) Funding

The Commissioner may award grants under this subsection through the use of—

(i) amounts appropriated to carry out this section; or

(ii) pursuant to an agreement with the Director of the Office of the Special Education Program (established under section 1402 of title 20), amounts appropriated under section 1486 of title 20.

(2) Application

A grant may not be awarded to an agency or organization under paragraph (1) unless the agency or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including—

(A) a description of the manner in which an interpreter training program will be developed and operated during the 5-year period following the date on which a grant is received by the applicant under this subsection;

(B) a demonstration of the applicant's capacity or potential for providing training for interpreters for individuals who are deaf or hard of hearing, and individuals who are deaf-blind;

(C) assurances that any interpreter trained or retrained under a program funded under the grant will meet such minimum standards of competency as the Commissioner may establish for purposes of this subsection; and

(D) such other information as the Commissioner may require.

(g) Technical assistance and in-service training

(1) Technical assistance

The Commissioner is authorized to provide technical assistance to State designated agencies and community rehabilitation programs, directly or through contracts with State designated agencies or nonprofit organizations.

(2) Compensation

An expert or consultant appointed or serving under contract pursuant to this section shall be compensated at a rate, subject to approval of the Commissioner, that shall not exceed the daily equivalent of the rate of pay for level 4

of the Senior Executive Service Schedule under section 5382 of title 5. Such an expert or consultant may be allowed travel and transportation expenses in accordance with section 5703 of title 5.

(3) In-service training of rehabilitation personnel

(A) Projects

Subject to subparagraph (B), at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used, directly or indirectly, for projects for in-service training for rehabilitation personnel, consistent with the needs identified through the comprehensive system for personnel development required by section 721(a)(7) of this title, including projects designed—

(i) to address recruitment and retention of qualified rehabilitation professionals;

(ii) to provide for succession planning;

(iii) to provide for leadership development and capacity building; and

(iv) for fiscal years 1999 and 2000, to provide training regarding the Workforce Investment Act of 1998 and the amendments to this chapter made by the Rehabilitation Act Amendments of 1998.

(B) Limitation

If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on August 7, 1998, by other recipients of funds under this section, the Commissioner may allocate less than 15 percent of the sums described in subparagraph (A) to designated State agencies for such in-service training.

(h) Provision of information

The Commissioner, subject to the provisions of section 776 of this title, may require that recipients of grants or contracts under this section provide information, including data, with regard to the impact of activities funded under this section.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93–112, title III, § 302, as added Pub. L. 105–220, title IV, § 406, Aug. 7, 1998, 112 Stat. 1184; amended Pub. L. 108–446, title III, § 305(h)(4), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(3), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended. Title I of the Act is classified generally to subchapter I (§ 12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (a)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVI of the Act are classified generally to subchapters II (§ 401 et seq.) and XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Workforce Investment Act of 1998, referred to in subsecs. (a)(4), (5) and (g)(3)(A)(iv), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The Rehabilitation Act Amendments of 1998, referred to in subsec. (g)(3)(A)(iv), is title IV of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1092. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 701 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 771a of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 772, Pub. L. 93–112, title III, § 303, formerly § 302, Sept. 26, 1973, 87 Stat. 378; Pub. L. 93–516, title I, § 105, Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93–651, title I, § 105, Nov. 21, 1974, 89 Stat. 2–4; Pub. L. 94–230, §§ 5, 11(b)(8), Mar. 15, 1976, 90 Stat. 212, 213; Pub. L. 95–602, title I, §§ 112(b), 122(c)(3), Nov. 6, 1978, 92 Stat. 2968, 2987; Pub. L. 98–221, title I, § 132, Feb. 22, 1984, 98 Stat. 24; Pub. L. 99–506, title I, § 103(d)(2)(C), title IV, § 402, title X, § 1001(d)(1), Oct. 21, 1986, 100 Stat. 1810, 1824, 1842; Pub. L. 100–630, title II, § 204(b), Nov. 7, 1988, 102 Stat. 3308; Pub. L. 102–52, § 4(b), June 6, 1991, 105 Stat. 261; renumbered § 303 and amended Pub. L. 102–569, title I, § 102(p)(16), title III, §§ 301(b)(3), 303, Oct. 29, 1992, 106 Stat. 4358, 4411, 4416, related to vocational rehabilitation services for individuals with disabilities, prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 302 of Pub. L. 93–112 was classified to section 771a of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

2004—Subsec. (f)(1)(D)(ii). Pub. L. 108–446 made technical amendment to reference in original act which appears in text as reference to section 1402 of title 20.

§ 773. Demonstration and training programs

(a) Demonstration projects to increase client choice

(1) Grants

The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

(2) Use of funds

An entity that receives a grant under this subsection shall use the grant only—

(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

(3) Application

Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

(A) a description of—

(i) how the entity intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

(ii) how the entity intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

(i) a statement of the vocational rehabilitation goals to be achieved;

(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

(4) Award of grants

In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration—

(A) the diversity of strategies used to increase client choice, including selection among qualified service providers;

(B) the geographic distribution of projects; and

(C) the diversity of clients to be served.

(5) Records

Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

(6) Direct services

At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

(7) Evaluation

The Commissioner may conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost-effectiveness of the project, and the effects of increased choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this section for the fiscal year.

(8) Definitions

For the purposes of this subsection:

(A) Direct services

The term ''direct services'' means vocational rehabilitation services, as described in section 723(a) of this title.

(B) Eligible client

The term ''eligible client'' means an individual with a disability, as defined in section 705(20)(A) of this title, who is not currently receiving services under an individualized plan for employment established through a designated State unit.

(b) Special demonstration programs

(1) Grants; contracts

The Commissioner, subject to the provisions of section 776 of this title, may provide grants to, or enter into contracts with, eligible entities to pay all or part of the cost of programs that expand and improve the provision of rehabilitation and other services authorized under this chapter or that further the purposes of the chapter, including related research and evaluation activities.

(2) Eligible entities; terms and conditions

(A) Eligible entities

To be eligible to receive a grant, or enter into a contract, under paragraph (1), an entity shall be a State vocational rehabilitation agency, community rehabilitation program, Indian tribe or tribal organization, or other public or nonprofit agency or organization, or as the Commissioner determines appropriate, a for-profit organization. The Commissioner may limit competitions to one or more types of organizations described in this subparagraph.

(B) Terms and conditions

A grant or contract under paragraph (1) shall contain such terms and conditions as the Commissioner may require.

(3) Application

An eligible entity that desires to receive a grant, or enter into a contract, under paragraph (1) shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Commissioner may require, including, if the Commissioner determines appropriate, a description of how the proposed project or demonstration program—

(A) is based on current research findings, which may include research conducted by the National Institute on Disability and Rehabilitation Research, the National Institutes of Health, and other public or private organizations; and

(B) is of national significance.

(4) Types of projects

The programs that may be funded under this subsection may include—

(A) special projects and demonstrations of service delivery;

(B) model demonstration projects;

(C) technical assistance projects;

(D) systems change projects;

(E) special studies and evaluations; and

(F) dissemination and utilization activities.

(5) Priority for competitions

(A) In general

In announcing competitions for grants and contracts under this subsection, the Com-

missioner shall give priority consideration to—

(i) special projects and demonstration programs of service delivery for adults who are either low-functioning and deaf or low-functioning and hard of hearing;

(ii) supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services; and

(iii) model transitional planning services for youths with disabilities.

(B) Additional competitions

In announcing competitions for grants and contracts under this subsection, the Commissioner may require that applicants address one or more of the following:

(i) Age ranges.

(ii) Types of disabilities.

(iii) Types of services.

(iv) Models of service delivery.

(v) Stage of the rehabilitation process.

(vi) The needs of underserved populations, unserved and underserved areas, individuals with significant disabilities, low-incidence disability population or individuals residing in federally designated empowerment zones and enterprise communities.

(vii) Expansion of employment opportunities for individuals with disabilities.

(viii) Systems change projects to promote meaningful access of individuals with disabilities to employment-related services under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] and under other Federal laws.

(ix) Innovative methods of promoting achievement of high-quality employment outcomes.

(x) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

(xi) Alternative methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

(6) Use of funds for continuation awards

The Commissioner may use funds made available to carry out this section for continuation awards for projects that were funded under sections 711 and 777a of this title (as such sections were in effect on the day before August 7, 1998).

(c) Parent information and training program

(1) Grants

The Commissioner is authorized to make grants to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational, independent living, and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of the individuals described in the preceding sentence, who live in the area to be served, particularly those who are members of populations that have been unserved or underserved by programs under this chapter.

(2) Use of grants

An organization that receives a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals—

(A) to better understand vocational rehabilitation and independent living programs and services;

(B) to provide followup support for transition and employment programs;

(C) to communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

(D) to provide support in the development of the individualized plan for employment;

(E) to provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

(F) to understand the provisions of this chapter, particularly provisions relating to employment, supported employment, and independent living.

(3) Award of grants

The Commissioner shall ensure that grants under this subsection—

(A) shall be distributed geographically to the greatest extent possible throughout all States; and

(B) shall be targeted to individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

(4) Eligible organizations

In order to receive a grant under this subsection, an organization—

(A) shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization—

(i) to coordinate training and information activities with Centers for Independent Living;

(ii) to coordinate and work closely with parent training and information centers established pursuant to section 1471 of title 20; and

(iii) to effectively conduct the training and information activities authorized under this subsection;

(B)(i) shall be governed by a board of directors—

(I) that includes professionals in the field of vocational rehabilitation; and

(II) on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

(ii)(I) shall have a membership that represents the interests of individuals with disabilities; and

(II) shall establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

(C) shall serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(5) Consultation

Each organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

(6) Coordination

The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established pursuant to section 1471 of title 20.

(7) Review

(A) Quarterly review

The board of directors or special governing committee of an organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

(B) Review for grant renewal

If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the organization during the preceding fiscal year.

(d) Braille training programs

(1) Establishment

The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind.

(2) Projects

Such grants shall be used for the establishment or continuation of projects that may provide—

(A) development of braille training materials;

(B) in-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching braille to youth and adults who are blind; and

(C) activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

(3) Application

To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93–112, title III, § 303, as added Pub. L. 105–220, title IV, § 406, Aug. 7, 1998, 112 Stat. 1190; amended Pub. L. 108–446, title III, § 305(h)(5), (6), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (b)(5)(B)(viii), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

Sections 711 and 777a of this title (as in effect on the day before August 7, 1998), referred to in subsec. (b)(6), means section 711 of this title prior to repeal by Pub. L. 105–220, title IV, § 403, Aug. 7, 1998, 112 Stat. 1093, and section 777a of this title prior to the general amendment of this subchapter by Pub. L. 105–220, title IV, § 406, Aug. 7, 1998, 112 Stat. 1183.

PRIOR PROVISIONS

A prior section 773, Pub. L. 93–112, title III, § 304, formerly § 303, Sept. 26, 1973, 87 Stat. 379; Pub. L. 95–602, title I, § 113, Nov. 6, 1978, 92 Stat. 2968; Pub. L. 99–506, title I, § 103(d)(2)(C), title X, § 1001(d)(2), Oct. 21, 1986, 100 Stat. 1810, 1843; renumbered § 304 and amended Pub. L. 102–569, title I, § 102(p)(17), title III, §§ 301(b)(3), 304, Oct. 29, 1992, 106 Stat. 4358, 4411, 4417, related to loan guarantees for community rehabilitation programs, prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 303 of Pub. L. 93–112 was classified to section 772 of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

2004—Subsec. (c)(4)(A)(ii). Pub. L. 108–446, § 305(h)(6), substituted ''section 1471'' for ''section 1482(a)''.

Subsec. (c)(6). Pub. L. 108–446, § 305(h)(5), substituted ''section 1471'' for ''section 1482(a)''.

§ 774. Migrant and seasonal farmworkers

(a) Grants

(1) Authority

The Commissioner, subject to the provisions of section 776 of this title, may make grants to eligible entities to pay up to 90 percent of the cost of projects or demonstration programs for the provision of vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers, as determined in accordance with rules prescribed by the Secretary of Labor, and to the family members who are residing with such individuals (whether or not such family members are individuals with disabilities).

(2) Eligible entities

To be eligible to receive a grant under paragraph (1), an entity shall be—

(A) a State designated agency;

(B) a nonprofit agency working in collaboration with a State agency described in subparagraph (A); or

(C) a local agency working in collaboration with a State agency described in subparagraph (A).

(3) Maintenance and transportation

(A) In general

Amounts provided under a grant under this section may be used to provide for the maintenance of and transportation for individuals and family members described in paragraph (1) as necessary for the rehabilitation of such individuals.

(B) Requirement

Maintenance payments under this paragraph shall be provided in a manner consistent with any maintenance payments provided to other individuals with disabilities in the State under this chapter.

(4) Assurance of cooperation

To be eligible to receive a grant under this section an entity shall provide assurances (satisfactory to the Commissioner) that in the provision of services under the grant there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migrant or seasonal farmworkers or their families.

(5) Coordination with other programs

The Commissioner shall administer this section in coordination with other programs serving migrant and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), section 254b of title 42, the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), and the Workforce Investment Act of 1998.

(b) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section, for each of the fiscal years 1999 through 2003.

(Pub. L. 93–112, title III, § 304, as added Pub. L. 105–220, title IV, § 406, Aug. 7, 1998, 112 Stat. 1195.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(5), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Migrant and Seasonal Agricultural Worker Protection Act, referred to in subsec. (a)(5), is Pub. L. 97–470, Jan. 14, 1983, 96 Stat. 2584, as amended, which is classified generally to chapter 20 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (a)(5), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 777b of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 774, Pub. L. 93–112, title III, § 304, formerly title II, § 203, Sept. 26, 1973, 87 Stat. 376, renumbered and amended, which related to Federal grants, contracts, and programs for training in rehabilitation services, was renumbered section 302 of Pub. L. 93–112, by Pub. L. 102–569, title III, § 301(b)(3), Oct. 29, 1992, 106 Stat. 4411, and transferred to section 771a of this title, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 774, Pub. L. 93–112, title III, § 304, Sept. 26, 1973, 87 Stat. 381; Pub. L. 93–516, title I, §§ 106, 111(i)–(k), Dec. 7, 1974, 88 Stat. 1619, 1621; Pub. L. 93–651, title I, §§ 106, 111(i)–(k), Nov. 21, 1974, 89 Stat. 2–4, 2–6; Pub. L. 94–230, §§ 6, 11(b)(9), Mar. 15, 1976, 90 Stat. 212, 213, related to special projects and demonstrations, prior to repeal by Pub. L. 95–602, title I, § 109(1), Nov. 6, 1978, 92 Stat. 2962.

§ 775. Recreational programs

(a) Grants

(1) Authority

(A) In general

The Commissioner, subject to the provisions of section 776 of this title, shall make grants to States, public agencies, and nonprofit private organizations to pay the Federal share of the cost of the establishment and operation of recreation programs to provide individuals with disabilities with recreational activities and related experiences to aid in the employment, mobility, socialization, independence, and community integration of such individuals.

(B) Recreation programs

The recreation programs that may be funded using assistance provided under a grant under this section may include vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4–H activities, construction of facilities for aquatic rehabilitation therapy, music, dancing, handicrafts, art, and homemaking. When possible and appropriate, such programs and activities should

be provided in settings with peers who are not individuals with disabilities.

(C) Design of program

Programs and activities carried out under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with disabilities.

(2) Maximum term of grant

A grant under this section shall be made for a period of not more than 3 years.

(3) Availability of nongrant resources

(A) In general

A grant may not be made to an applicant under this section unless the applicant provides assurances that, with respect to costs of the recreation program to be carried out under the grant, the applicant, to the maximum extent practicable, will make available non-Federal resources (in cash or in-kind) to pay the non-Federal share of such costs.

(B) Federal share

The Federal share of the costs of the recreation programs carried out under this section shall be—

(i) with respect to the first year in which assistance is provided under a grant under this section, 100 percent;

(ii) with respect to the second year in which assistance is provided under a grant under this section, 75 percent; and

(iii) with respect to the third year in which assistance is provided under a grant under this section, 50 percent.

(4) Application

To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

(A) the manner in which the findings and results of the project to be funded under the grant, particularly information that facilitates the replication of the results of such projects, will be made generally available; and

(B) the manner in which the service program funded under the grant will be continued after Federal assistance ends.

(5) Level of services

Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

(6) Reports by grantees

(A) Requirement

The Commissioner shall require that each recipient of a grant under this section annually prepare and submit to the Commissioner a report concerning the results of the activities funded under the grant.

(B) Limitation

The Commissioner may not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated the annual report of the recipient under subparagraph (A) for the current year.

(b) Authorization of appropriations

There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93–112, title III, § 305, as added Pub. L. 105–220, title IV, § 406, Aug. 7, 1998, 112 Stat. 1196.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 777f of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 775, Pub. L. 93–112, title III, § 305, as added Pub. L. 95–602, title I, § 115(a), Nov. 6, 1978, 92 Stat. 2971; amended Pub. L. 98–221, title I, § 134, Feb. 22, 1984, 98 Stat. 25; Pub. L. 99–506, title I, § 103(d)(2)(C), title IV, § 404, title X, § 1002(d)(3), Oct. 21, 1986, 100 Stat. 1810, 1825, 1844; Pub. L. 100–630, title II, § 204(d), Nov. 7, 1988, 102 Stat. 3309; Pub. L. 102–52, § 4(d), June 6, 1991, 105 Stat. 261; Pub. L. 102–569, title I, § 102(p)(19), title III, § 305, Oct. 29, 1992, 106 Stat. 4358, 4417, related to comprehensive rehabilitation centers, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 775, Pub. L. 93–112, title III, § 305, Sept. 26, 1973, 87 Stat. 383, as amended, which authorized appropriations for fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, Sept. 30, 1977, and Sept. 30, 1978, for the establishment of the Helen Keller National Center for Deaf-Blind Youths and Adults, was renumbered section 313 of Pub. L. 93–112 by Pub. L. 95–602, title I, § 109(1), Nov. 6, 1978, 92 Stat. 2962, transferred to section 777c of this title, and subsequently repealed by Pub. L. 100–630.

§ 776. Measuring of project outcomes and performance

The Commissioner may require that recipients of grants under this subchapter submit information, including data, as determined by the Commissioner to be necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act.

(Pub. L. 93–112, title III, § 306, as added Pub. L. 105–220, title IV, § 406, Aug. 7, 1998, 112 Stat. 1197.)

REFERENCES IN TEXT

The Government Performance and Results Act, referred to in text, probably means the Government Performance and Results Act of 1993, Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

PRIOR PROVISIONS

Prior sections 776 to 777b were omitted in the general amendment of this subchapter by Pub. L. 105–220.

Section 776, Pub. L. 93–112, title III, § 306, Sept. 26, 1973, 87 Stat. 384; Pub. L. 93–516, title I, § 111(*l*), Dec. 7, 1974, 88 Stat. 1621; Pub. L. 93–651, title I, § 111(*l*), Nov. 21, 1974, 89 Stat. 2–6; Pub. L. 95–602, title I, §§ 115(b), 122(c)(4)–(6), Nov. 6, 1978, 92 Stat. 2972, 2987; Pub. L. 99–506, title I, § 103(d)(2)(C), title X, § 1002(d)(4), Oct. 21, 1986, 100 Stat. 1810, 1844; Pub. L. 100–630, title II, § 204(e), Nov. 7, 1988, 102 Stat. 3309; Pub. L. 102–569, title I,

§ 102(p)(20), title III, § 306, Oct. 29, 1992, 106 Stat. 4359, 4417, related to general grant and contract requirements.

Section 777, Pub. L. 93–112, title III, § 310, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2973; amended Pub. L. 98–221, title I, § 135, title II, § 208(b), Feb. 22, 1984, 98 Stat. 25, 34; Pub. L. 99–506, title IV, § 405, Oct. 21, 1986, 100 Stat. 1825; Pub. L. 100–630, title II, § 204(f), Nov. 7, 1988, 102 Stat. 3309; Pub. L. 102–52, § 4(e)(1), June 6, 1991, 105 Stat. 261; Pub. L. 102–569, title III, § 307, Oct. 29, 1992, 106 Stat. 4418; Pub. L. 103–73, title I, § 110(b), Aug. 11, 1993, 107 Stat. 726, authorized appropriations.

Section 777a, Pub. L. 93–112, title III, § 311, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2973; amended Pub. L. 98–221, title I, § 136, Feb. 22, 1984, 98 Stat. 26; Pub. L. 99–506, title I, § 103(d)(2)(C), title III, § 302(b), title IV, § 406, Oct. 21, 1986, 100 Stat. 1810, 1821, 1826; Pub. L. 100–630, title II, § 204(g), Nov. 7, 1988, 102 Stat. 3309; Pub. L. 102–52, § 4(e)(2), June 6, 1991, 105 Stat. 261; Pub. L. 102–119, § 26(e), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–569, title I, § 102(p)(21), title III, § 308, Oct. 29, 1992, 106 Stat. 4359, 4418; Pub. L. 103–73, title I, § 110(c), Aug. 11, 1993, 107 Stat. 726; Pub. L. 104–66, title I, § 1041(b), Dec. 21, 1995, 109 Stat. 714, related to special demonstration programs.

Section 777b, Pub. L. 93–112, title III, § 312, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2974; amended Pub. L. 99–506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810; Pub. L. 100–630, title II, § 204(h), Nov. 7, 1988, 102 Stat. 3309; Pub. L. 102–569, title I, § 102(p)(22), title III, § 309, Oct. 29, 1992, 106 Stat. 4359, 4420, related to migratory workers, maintenance payments, and coordination with other programs. See section 774 of this title.

A prior section 777c, Pub. L. 93–112, title III, § 313, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2974, related to Helen Keller National Center for Deaf-Blind Youths and Adults, prior to repeal by Pub. L. 98–221, title II, § 203(a), Feb. 22, 1984, 98 Stat. 33. See chapter 21 (§ 1901 et seq.) of this title.

Another prior section 777c, Pub. L. 93–112, title III, § 313, formerly § 305, Sept. 26, 1973, 87 Stat. 383; Pub. L. 93–516, title I, § 107, Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93–651, title I, § 107, Nov. 21, 1974, 89 Stat. 2–4; Pub. L. 94–230, §§ 7, 11(b)(10), Mar. 15, 1976, 90 Stat. 212, 213; Pub. L. 94–288, §§ 1, 2, May 21, 1976, 90 Stat. 520; renumbered § 313, Pub. L. 95–602, title I, § 109(1), Nov. 6, 1978, 92 Stat. 2962, formerly classified to section 775 of this title, authorized appropriations for fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, Sept. 30, 1977, and Sept. 30, 1978, for establishment of Helen Keller National Center for Deaf-Blind Youths and Adults, prior to repeal by Pub. L. 100–630, title II, § 204(k), Nov. 7, 1988, 102 Stat. 3309.

Prior sections 777d to 777f were omitted in the general amendment of this subchapter by Pub. L. 105–220.

Section 777d, Pub. L. 93–112, title III, § 314, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2975; amended Pub. L. 100–630, title II, § 204(i), Nov. 7, 1988, 102 Stat. 3309; Pub. L. 102–569, title I, § 102(p)(23), Oct. 29, 1992, 106 Stat. 4359, related to reader services for individuals who are blind.

Section 777e, Pub. L. 93–112, title III, § 315, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2975; amended Pub. L. 102–569, title I, § 102(p)(24), Oct. 29, 1992, 106 Stat. 4359, related to interpreter services for individuals who are deaf.

Section 777f, Pub. L. 93–112, title III, § 316, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2976; amended Pub. L. 98–221, title I, § 137, Feb. 22, 1984, 98 Stat. 26; Pub. L. 99–506, title I, § 103(d)(2)(C), title IV, § 407, Oct. 21, 1986, 100 Stat. 1810, 1827; Pub. L. 100–630, title II, § 204(j), Nov. 7, 1988, 102 Stat. 3309; Pub. L. 102–52, § 4(e)(3), June 6, 1991, 105 Stat. 261; Pub. L. 102–569, title I, § 102(p)(25), title III, § 310, Oct. 29, 1992, 106 Stat. 4359, 4420; Pub. L. 103–73, title I, § 110(d), Aug. 11, 1993, 107 Stat. 726, related to special recreational programs. See section 775 of this title.

SUBCHAPTER IV—NATIONAL COUNCIL ON DISABILITY

CODIFICATION

Title IV of the Rehabilitation Act of 1973, comprising this subchapter, was originally enacted by Pub. L. 93–112, title IV, Sept. 26, 1973, 87 Stat. 385, and amended by Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617; Pub. L. 93–651, Nov. 21, 1974, 89 Stat. 2–3; Pub. L. 94–230, Mar. 15, 1976, 90 Stat. 211; Pub. L. 95–602, Nov. 6, 1978, 92 Stat. 2955; Pub. L. 98–221, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99–506, Oct. 21, 1986, 100 Stat. 1807; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 102–52, June 6, 1991, 105 Stat. 260; Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103–73, Aug. 11, 1993, 107 Stat. 718; Pub. L. 104–66, Dec. 21, 1995, 109 Stat. 707. Title IV is shown herein, however, as having been added by Pub. L. 105–220, title IV, § 407, Aug. 7, 1998, 112 Stat. 1198, without reference to those intervening amendments because of the extensive revision of title IV by Pub. L. 105–220.

§ 780. Establishment of National Council on Disability

(a) Membership; purpose

(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this subchapter referred to as the ''National Council''), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

(i) organizations representing a broad range of individuals with disabilities; and

(ii) organizations interested in individuals with disabilities.

(C) The members of the National Council shall be individuals with disabilities, parents or guardians of individuals with disabilities, or other individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

(b) Term of office

(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after November 6, 1978, shall be (as spec-

ified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(2)(A) No member of the National Council may serve more than two consecutive full terms beginning on the date of commencement of the first full term on the Council. Members may serve after the expiration of their terms until their successors have taken office.

(B) As used in this paragraph, the term ''full term'' means a term of 3 years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(c) Chairperson; meetings

The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

(d) Quorum; vacancies

Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

(Pub. L. 93–112, title IV, § 400, as added Pub. L. 105–220, title IV, § 407, Aug. 7, 1998, 112 Stat. 1198.)

PRIOR PROVISIONS

A prior section 780, Pub. L. 93–112, title IV, § 400, as added Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977; amended Pub. L. 98–221, title I, § 141(a), Feb. 22, 1984, 98 Stat. 26; Pub. L. 99–506, title I, § 103(d)(2)(C), title V, § 501, title X, § 1001(e), Oct. 21, 1986, 100 Stat. 1810, 1828, 1843; Pub. L. 100–630, title II, § 205(b), Nov. 7, 1988, 102 Stat. 3310; Pub. L. 102–569, title I, § 102(p)(26), title IV, § 401, Oct. 29, 1992, 106 Stat. 4360, 4421, related to establishment of the National Council on Disability, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 780, Pub. L. 93–112, title IV, § 400, Sept. 26, 1973, 87 Stat. 385, related to general administrative powers of Secretary under this chapter, prior to repeal by Pub. L. 95–602, § 117.

§ 780a. Independent status of National Council on the Handicapped

(1) Council as independent agency within Federal Government

Effective on February 22, 1984, the National Council on the Handicapped shall be an independent agency within the Federal Government and shall not be an agency within the Department of Education or any other department or agency of the United States.

(2) Transfer of functions to Council Chairman

There are transferred to the Chairman of the National Council on the Handicapped all functions relating to the Council which were vested in the Secretary of Education on the day before February 22, 1984. The Chairman of the National Council on the Handicapped shall continue to exercise all the functions under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] or any other law or authority which the Chairman was performing before February 22, 1984.

(3) Changes in statutory and other references

References in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding to the Department of Education or the Secretary of Education with respect to functions or activities relating to the National Council on the Handicapped shall be deemed to refer to the National Council on the Handicapped or the Chairman of the National Council on the Handicapped, respectively.

(Pub. L. 98–221, title I, § 141(b), Feb. 22, 1984, 98 Stat. 26.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in par. (2), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to this chapter (§ 701 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Rehabilitation Amendments of 1984, and not as part of Rehabilitation Act of 1973 which comprises this chapter.

CHANGE OF NAME

The National Council on the Handicapped was established by former section 780 of this title and was redesignated the National Council on Disability by an amendment to that section by Pub. L. 100–630, title II, § 205(b), Nov. 7, 1988, 102 Stat. 3310.

§ 781. Duties of National Council

(a) In general

The National Council shall—

(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this chapter;

(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

(5) review and evaluate on a continuing basis—

(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this chapter or under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15001 et seq.]; and

(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities;

in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 780(a)(2) of this title;

(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies or other Federal entities, respecting ways to better promote the policies set forth in section 780(a)(2) of this title;

(9) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information that the National Council or the Congress deems appropriate; and

(10) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

(b) Annual reports

(1) Not later than October 31, 1998, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled ''National Disability Policy: A Progress Report''.

(2) The report shall assess the status of the Nation in achieving the policies set forth in section 780(a)(2) of this title, with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the National Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

(c) Report describing barriers

(1) Not later than December 31, 1999, the Council shall prepare a report describing the barriers in Federal assistive technology policy to increasing the availability of and access to assistive technology devices and assistive technology services for individuals with disabilities.

(2) In preparing the report, the Council shall obtain input from the National Institute on Disability and Rehabilitation Research and the Association of Tech Act Projects, and from targeted individuals and entities, as defined in section 3002 of this title.

(3) The Council shall submit the report, along with such recommendations as the Council determines to be appropriate, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.

(Pub. L. 93–112, title IV, § 401, as added Pub. L. 105–220, title IV, § 407, Aug. 7, 1998, 112 Stat. 1199; amended Pub. L. 105–394, title II, § 202, Nov. 13, 1998, 112 Stat. 3653; Pub. L. 106–402, title IV, § 401(b)(3)(B), Oct. 30, 2000, 114 Stat. 1737; Pub. L. 108–364, § 3(b)(2), Oct. 25, 2004, 118 Stat. 1737.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (a)(5)(A), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677, which is classified principally to chapter 144 (§ 15001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(7), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 781, Pub. L. 93–112, title IV, § 401, as added Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977; amended Pub. L. 98–221, title I, § 142, Feb. 22, 1984, 98 Stat. 27; Pub. L. 99–506, title I, § 103(d)(2)(C), title III, § 302(b), title V, § 502, Oct. 21, 1986, 100 Stat. 1810, 1821, 1828; Pub. L. 100–630, title II, § 205(c), Nov. 7, 1988, 102 Stat. 3310; Pub. L. 102–569, title I, § 102(p)(27), title IV, § 402, Oct. 29, 1992, 106 Stat. 4360, 4422; Pub. L. 104–66, title II, § 2131, Dec. 21, 1995, 109 Stat. 731, related to duties of National Council on Disability, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 781, Pub. L. 93–112, title IV, § 401, Sept. 26, 1973, 87 Stat. 386, related to program and project evaluation, prior to repeal by Pub. L. 95–602, § 117.

AMENDMENTS

2004—Subsec. (c)(2). Pub. L. 108–364 substituted ''targeted individuals and entities'' for ''targeted individuals''.

2000—Subsec. (a)(5)(A). Pub. L. 106–402, which directed substitution of ''Developmental Disabilities Assistance and Bill of Rights Act of 2000'' for ''Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.)'', was executed by making the substitution for ''Developmental Disabilities Assistance and Bill of Rights Act'' to reflect the probable intent of Congress.

1998—Subsec. (c). Pub. L. 105–394 added subsec. (c).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual,

semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report to Congress required under subsec. (b) of this section is listed on page 182), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 782. Compensation of National Council members

(a) Rate

Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

(b) Full-time officers or employees of United States

Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

(c) Travel expenses

While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(Pub. L. 93–112, title IV, § 402, as added Pub. L. 105–220, title IV, § 407, Aug. 7, 1998, 112 Stat. 1200.)

PRIOR PROVISIONS

A prior section 782, Pub. L. 93–112, title IV, § 402, as added Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2978; amended Pub. L. 100–630, title II, § 205(d), Nov. 7, 1988, 102 Stat. 3310; Pub. L. 102–569, title IV, § 403, Oct. 29, 1992, 106 Stat. 4423, related to compensation of National Council members, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 782, Pub. L. 93–112, title IV, § 402, Sept. 26, 1973, 87 Stat. 387, authorized the Secretary to obtain information from Federal agencies, prior to repeal by Pub. L. 95–602, § 117.

§ 783. Staff of National Council

(a) Executive Director; technical and professional employees

(1) The Chairperson of the National Council may appoint and remove, without regard to the provisions of title 5 governing appointments, the provisions of chapter 75 of such title (relating to adverse actions), the provisions of chapter 77 of such title (relating to appeals), or the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates), an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

(2) The Executive Director is authorized to hire technical and professional employees to assist the National Council to carry out its duties.

(b) Temporary or intermittent services; voluntary and uncompensated services; gifts, etc.; contracts and agreements; official representation and reception

(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5).

(2) The National Council may—

(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31;

(B) in the name of the Council, solicit, accept, employ, and dispose of, in furtherance of this chapter, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council's duties and responsibilities.

(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

(c) Administrative support services

The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

(d) Investment of amounts not required for current withdrawals

(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts made available under subsection (a)(2)(B)[1] of this section as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(2) The amounts described in paragraph (1), and the interest on, and the proceeds from the sale or redemption of, the obligations described in paragraph (1) shall be available to the National Council to carry out this subchapter.

(Pub. L. 93–112, title IV, § 403, as added Pub. L. 105–220, title IV, § 407, Aug. 7, 1998, 112 Stat. 1200.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments, referred to in subsec. (a)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 783, Pub. L. 93–112, title IV, § 403, as added Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2978; amended Pub. L. 98–221, title I, § 143, Feb. 22, 1984, 98 Stat. 28; Pub. L. 99–506, title I, § 103(d)(2)(C), title V,

[1] So in original. Probably should be subsection "(b)(2)(B)".

§ 503, Oct. 21, 1986, 100 Stat. 1810, 1829; Pub. L. 100–630, title II, § 205(e), Nov. 7, 1988, 102 Stat. 3310; Pub. L. 102–569, title I, § 102(p)(28), title IV, § 404, Oct. 29, 1992, 106 Stat. 4360, 4423; Pub. L. 103–73, title I, § 111, Aug. 11, 1993, 107 Stat. 727, related to National Council staff, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 783, Pub. L. 93–112, title IV, § 403, Sept. 26, 1973, 87 Stat. 387; Pub. L. 93–516, title I, § 108, Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93–651, title I, § 108, Nov. 21, 1974, 89 Stat. 2–4; Pub. L. 94–230, §§ 8, 11(b)(11), Mar. 15, 1976, 90 Stat. 212, 213, authorized appropriations to conduct program and project evaluations, prior to repeal by Pub. L. 95–602, § 117.

§ 784. Administrative powers of National Council

(a) Bylaws and rules

The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this subchapter.

(b) Hearings

The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

(c) Advisory committees

The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

(d) Use of mails

The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) Use of services, personnel, information, and facilities

The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in subchapter V of this chapter, such services, personnel, information, and facilities as may be needed to carry out its duties under this subchapter, with or without reimbursement to such agencies.

(Pub. L. 93–112, title IV, § 404, as added Pub. L. 105–220, title IV, § 407, Aug. 7, 1998, 112 Stat. 1201.)

PRIOR PROVISIONS

A prior section 784, Pub. L. 93–112, title IV, § 404, as added Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2979; amended Pub. L. 102–569, title IV, § 405, Oct. 29, 1992, 106 Stat. 4423, related to administrative powers of National Council, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 784, Pub. L. 93–112, title IV, § 404, Sept. 26, 1973, 87 Stat. 387, directed Secretary to submit annual reports to the President and to Congress on activities carried out under this chapter, prior to repeal by Pub. L. 95–602, § 117.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 785. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93–112, title IV, § 405, as added Pub. L. 105–220, title IV, § 407, Aug. 7, 1998, 112 Stat. 1202.)

PRIOR PROVISIONS

A prior section 785, Pub. L. 93–112, title IV, § 405, as added Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2979; amended Pub. L. 99–506, title V, § 504, Oct. 21, 1986, 100 Stat. 1829; Pub. L. 102–52, § 5, June 6, 1991, 105 Stat. 262; Pub. L. 102–569, title IV, § 406, Oct. 29, 1992, 106 Stat. 4423, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 785, Pub. L. 93–112, title IV, § 405, Sept. 26, 1973, 87 Stat. 388; Pub. L. 93–516, title I, §§ 109, 111(m), Dec. 7, 1974, 88 Stat. 1619, 1621; Pub. L. 93–651, title I, §§ 109, 111(m), Nov. 21, 1974, 89 Stat. 2–4, 2–6; Pub. L. 94–230, §§ 9, 11(b)(12), Mar. 15, 1976, 90 Stat. 212, 213, specified certain responsibilities of the Secretary, prior to repeal by Pub. L. 95–602, § 117.

Prior sections 786 and 787 were repealed by Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

Section 786, Pub. L. 93–112, title IV, § 406, Sept. 26, 1973, 87 Stat. 389; S. Res. 4, Feb. 4, 1977, provided that the Secretary conduct a study on the role of sheltered workshops in the rehabilitation and employment of handicapped individuals and report the results of this study to Congress within twenty-four months after Sept. 26, 1973.

Section 787, Pub. L. 93–112, title IV, § 407, Sept. 26, 1973, 87 Stat. 389, provided that the Secretary conduct a study on allotment of funds among the States for grants for basic vocational rehabilitation and report the results of this study to Congress not later than June 30, 1974.

SUBCHAPTER V—RIGHTS AND ADVOCACY

§ 790. Repealed. Pub. L. 102–569, title V, § 502(a), Oct. 29, 1992, 106 Stat. 4424

Section, Pub. L. 93–112, title V, § 500, Sept. 26, 1973, 87 Stat. 390, related to effects on existing law, references in other provisions, availability of unexpended appropriations, savings provision, and extension of appropriations.

§ 791. Employment of individuals with disabilities

(a) Interagency Committee on Employees who are Individuals with Disabilities; establishment; membership; co-chairmen; availability of other Committee resources; purpose and functions

There is established within the Federal Government an Interagency Committee on Employees who are Individuals with Disabilities (hereinafter in this section referred to as the ''Committee''), comprised of such members as the President may select, including the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Equal Employment Opportunity Commission (hereafter in this section referred to as the ''Commission''), the Director of the Office of Personnel Management, the Secretary of Veterans Affairs, the Secretary of Labor, the Sec-

retary of Education, and the Secretary of Health and Human Services. Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons of the Committee or the Director or Chairman shall serve as the sole chairperson of the Committee, as the Director and Chairman jointly determine, from time to time, to be appropriate. The resources of the President's Committees on Employment of People With Disabilities and on Mental Retardation shall be made fully available to the Committee. It shall be the purpose and function of the Committee (1) to provide a focus for Federal and other employment of individuals with disabilities, and to review, on a periodic basis, in cooperation with the Commission, the adequacy of hiring, placement, and advancement practices with respect to individuals with disabilities, by each department, agency, and instrumentality in the executive branch of Government and the Smithsonian Institution, and to insure that the special needs of such individuals are being met; and (2) to consult with the Commission to assist the Commission to carry out its responsibilities under subsections (b), (c), and (d) of this section. On the basis of such review and consultation, the Committee shall periodically make to the Commission such recommendations for legislative and administrative changes as it deems necessary or desirable. The Commission shall timely transmit to the appropriate committees of Congress any such recommendations.

(b) Federal agencies; affirmative action program plans

Each department, agency, and instrumentality (including the United States Postal Service and the Postal Regulatory Commission) in the executive branch and the Smithsonian Institution shall, within one hundred and eighty days after September 26, 1973, submit to the Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities in such department, agency, instrumentality, or Institution. Such plan shall include a description of the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.

(c) State agencies; rehabilitated individuals, employment

The Commission, after consultation with the Committee, shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for individuals with disabilities, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

(d) Report to Congressional committees

The Commission, after consultation with the Committee, shall, on June 30, 1974, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of and achievements in hiring, placement, and advancement of individuals with disabilities by each department, agency, and instrumentality and the Smithsonian Institution and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation which have been submitted to the Commission under subsection (a) of this section, or other appropriate action to insure the adequacy of such practices. Such report shall also include an evaluation by the Committee of the effectiveness of the activities of the Commission under subsections (b) and (c) of this section.

(e) Federal work experience without pay; non-Federal status

An individual who, as a part of an individualized plan for employment under a State plan approved under this chapter, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(f) Federal agency cooperation; special consideration for positions on President's Committee on Employment of People With Disabilities

(1) The Secretary of Labor and the Secretary of Education are authorized and directed to cooperate with the President's Committee on Employment of People With Disabilities in carrying out its functions.

(2) In selecting personnel to fill all positions on the President's Committee on Employment of People With Disabilities, special consideration shall be given to qualified individuals with disabilities.

(g) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,[1] of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(Pub. L. 93–112, title V, § 501, Sept. 26, 1973, 87 Stat. 390; Pub. L. 98–221, title I, § 104(b)(3), Feb. 22, 1984, 98 Stat. 18; Pub. L. 99–506, title I, § 103(d)(2)(C), title X, §§ 1001(f)(1), 1002(e)(1), (2)(A), Oct. 21, 1986, 100 Stat. 1810, 1843, 1844; Pub. L. 100–630, title II, § 206(a), Nov. 7, 1988, 102 Stat.

[1] See References in Text note below.

3310; Pub. L. 102–54, §13(k)(1)(B), June 13, 1991, 105 Stat. 276; Pub. L. 102–569, title I, §102(p)(29), title V, §503, Oct. 29, 1992, 106 Stat. 4360, 4424; Pub. L. 103–73, title I, §112(a), Aug. 11, 1993, 107 Stat. 727; Pub. L. 105–220, title III, §341(c), title IV, §408(a)(1), Aug. 7, 1998, 112 Stat. 1092, 1202; Pub. L. 109–435, title VI, §604(d), Dec. 20, 2006, 120 Stat. 3242.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (a), is set out in section 5315 of Title 5, Government Organization and Employees.

The Americans with Disabilities Act of 1990, referred to in subsec. (g), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. Section 510 of the Act was renumbered section 511 by Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

Prior similar provisions were set out in section 38 of this title.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–435, §604(d), substituted ''Postal Regulatory Commission'' for ''Postal Rate Office''.

1998—Subsec. (a). Pub. L. 105–220, §408(a)(1)(A), substituted ''President's Committees on Employment of People With Disabilities'' for ''President's Committees on Employment of the Handicapped'' in third sentence.

Pub. L. 105–220, §341(c)(1), inserted ''and the Smithsonian Institution'' after ''Government'' in fourth sentence.

Subsec. (b). Pub. L. 105–220, §341(c)(2), in first sentence, inserted ''and the Smithsonian Institution'' after ''in the executive branch'' and substituted ''such department, agency, instrumentality, or Institution'' for ''such department, agency, or instrumentality''.

Subsec. (d). Pub. L. 105–220, §341(c)(3), inserted ''and the Smithsonian Institution'' after ''instrumentality''.

Subsec. (e). Pub. L. 105–220, §408(a)(1)(B), substituted ''individualized plan for employment'' for ''individualized written rehabilitation program''.

1993—Subsec. (a). Pub. L. 103–73 in first sentence inserted comma after ''Veterans Affairs''.

1992—Pub. L. 102–569, §102(p)(29)(A), substituted ''disabilities'' for ''handicaps'' in section catchline.

Subsec. (a). Pub. L. 102–569, §503(a), substituted ''the Director of the Office of Personnel Management, the Secretary of Veterans Affairs'' for ''the Secretary of Veterans Affairs, and'', and amended second sentence generally. Prior to amendment, second sentence read as follows: ''The Secretary of Education and the Chairman of the Commission shall serve as co-chairpersons of the Committee.''

Pub. L. 102–569, §102(p)(29)(B), (C), substituted ''Interagency Committee on Employees who are Individuals with Disabilities'' for ''Interagency Committee on Handicapped Employees'' and ''individuals with disabilities'' for ''individuals with handicaps'' in two places.

Subsec. (b). Pub. L. 102–569, §102(p)(29)(C), (D), substituted ''individuals with disabilities'' for ''individuals with handicaps'' after ''advancement of'' and after ''opportunities for'' and ''employees who are individuals with disabilities'' for ''employees with handicaps''.

Subsecs. (c), (d), (f)(2). Pub. L. 102–569, §102(p)(29)(C), substituted ''individuals with disabilities'' for ''individuals with handicaps''.

Subsec. (g). Pub. L. 102–569, §503(b), added subsec. (g).

1991—Subsec. (a). Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

1988—Subsec. (a). Pub. L. 100–630, §206(a)(3)(C), which directed substitution of ''Employment of People With Disabilities'' for ''Employment of the Handicapped'' in second sentence, could not be executed because the words did not appear in second sentence.

Pub. L. 100–630, §206(a)(1)–(3)(B), (4), inserted ''(hereafter in this section referred to as the 'Commission')'' after first reference to ''Equal Employment Opportunity Commission'' and substituted ''Commission'' for ''Equal Opportunity Employment Commission'' wherever appearing, ''Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services'' for ''Secretaries of Labor and Education and Health and Human Services'' in first sentence, ''co-chairpersons'' for ''co-chairmen'' in second sentence, and ''Commission'' for ''Office'' in cl. (2).

Subsec. (b). Pub. L. 100–630, §206(a)(2), (5), substituted ''submit to the Commission'' for ''submit to the Equal Employment Opportunity Commission'', ''employees with handicaps'' for ''handicapped employees'', and ''Commission, if the Commission determines'' for ''Office, if the Office determines''.

Subsecs. (c), (d). Pub. L. 100–630, §206(a)(2), substituted ''Commission'' for ''Equal Opportunity Employment Commission'' wherever appearing.

Subsec. (e). Pub. L. 100–630, §206(a)(6), substituted ''an individualized'' for ''a individualized''.

Subsec. (f)(1), (2). Pub. L. 100–630, §206(a)(7), substituted ''Employment of People With Disabilities'' for ''Employment of the Handicapped''.

1986—Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' in section catchline.

Subsecs. (a) to (c). Pub. L. 99–506, §§103(d)(2)(C), 1002(e)(1), substituted ''Equal Employment Opportunity Commission'' for ''Office of Personnel Management'' and ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (d). Pub. L. 99–506, §§103(d)(2)(C), 1002(e)(1), (2)(A), substituted ''Equal Employment Opportunity Commission'' for ''Office of Personnel Management'' wherever appearing, ''individuals with handicaps'' for ''handicapped individuals'', and ''of the activities'' for ''of the the activities''.

Subsec. (e). Pub. L. 99–506, §1001(f)(1), substituted ''a individualized'' for ''his individualized''.

Subsec. (f)(2). Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

1984—Subsec. (a). Pub. L. 98–221, §104(b)(3)(A)–(D), substituted ''the Chairman of the Office of Personnel Management'' and ''Education and Health and Human Services'' for ''the Chairman of the Civil Service Commission'' and ''Health, Education, and Welfare'', respectively, in first sentence, ''Secretary of Education and the Chairman of the Office of Personnel Management'' for ''Secretary of Health, Education, and Welfare and the Chairman of the Civil Service Commission'' in second sentence, ''Office of Personnel Management'' for ''Civil Service Commission'' in four places, and ''Office'' for ''Commission''.

Subsec. (b). Pub. L. 98–221, §104(b)(3)(C), (D), substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and substituted ''Office'' for ''Commission'' in three places.

Subsec. (c). Pub. L. 98–221, §104(b)(3)(C), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

Subsec. (d). Pub. L. 98–221, §104(b)(3)(C), (E), substituted ''Office of Personnel Management'' for ''Civil Service Commission'' in two places and ''the activities of the Office of Personnel Management'' for ''Civil Service Commission's activities''.

Subsec. (f)(1). Pub. L. 98–221, §104(b)(3)(F), substituted ''Secretary of Education'' for ''Secretary of Health, Education, and Welfare''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 341(c) of Pub. L. 105–220 effective Aug. 7, 1998, and applicable to and may be raised in any administrative or judicial claim or action brought before Aug. 7, 1998, but pending on such date,

and any administrative or judicial claim or action brought after such date regardless of whether the claim or action arose prior to such date, if the claim or action was brought within the applicable statute of limitations, see section 341(d) of Pub. L. 105–220, set out as a note under section 633a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–569, title I, § 138, Oct. 29, 1992, 106 Stat. 4397, as amended by Pub. L. 103–73, title I, § 102(3), Aug. 11, 1993, 107 Stat. 718, provided that:

''(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title [enacting sections 718 to 718b, 725 to 728a, and 740 to 744 of this title, amending this section and sections 701, 705 to 707, 709, 711 to 715, 717, 720 to 724, 730 to 732, 740, 741, 750, 761a to 762, 770, 772 to 776, 777a, 777b, 777d to 777f, 780, 781, 783, 792 to 794, 795, 795d, 795e, and 795h of this title, repealing section 752 of this title, enacting provisions set out as notes under section 712 of this title, and amending provisions set out as a note under section 701 of this title] and the amendments made by this title shall take effect on the date of enactment of this Act [Oct. 29, 1992].

''(b) COMPLIANCE.—Each State agency subject to the provisions of title I of the Rehabilitation Act of 1973 [29 U.S.C. 720 et seq.] shall comply with the amendments made by this subtitle [subtitle B (§§ 121–138) of title I of Pub. L. 102–569, enacting sections 725 to 728a and 740 to 744 of this title, amending sections 705, 720 to 724, and 730 to 732 of this title, and repealing section 752 of this title], as soon as is practicable after the date of enactment of this Act [Oct. 29, 1992], consistent with the effective and efficient administration of the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], but not later than October 1, 1993.''

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–506, title X, § 1006, Oct. 21, 1986, 100 Stat. 1846, provided that: ''Except as otherwise provided in this Act [see Short Title of 1986 Amendment note set out under section 701 of this title], this Act shall take effect on the date of its enactment [Oct. 21, 1986].''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which reports required under subsecs. (a) and (d) of this section are listed on page 188), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

EXECUTIVE ORDER NO. 10640

Ex. Ord. No. 10640, Oct. 10, 1955, 20 F.R. 7717, formerly set out as a note under section 39 of this title, which related to President's Committee on Employment of the Physically Handicapped, was superseded by section 6(a) of Ex. Ord. No. 10994, Feb. 14, 1962, 27 F.R. 1447, which established President's Committee on Employment of the Handicapped.

EXECUTIVE ORDER NO. 10994

Ex. Ord. No. 10994, Feb. 14, 1962, 27 F.R. 1447, as amended by Ex. Ord. No. 11018, Apr. 27, 1962, 27 F.R. 4143, which established the President's Committee on Employment of the Handicapped, was superseded by Ex. Ord. No. 11480, Sept. 9, 1969, 34 F.R. 14273, formerly set out below.

EXECUTIVE ORDER NO. 11480

Ex. Ord. No. 11480, Sept. 9, 1969, 34 F.R. 14273, as amended by Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, which established and provided for the functions of the President's Committee on Employment of the Handicapped, was superseded by Ex. Ord. No. 12640, May 10, 1988, 53 F.R. 16996, formerly set out below.

EX. ORD. NO. 11830. ENLARGING MEMBERSHIP OF INTERAGENCY COMMITTEE ON HANDICAPPED EMPLOYEES

Ex. Ord. No. 11830, Jan. 9, 1975, 40 F.R. 2411, as amended by Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053; Ex. Ord. No. 12450, Dec. 9, 1983, 48 F.R. 55409; Ex. Ord. No. 12672, Mar. 21, 1989, 54 F.R. 12167; Ex. Ord. No. 12704, § 1, Feb. 26, 1990, 55 F.R. 6969, provided:

By virtue of the authority vested in me by section 501(a) of the Rehabilitation Act of 1973 (Public Law 93–112; 87 Stat. 390) [subsec. (a) of this section], it is hereby ordered as follows:

SECTION 1. In accord with Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and Section 4 of Reorganization Plan No. 1 of 1978 (43 FR 19808) [set out in the Appendix to Title 5, Government Organization and Employees], the Interagency Committee on Handicapped Employees is enlarged and composed of the following, or their designees whose positions are Executive level IV or higher:

(1) Secretary of Defense.
(2) Secretary of Labor.
(3) Secretary of Education, Co-Chairman.
(4) Director of the Office of Personnel Management.
(5) Administrator of Veterans Affairs.
(6) Administrator of General Services.
(7) Chairman of the Federal Communications Commission.
(8) Chairman of the Equal Employment Opportunity Commission, Co-Chairman.
(9) Secretary of Health and Human Services.
(10) Postmaster General of the United States Postal Service.
(11) Chairman of the President's Committee on Employment of People with Disabilities (Ex Officio).
(12) Such other members as the President may designate.

SEC. 2. The Interagency Committee on Handicapped Employees shall also be referred to as the Interagency Committee on Employment of People with Disabilities.

EXECUTIVE ORDER NO. 12640

Ex. Ord. No. 12640, May 10, 1988, 53 F.R. 16996, as amended by Ex. Ord. No. 12945, Jan. 20, 1995, 60 F.R. 4527, which established the President's Committee on Employment of People with Disabilities, the Executive Committee of the President's Committee on Employment of People with Disabilities, and the Advisory Council on Employment of People with Disabilities, and provided for the membership, functions, and administration of those bodies, and superseded Ex. Ord. No. 11480, was revoked by Ex. Ord. No. 13187, § 4(a), Jan. 10, 2001, 66 F.R. 3858, set out as a note under section 701 of this title.

EX. ORD. NO. 13163. INCREASING THE OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES TO BE EMPLOYED IN THE FEDERAL GOVERNMENT

Ex. Ord. No. 13163, July 26, 2000, 65 F.R. 46563, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote an increase in the opportunities for individuals with disabilities to be employed at all levels and occupations of the Federal Government, and to support the goals articulated in section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), it is hereby ordered as follows:

SECTION 1. *Increasing the Federal Employment Opportunities for Individuals with Disabilities.* (a) Recent evidence demonstrates that, throughout the United States, qualified persons with disabilities have been refused employment despite their availability and qualifications, and many qualified persons with disabilities are never made aware of available employment opportunities. Evidence also suggests that increased efforts at outreach, and increased understanding of the reasonable accommodations available for persons with disabilities, will permit persons with disabilities to compete for employment on a more level playing field.

(b) Based on current hiring patterns and anticipated increases from expanded outreach efforts and appropriate accommodations, the Federal Government, over the next 5 years, will be able to hire 100,000 qualified individuals with disabilities. In furtherance of such efforts, Federal agencies shall:

(1) Use available hiring authorities, consistent with statutes, regulations, and prior Executive orders and Presidential Memoranda;

(2) Expand their outreach efforts, using both traditional and nontraditional methods; and

(3) Increase their efforts to accommodate individuals with disabilities.

(c) As a model employer, the Federal Government will take the lead in educating the public about employment opportunities available for individuals with disabilities.

(d) This order does not require agencies to create new positions or to change existing qualification standards for any position.

SEC. 2. *Implementation*. Each Federal agency shall prepare a plan to increase the opportunities for individuals with disabilities to be employed in the agency. Each agency shall submit that plan to the Office of Personnel Management within 60 days from the date of this order.

SEC. 3. *Authority to Develop Guidance*. The Office of Personnel Management shall develop guidance on the provisions of this order to increase the opportunities for individuals with disabilities employed in the Federal Government.

SEC. 4. *Judicial Review*. This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13164. REQUIRING FEDERAL AGENCIES TO ESTABLISH PROCEDURES TO FACILITATE THE PROVISION OF REASONABLE ACCOMMODATION

Ex. Ord. No. 13164, July 26, 2000, 65 F.R. 46565, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended, and in order to promote a model Federal workplace that provides reasonable accommodation for (1) individuals with disabilities in the application process for Federal employment; (2) Federal employees with disabilities to perform the essential functions of a position; and (3) Federal employees with disabilities to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities, it is hereby ordered as follows:

SECTION 1. *Establishment of Effective Written Procedures to Facilitate the Provision of Reasonable Accommodation*. (a) Each Federal agency shall establish effective written procedures for processing requests for reasonable accommodation by employees and applicants with disabilities. The written procedures may allow different components of an agency to tailor their procedures as necessary to ensure the expeditious processing of requests.

(b) As set forth in *Re-charting the Course: The First Report of the Presidential Task Force on Employment of Adults with Disabilities* (1998), effective written procedures for processing requests for reasonable accommodation should include the following:

(1) Explain that an employee or job applicant may initiate a request for reasonable accommodation orally or in writing. If the agency requires an applicant or employee to complete a reasonable accommodation request form for recordkeeping purposes, the form must be provided as an attachment to the agency's written procedures;

(2) Explain how the agency will process a request for reasonable accommodation, and from whom the individual will receive a final decision;

(3) Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. Time limits for decision making should be as short as reasonably possible;

(4) Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation where the disability and/or need for accommodation is not obvious;

(5) Explain the agency's right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, or the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace;

(6) Explain the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense;

(7) Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of his or her current position;

(8) Provide that reasonable accommodation denials be in writing and specify the reasons for denial;

(9) Ensure that agencies' systems of recordkeeping track the processing of requests for reasonable accommodation and maintain the confidentiality of medical information received in accordance with applicable law and regulations; and

(10) Encourage the use of informal dispute resolution processes to allow individuals with disabilities to obtain prompt reconsideration of denials of reasonable accommodation. Agencies must also inform individuals with disabilities that they have the right to file complaints in the Equal Employment Opportunity process and other statutory processes, as appropriate, if their requests for reasonable accommodation are denied.

SEC. 2. *Submission of Agency Reasonable Accommodation Procedures to the Equal Employment Opportunity Commission (EEOC)*. Within 1 year from the date of this order, each agency shall submit its procedures to the EEOC. Each agency shall also submit to the EEOC any modifications to its reasonable accommodation procedures at the time that those modifications are adopted.

SEC. 3. *Collective Bargaining Obligations*. In adopting their reasonable accommodation procedures, agencies must honor their obligations to notify their collective bargaining representatives and bargain over such procedures to the extent required by law.

SEC. 4. *Implementation*. The EEOC shall issue guidance for the implementation of this order within 90 days from the date of this order.

SEC. 5. *Construction and Judicial Review*. (a) Nothing in this order limits the rights that individuals with disabilities may have under the Rehabilitation Act of 1973, as amended.

(b) This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.

WILLIAM J. CLINTON.

§ 792. Architectural and Transportation Barriers Compliance Board

(a) Establishment; membership; chairperson; vice-chairperson; term of office; termination of membership; reappointment; compensation and travel expenses; bylaws; quorum requirements

(1) There is established within the Federal Government the Architectural and Transpor-

tation Barriers Compliance Board (hereinafter referred to as the ''Access Board'') which shall be composed as follows:

(A) Thirteen members shall be appointed by the President from among members of the general public of whom at least a majority shall be individuals with disabilities.

(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

(i) Department of Health and Human Services.

(ii) Department of Transportation.

(iii) Department of Housing and Urban Development.

(iv) Department of Labor.

(v) Department of the Interior.

(vi) Department of Defense.

(vii) Department of Justice.

(viii) General Services Administration.

(ix) Department of Veterans Affairs.

(x) United States Postal Service.

(xi) Department of Education.

(xii) Department of Commerce.

The chairperson and vice-chairperson of the Access Board shall be elected by majority vote of the members of the Access Board to serve for terms of one year. When the chairperson is a member of the general public, the vice-chairperson shall be a Federal official; and when the chairperson is a Federal official, the vice-chairperson shall be a member of the general public. Upon the expiration of the term as chairperson of a member who is a Federal official, the subsequent chairperson shall be a member of the general public; and vice versa.

(2)(A)(i) The term of office of each appointed member of the Access Board shall be 4 years, except as provided in clause (ii). Each year, the terms of office of at least three appointed members of the board[1] shall expire.

(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.

(B) A member whose term has expired may continue to serve until a successor has been appointed.

(C) A member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.

(3) If any appointed member of the Access Board becomes a Federal employee, such member may continue as a member of the Access Board for not longer than the sixty-day period beginning on the date the member becomes a Federal employee.

(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Access Board may be reappointed to the Access Board more than once unless such individual has not served on the Access Board for a period of two years prior to the effective date of such individual's appointment.

(5)(A) Members of the Access Board who are not regular full-time employees of the United States shall, while serving on the business of the Access Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily equivalent of the rate of pay for level IV of the Executive Schedule under section 5315 of title 5, including travel time, for each day they are engaged in the performance of their duties as members of the Access Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(B) Members of the Access Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(6)(A) The Access Board shall establish such bylaws and other rules as may be appropriate to enable the Access Board to carry out its functions under this chapter.

(B) The bylaws shall include quorum requirements. The quorum requirements shall provide that (i) a proxy may not be counted for purposes of establishing a quorum, and (ii) not less than half the members required for a quorum shall be members of the general public appointed under paragraph (1)(A).

(b) Functions

It shall be the function of the Access Board to—

(1) ensure compliance with the standards prescribed pursuant to the Act entitled ''An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped'', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service), including enforcing all standards under such Act, and ensuring that all waivers and modifications to the standards are based on findings of fact and are not inconsistent with the provisions of this section;

(2) develop advisory information for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this subchapter or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

(3) establish and maintain—

(A) minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

(B) minimum guidelines and requirements for the standards issued pursuant to titles II and III of the Americans with Disabilities Act of 1990;

[1] So in original. Probably should be ''Access Board''.

(C) guidelines for accessibility of telecommunications equipment and customer premises equipment under section 255 of title 47; and

(D) standards for accessible electronic and information technology under section 794d of this title;

(4) promote accessibility throughout all segments of society;

(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

(9) make to the President and to the Congress such recommendations for legislative and administrative changes as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5);

(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities; and

(11) carry out the responsibilities specified for the Access Board in section 794d of this title.

(c) Additional functions; transportation barriers and housing needs; transportation and housing plans and proposals

The Access Board shall also (1)(A) determine how and to what extent transportation barriers impede the mobility of individuals with disabilities and aged individuals with disabilities and consider ways in which travel expenses in connection with transportation to and from work for individuals with disabilities can be met or subsidized when such individuals are unable to use mass transit systems or need special equipment in private transportation, and (B) consider the housing needs of individuals with disabilities; (2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems, (A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems, and (B) to make housing available and accessible to individuals with disabilities or to meet sheltered housing needs; and (3) prepare plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for individuals with disabilities, including proposals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.

(d) Electronic and information technology accessibility training

Beginning in fiscal year 2000, the Access Board, after consultation with the Secretary, representatives of such public and private entities as the Access Board determines to be appropriate (including the electronic and information technology industry), targeted individuals and entities (as defined in section 3002 of this title), and State information technology officers, shall provide training for Federal and State employees on any obligations related to section 794d of this title.

(e) Investigations; hearings; orders; administrative procedure applicable; final orders; judicial review; civil action; intervention

(1) The Access Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to ensure compliance with the provisions of the Acts cited in subsection (b) of this section. Except as provided in paragraph (3) of subsection (f) of this section, the provisions of subchapter II of chapter 5, and chapter 7 of title 5 shall apply to procedures under this subsection, and an order of compliance issued by the Access Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building or public conveyance or rolling stock found not to be in compliance with standards enforced under this section. Pursuant to chapter 7 of title 5, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.

(2) The executive director is authorized, at the direction of the Access Board—

(A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any final order of the Access Board under this subsection; and

(B) to intervene, appear, and participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in civil actions that relate to this section or to the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.].

Except as provided in section 518(a) of title 28, relating to litigation before the Supreme Court, the executive director may appear for and represent the Access Board in any civil litigation brought under this section.

(f) Appointment of executive director, administrative law judges, and other personnel; provisions applicable to administrative law judges; authority and duties of executive director; finality of orders of compliance

(1) There shall be appointed by the Access Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this chapter. The Access Board is authorized to appoint as many administrative law judges as are necessary for proceedings required to be conducted under this section. The provisions applicable to administrative law judges appointed under section 3105 of title 5 shall apply to administrative law judges appointed under this subsection.

(2) The Executive Director shall exercise general supervision over all personnel employed by the Access Board (other than administrative law judges and their assistants). The Executive Director shall have final authority on behalf of the Access Board, with respect to the investigation of alleged noncompliance and in the issuance of formal complaints before the Access Board, and shall have such other duties as the Access Board may prescribe.

(3) For the purpose of this section, an order of compliance issued by an administrative law judge shall be deemed to be an order of the Access Board and shall be the final order for the purpose of judicial review.

(g) Technical, administrative, or other assistance; appointment, compensation, and travel expenses of advisory and technical experts and consultants

(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

(C) The Access Board may arrange to carry out the technical assistance responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

(2) The departments or agencies specified in subsection (a) of this section shall make available to the Access Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Access Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section. Special advisory and technical experts and consultants appointed pursuant to this paragraph shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Chairperson,[2] but not exceeding the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, including travel time, and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

(h) Omitted

(i) Grants and contracts to aid Access Board in carrying out its functions; acceptance of gifts, devises, and bequests of property

(1) The Access Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c) of this section.

(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (2) and (4) of subsection (b) of this section. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson.[2] Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

(B) The Access Board shall publish regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.

(3) Omitted.

(j) Authorization of appropriations

There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Access Board under this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93–112, title V, § 502, Sept. 26, 1973, 87 Stat. 391; Pub. L. 93–516, title I, §§ 110, 111(n)–(q), Dec. 7, 1974, 88 Stat. 1619, 1621, 1622; Pub. L. 93–651, title I, §§ 110, 111(n)–(q), Nov. 21, 1974, 89 Stat. 2–4, 2–6, 2–7; Pub. L. 94–230, §§ 10, 11(b)(13), Mar. 15, 1976, 90 Stat. 212, 214; Pub. L. 95–251, § 2(a)(8), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95–602, title I, § 118, Nov. 6, 1978, 92 Stat. 2979; Pub. L. 96–374, title XIII, § 1321, Oct. 3, 1980, 94 Stat. 1499; Pub. L. 98–221, title I, § 151, Feb. 22, 1984, 98 Stat. 28; Pub. L. 99–506, title I, § 103(d)(2)(C), title VI, § 601, title X, § 1002(e)(2)(B)–(D), Oct. 21, 1986, 100 Stat. 1810, 1829, 1844; Pub. L. 100–630, title II,

[2] So in original. Probably should not be capitalized.

§ 206(b), Nov. 7, 1988, 102 Stat. 3311; Pub. L. 102–52, § 6, June 6, 1991, 105 Stat. 262; Pub. L. 102–54, § 13(k)(1)(A), June 13, 1991, 105 Stat. 276; Pub. L. 102–569, title I, § 102(p)(30), title V, § 504, Oct. 29, 1992, 106 Stat. 4360, 4424; Pub. L. 103–73, title I, § 112(b), Aug. 11, 1993, 107 Stat. 727; Pub. L. 105–220, title IV, § 408(a)(2), Aug. 7, 1998, 112 Stat. 1202; Pub. L. 105–394, title II, § 203(a), Nov. 13, 1998, 112 Stat. 3653; Pub. L. 108–364, § 3(b)(3), Oct. 25, 2004, 118 Stat. 1737.)

REFERENCES IN TEXT

Executive level IV, referred to in subsec. (a)(1)(B), is set out in section 5315 of Title 5, Government Organization and Employees.

The Act commonly known as the Architectural Barriers Act of 1968, referred to in subsecs. (b)(1), (3)(A), (7) and (e)(2)(B), is Pub. L. 90–480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(2), (3)(B), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended. Titles II and III of the Act are classified generally to subchapters II (§ 12131 et seq.) and III (§ 12181 et seq.), respectively, of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

CODIFICATION

Subsecs. (h) and (i)(3) of this section, which required the Board to submit an annual report on its activities to Congress and, at the same time the Board transmits the report required under section 4157(b) of Title 42, The Public Health and Welfare, to transmit that report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, items 4 to 6 on page 155 of House Document No. 103–7.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–364 substituted ''targeted individuals and entities'' for ''targeted individuals''.

1998—Subsec. (a)(1). Pub. L. 105–220, § 408(a)(2)(A), substituted ''chairperson and'' for ''Chairperson and'' in concluding provisions.

Subsec. (b)(2). Pub. L. 105–220, § 408(a)(2)(B)(i), substituted ''information'' for ''guidelines''.

Subsec. (b)(3). Pub. L. 105–220, § 408(a)(2)(B)(ii), added par. (3) and struck out former par. (3) which read as follows: ''establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;''.

Subsec. (b)(11). Pub. L. 105–220, § 408(a)(2)(B)(iii)–(v), added par. (11).

Subsec. (d). Pub. L. 105–394, § 203(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 105–220, § 408(a)(2)(C), substituted ''procedures under this subsection'' for ''procedures under this section''.

Subsec. (e). Pub. L. 105–394, § 203(a)(1), (3), redesignated subsec. (d) as (e) and substituted ''subsection (f)'' for ''subsection (e)'' in second sentence of par. (1). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105–394, § 203(a)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105–394, § 203(a)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(2). Pub. L. 105–220, § 408(a)(2)(D), substituted ''Committee on Education and the Workforce'' for ''Committee on Education and Labor''.

Subsec. (h). Pub. L. 105–394, § 203(a)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(2)(A). Pub. L. 105–220, § 408(a)(2)(E), substituted ''paragraphs (2) and (4)'' for ''paragraphs (5) and (7)''.

Subsec. (i). Pub. L. 105–394, § 203(a)(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Pub. L. 105–220, § 408(a)(2)(F), substituted ''fiscal years 1999 through 2003'' for ''fiscal years 1993 through 1997''.

Subsec. (j). Pub. L. 105–394, § 203(a)(1), redesignated subsec. (i) as (j).

1993—Subsec. (a)(5)(A). Pub. L. 103–73 substituted ''level IV of the Executive Schedule under section 5315'' for ''level 4 of the Senior Executive Service Schedule under section 5382''.

1992—Pub. L. 102–569, § 504(a)(2), (3), substituted ''the Access Board'' and ''The Access Board'' for ''the Board'' and ''The Board'', respectively, wherever appearing.

Subsec. (a)(1). Pub. L. 102–569, § 504(a)(1), substituted ''the 'Access Board' '' for ''the 'Board' '' in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 102–569, § 504(b)(1)(A), substituted ''Thirteen'' for ''Twelve'' and ''at least a majority'' for ''six''.

Pub. L. 102–569, § 102(p)(30), substituted ''individuals with disabilities'' for ''individuals with handicaps''.

Subsec. (a)(1)(B)(xii). Pub. L. 102–569, § 504(b)(1)(B), added cl. (xii).

Subsec. (a)(2)(A). Pub. L. 102–569, § 504(b)(2), designated existing provisions as cl. (i), substituted ''4 years, except as provided in clause (ii)'' for ''three years'' and ''at least three'' for ''four'', and added cl. (ii).

Subsec. (a)(3). Pub. L. 102–569, § 504(b)(3), substituted ''a Federal'' for ''such an'' after ''member becomes''.

Subsec. (a)(5)(A). Pub. L. 102–569, § 504(b)(4), substituted ''the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382'' for ''the daily rate prescribed for GS–18 under section 5332''.

Subsec. (b). Pub. L. 102–569, § 504(c), amended subsec. (b) generally, substituting present provisions for provisions which outlined eight specific functions of the Access Board.

Subsec. (c). Pub. L. 102–569, § 102(p)(30), substituted ''individuals with disabilities'' for ''individuals with handicaps'' wherever appearing.

Subsec. (d)(1). Pub. L. 102–569, § 504(d)(1), in first sentence, substituted ''The Access Board shall conduct'' for ''In carrying out its functions under this chapter, the Access Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or forprofit organizations, carry out its functions under subsections (b) and (c) of this section, and shall conduct'' and ''to ensure compliance'' for ''to insure compliance''.

Subsec. (d)(3). Pub. L. 102–569, § 504(d)(2), struck out par. (3) which read as follows: ''The Access Board, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Education, shall develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this subchapter with respect to overcoming architectural, transportation, and communication barriers. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Access Board for the purpose of carrying out this paragraph. The Access Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Access Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Access Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.''

Subsec. (f). Pub. L. 102–569, § 504(e), added par. (1), designated existing provisions as par. (2) and substituted ''paragraph'' for ''subsection'', ''Chairperson'' for ''Secretary'', and ''the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382'' for ''the daily pay rate for a person employed as a GS–18 under section 5332''.

Subsec. (g). Pub. L. 102–569, § 504(f), designated existing provisions as par. (1), substituted ''paragraphs (8) and (9) of such subsection'' for ''clauses (5) and (6) of subsection (b) of this section'', struck out at end ''The Access Board shall prepare two final reports of its activities under subsection (c) of this section. One such report shall be on its activities in the field of transportation barriers facing individuals with disabilities, and the other such report shall be on its activities in the field of the housing needs of individuals with disabilities. The Access Board shall, not later than September 30, 1975, submit each such report, together with its recommendations, to the President and the Congress. The Access Board shall also prepare for such submission an interim report of its activities in each such field within 18 months after September 26, 1973. The Access Board shall prepare and submit two additional reports of its activities under subsection (c) of this section, one report on its activities in the field of transportation barriers facing individuals with disabilities and the other report on its activities in the field of the housing needs of individuals with disabilities. The two additional reports required by the previous sentence shall be submitted not later than February 1, 1988.'', and added par. (2).

Pub. L. 102–569, § 102(p)(30), substituted ''individuals with disabilities'' for ''individuals with handicaps'' wherever appearing.

Subsec. (h)(1). Pub. L. 102–569, § 504(g)(1)–(3), redesignated par. (2) as (1), struck out at end ''The Access Board may also make grants to any designated State unit for the purpose of conducting studies to provide the cost assessments required by paragraph (1). Before including in such report the findings of any study conducted for the Access Board under a grant or contract to provide the Access Board with such cost assessments, the Access Board shall take all necessary steps to validate the accuracy of any such findings.'', and struck out former par. (1) which read as follows: ''Within one year following November 6, 1978, the Access Board shall submit to the President and the Congress a report containing an assessment of the amounts required to be expended by States and by political subdivisions thereof to provide individuals with disabilities with full access to all programs and activities receiving Federal assistance.''

Pub. L. 102–569, § 102(p)(30), substituted ''individuals with disabilities'' for ''individuals with handicaps'' before ''with full access''.

Subsec. (h)(2). Pub. L. 102–569, § 504(g)(4), which directed the addition of par. (2) ''at the end'' of subsec. (h), was executed by adding par. (2) before par. (3) to reflect the probable intent of Congress. Former par. (2) redesignated (1).

Subsec. (i). Pub. L. 102–569, § 504(h), substituted ''fiscal years 1993 through 1997.'' for ''fiscal years 1987 through 1992, but in no event shall the amount appropriated for any one fiscal year exceed $3,000,000.''

1991—Subsec. (a)(1)(B)(ix). Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

Subsec. (i). Pub. L. 102–52 substituted ''1987 through 1992'' for ''1987, 1988, 1989, 1990, and 1991''.

1988—Subsec. (a)(2). Pub. L. 100–630, § 206(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall serve, as designated by the President at the time of appointment, four for a term of one year, four for a term of two years, and three for a term of three years, (ii) a member whose term has expired may continue to serve until a successor has been appointed, and (iii) a member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.''

Subsec. (a)(3). Pub. L. 100–630, § 206(b)(2), substituted ''the member'' for ''he''.

Subsec. (a)(5)(A). Pub. L. 100–630, § 206(b)(3), substituted ''travel time'' for ''traveltime''.

Subsec. (b). Pub. L. 100–630, § 206(b)(4)–(7), inserted a comma after ''surface transportation'' in cl. (2), and substituted ''Administrator of General Services'' for ''Administrator of the General Services Administration'' in cl. (4), ''results of'' for ''results to'' in cl. (5), and ''individuals with physical handicaps'' for ''physically handicapped persons'' in cl. (8).

Subsec. (c)(2)(A). Pub. L. 100–630, § 206(b)(8), inserted a comma after ''expanded transportation systems''.

Subsec. (d)(2)((B). Pub. L. 100–630, § 206(b)(9), substituted ''that relate to'' for ''which related to''.

Subsec. (f). Pub. L. 100–630, § 206(b)(10), substituted ''daily pay rate for'' for ''daily pay rate, for'', ''section 5332 of title 5'' for ''section 5332 of title 45'', and ''travel time'' for ''traveltime''.

Subsec. (g). Pub. L. 100–630, § 206(b)(11), substituted ''transportation barriers facing individuals with handicaps'' for ''transportation barriers to individuals with handicaps'' and for ''transportation barriers of handicapped individuals'' in fourth and seventh sentences, respectively, and ''housing needs of individuals with handicaps'' for ''housing needs of handicapped individuals'' in seventh sentence.

1986—Subsec. (a)(1)(A). Pub. L. 99–506, §§ 103(d)(2)(C), 601(a)(2), substituted ''Twelve'' for ''Eleven'', ''six'' for ''five'', and ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(1)(B). Pub. L. 99–506, § 601(a)(1), substituted provision that Chairperson and vice-chairperson of Board shall be elected by majority vote of members of Board to serve for terms of one year, for provision that President had to appoint first Chairman of such Board who was to serve for term of not more than two years, with subsequent Chairmen to be elected by majority vote of Board for term of one year, and inserted provisions that positions of Chairperson and vice-chairperson each be held alternately in succession by Federal official and by member of general public, and that when either office is held by member of general public, the other will be held by Federal official.

Subsec. (a)(2)(ii), (iii). Pub. L. 99–506, § 601(a)(3), added cls. (ii) and (iii), and struck out former cl. (ii) which read as follows: ''any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed''.

Subsec. (a)(6). Pub. L. 99–506, § 601(a)(4), added par. (6).

Subsecs. (b)(2), (c). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (d)(2)(A). Pub. L. 99–506, § 1002(e)(2)(B), substituted ''any final order'' for ''any, final order''.

Subsec. (d)(3). Pub. L. 99–506, § 1002(e)(2)(C), substituted ''Department of Education'' for ''Department of Health, Education, and Welfare'' and ''with respect to overcoming'' for ''with respect overcoming to''.

Subsec. (e)(2). Pub. L. 99–506, § 1002(e)(2)(D), substituted ''alleged noncompliance and in'' for ''alleged noncompliance in''.

Subsec. (g). Pub. L. 99–506, § 601(b), inserted provisions requiring the Board to submit, not later than Feb. 1, 1988, two additional reports on its activities under subsec. (c), one report to deal with its activities relating to transportation barriers to handicapped individuals, the other to deal with activities relating to the housing needs of handicapped individuals.

Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (h)(1). Pub. L. 99–506, § 103(d)(2)(C), substituted reference to individuals with handicaps for reference to handicapped individuals.

Subsec. (i). Pub. L. 99–506, § 601(c), which directed the substitution of ''of the fiscal years 1987, 1988, 1989, 1990, and 1991,'' for ''fiscal year ending before October 1,

1986,'' was executed by making the substitution for ''fiscal year ending before October 1, 1986.,'' as the probable intent of Congress. See 1984 Amendment note below.

1984—Subsec. (i). Pub. L. 98–221 substituted ''October 1, 1986.'' for ''October 1, 1982''.

1980—Subsec. (a)(1)(B)(i). Pub. L. 96–374, § 1321(a)(1), substituted ''Department of Health and Human Services'' for ''Department of Health, Education, and Welfare''.

Subsec. (a)(1)(B)(xi). Pub. L. 96–374, § 1321(a)(2), added cl. (xi).

Subsec. (h)(3). Pub. L. 96–374, § 1321(b), added par. (3).

1978—Subsec. (a). Pub. L. 95–602, § 118(a), substituted provision permitting President to appoint eleven members of Board from general public of whom five are to be handicapped, adding head of the Department of Justice as a Board member, authorizing President to appoint the first chairman, and providing for the term of office, reappointment, and compensation of Board members for provision restricting Board membership to head of Department of Health, Education, and Welfare, Department of Transportation, Department of Housing and Urban Development, Department of Labor, Department of the Interior, Department of Defense, General Services Administration, United States Postal Service, and Veterans' Administration, appointing Secretary of Health, Education, and Welfare as chairman, and authorizing appointment of a Consumer Advisory Panel, a majority of members of which were to be handicapped, to provide guidance, advice, and recommendations to Board.

Subsec. (b)(1). Pub. L. 95–602, § 118(b)(1), substituted provision requiring Board to insure compliance with standards of Architectural Barriers Act of 1968, including application to United States Postal Service, and to insure all waivers and modifications of standards are based on findings of fact and are not inconsistent with that Act or this section for provision requiring Board to insure compliance with the standards prescribed by General Services Administration, Department of Defense, and Department of Housing and Urban Development pursuant to Architectural Barriers Act of 1968.

Subsec. (b)(2). Pub. L. 95–602, § 118(b)(2), inserted ''communication,'' before ''and attitudinal'' and ''telecommunication devices,'' before ''public buildings''.

Subsec. (b)(7), (8). Pub. L. 95–602, § 118(b)(3), added pars. (7) and (8).

Subsec. (d). Pub. L. 95–602, § 118(c), designated existing provision as par. (1), substituted ''public or private nonprofit organizations or contracts with private nonprofit or forprofit organizations'' for ''or contracts with public or private nonprofit organizations'', ''Except as provided in paragraph (3) of subsection (e) of this section, provisions'' for ''The provisions'', ''building or public conveyance or rolling stock found'' for ''building found'', and ''enforced under this section'' for ''prescribed pursuant to the Acts cited in subsection (b) of this section'', inserted provision permitting a complainant or participant in a proceeding under this subsection to obtain review of a final order pursuant to chapter 7 of title 5, and added pars. (2) and (3).

Subsec. (e). Pub. L. 95–602, § 118(d), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 95–251 substituted ''administrative law judges'' for ''hearing examiners'' wherever appearing. Such substitution was made in pars. (2) and (3) as the probable intent of Congress in view of the amendment to subsec. (e) by section 2(a)(8) of Pub. L. 95–251 (although prior in time to the amendment by Pub. L. 95–602) requiring such substitution wherever appearing in text.

Subsec. (h). Pub. L. 95–602, § 118(e), added subsec. (h). Former subsec. (h), which authorized appropriations for carrying out duties and functions of the Board of $1,000,000 for each of fiscal years ending June 30, 1974, and June 30, 1975, $1,500,000 for fiscal year ending June 30, 1976, and $1,500,000 for each of fiscal years ending Sept. 30, 1977 and Sept. 30, 1978, was struck out.

Subsec. (i). Pub. L. 95–602, § 118(e), added subsec. (i).

1976—Subsec. (h). Pub. L. 94–230, § 10, authorized appropriation of $1,500,000 for fiscal year ending Sept. 30, 1977.

Pub. L. 94–230, § 11(b)(13), authorized appropriation of $1,500,000 for fiscal year ending Sept. 30, 1978.

1974—Subsec. (a). Pub. L. 93–516, § 111(n), redesignated cls. (6), (7), and (8), as cls. (7), (8), and (9), added cl. (6), and following designated clauses, inserted provisions that Secretary of Health, Education, and Welfare shall be Chairman of Board, and that Board shall appoint, upon recommendation of Secretary, a Consumer Advisory Panel, a majority of members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to Board in carrying out its functions.

Pub. L. 93–651, § 111(n), amended subsec. (a) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (d). Pub. L. 93–516, § 111(*o*), substituted ''this chapter, the Board shall, directly or through grants to or contracts with public or private nonprofit organizations, carrying out its functions under subsections (b) and (c) of this section, and shall conduct'' for ''this section, the Board shall conduct'', and inserted provisions that any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality, and that an order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with standards prescribed pursuant to the Acts referred to in subsec. (b) of this section.

Pub. L. 93–651, 111(*o*), amended subsec. (d) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (e). Pub. L. 93–516, § 111(p), inserted provisions relating to appointment of an executive director and other professional and clerical personnel.

Pub. L. 93–651, § 111(p), amended subsec. (e) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (g). Pub. L. 93–516, § 111(q), substituted ''not later than September 30, 1975'' for ''prior to January 1, 1975''.

Pub. L. 93–651, § 111(q), amended subsec. (g) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (h). Pub. L. 93–516, § 110, authorized appropriation of $1,500,000 for fiscal year ending June 30, 1976.

Pub. L. 93–651, § 110, amended subsec. (h) in exactly the same manner as it was amended by Pub. L. 93–516.

Effective Date of 1980 Amendment

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of Title 20, Education.

Extension of Vocational Rehabilitation Programs Through Fiscal Year Ending September 30, 1978; Effective Date of 1976 Amendment

For contingency provisions relating to the extensions of program authorizations and to the effective date of such extensions, see section 11(a), (b)(1), and (c) of Pub. L. 94–230, set out as a note under section 720 of this title.

Termination of Advisory Panels

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 793. Employment under Federal contracts

(a) Amount of contracts or subcontracts; provision for employment and advancement of qualified individuals with disabilities; regulations

Any contract in excess of $10,000 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified individuals with disabilities. The provisions of this section shall apply to any subcontract in excess of $10,000 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after September 26, 1973.

(b) Administrative enforcement; complaints; investigations; departmental action

If any individual with a disability believes any contractor has failed or refused to comply with the provisions of a contract with the United States, relating to employment of individuals with disabilities, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

(c) Waiver by President; national interest special circumstances for waiver of particular agreements; waiver by Secretary of Labor of affirmative action requirements

(1) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which the President shall prescribe, when the President determines that special circumstances in the national interest so require and states in writing the reasons for such determination.

(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) of this section with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this chapter.

(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.

(d) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,[1] of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(e) Avoidance of duplicative efforts and inconsistencies

The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.

(Pub. L. 93–112, title V, § 503, Sept. 26, 1973, 87 Stat. 393; Pub. L. 95–602, title I, § 122(d)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99–506, title I, § 103(d)(2)(B), (C), title X, §§ 1001(f)(2), (3), 1002(e)(3), Oct. 21, 1986, 100 Stat. 1810, 1843, 1844; Pub. L. 100–630, title II, § 206(c), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title I, § 102(p)(31), title V, § 505, Oct. 29, 1992, 106 Stat. 4360, 4427.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsecs. (d) and (e), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act is classified generally to subchapter I (§ 12111 et seq.) of chapter 126 of Title 42. Section 510 of the Act was renumbered section 511 by Pub. L. 110–325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, §§ 102(p)(31)(A), 505(a), substituted "$10,000" for "$2,500" in two places, struck out ", in employing persons to carry out such contract," after "contain a provision requiring that", and substituted "individuals with disabilities" for "individuals with handicaps as defined in section 706(8) of this title".

Subsec. (b). Pub. L. 102–569, § 102(p)(31)(B), substituted "individual with a disability" for "individual with handicaps" and "individuals with disabilities" for "individuals with handicaps".

Subsec. (c). Pub. L. 102–569, § 505(b), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d), (e). Pub. L. 102–569, § 505(c), added subsecs. (d) and (e).

1988—Subsec. (a). Pub. L. 100–630, § 206(c)(1), inserted a comma after "to carry out such contract".

Subsec. (b). Pub. L. 100–630, § 206(c)(2), substituted "refused" for "refuses".

Subsec. (c). Pub. L. 100–630, § 206(c)(3), substituted "which the President" for "which The President" and "when the President" for "when The President".

1986—Subsec. (a). Pub. L. 99–506, §§ 103(d)(2)(C), 1002(e)(3), substituted "individuals with handicaps" for "handicapped individuals" and "section 706(8) of this title" for "section 706(7) of this title".

Subsec. (b). Pub. L. 99–506, §§ 103(d)(2)(B), (C), 1001(f)(2), substituted "individual with handicaps" for "handicapped individual", "individuals with handicaps" for "handicapped individuals", and "a contract" for "his contract".

[1] See References in Text note below.

Subsec. (c). Pub. L. 99–506, § 1001(f)(3), substituted ''The President'' for ''he'' in two places and substituted ''the reasons'' for ''his reasons''.

1978—Subsec. (a). Pub. L. 95–602 substituted ''section 706(7) of this title'' for ''section 706(6) of this title''.

§ 794. Nondiscrimination under Federal grants and programs

(a) Promulgation of rules and regulations

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

(b) "Program or activity" defined

For the purposes of this section, the term ''program or activity'' means all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other post-secondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 7801 of title 20), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

(c) Significant structural alterations by small providers

Small providers are not required by subsection (a) of this section to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on March 22, 1988.

(d) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,[1] of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(Pub. L. 93–112, title V, § 504, Sept. 26, 1973, 87 Stat. 394; Pub. L. 95–602, title I, §§ 119, 122(d)(2), Nov. 6, 1978, 92 Stat. 2982, 2987; Pub. L. 99–506, title I, § 103(d)(2)(B), title X, § 1002(e)(4), Oct. 21, 1986, 100 Stat. 1810, 1844; Pub. L. 100–259, § 4, Mar. 22, 1988, 102 Stat. 29; Pub. L. 100–630, title II, § 206(d), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title I, § 102(p)(32), title V, § 506, Oct. 29, 1992, 106 Stat. 4360, 4428; Pub. L. 103–382, title III, § 394(i)(2), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105–220, title IV, § 408(a)(3), Aug. 7, 1998, 112 Stat. 1203; Pub. L. 107–110, title X, § 1076(u)(2), Jan. 8, 2002, 115 Stat. 2093.)

REFERENCES IN TEXT

The amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978, referred to in subsec. (a), mean the amendments made by Pub. L. 95–602. See 1978 Amendments note below.

The Americans with Disabilities Act of 1990, referred to in subsec. (d), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327. Title I of the Act is classified generally to subchapter I (§ 12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. Section 510 of the Act was renumbered section 511 by Pub. L. 110–325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (b)(2)(B). Pub. L. 107–110 substituted ''section 7801 of title 20'' for ''section 8801 of title 20''.

1998—Subsec. (a). Pub. L. 105–220 substituted ''section 705(20)'' for ''section 706(8)''.

1994—Subsec. (b)(2)(B). Pub. L. 103–382 substituted ''section 8801 of title 20'' for ''section 2891(12) of title 20''.

1992—Subsec. (a). Pub. L. 102–569, § 102(p)(32), substituted ''a disability'' for ''handicaps'' and ''disability'' for ''handicap'' in first sentence.

Subsec. (d). Pub. L. 102–569, § 506, added subsec. (d).

1988—Subsec. (a). Pub. L. 100–630, § 206(d)(1), substituted ''her or his handicap'' for ''his handicap''.

Pub. L. 100–259, § 4(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 100–259, § 4(2), added subsec. (b).

Subsec. (b)(2)(B). Pub. L. 100–630, § 206(d)(2), substituted ''section 2891(12) of title 20'' for ''section 2854(a)(10) of title 20''.

[1] See References in Text note below.

Subsec. (c). Pub. L. 100–259, § 4(2), added subsec. (c).

1986—Pub. L. 99–506 substituted ''individual with handicaps'' for ''handicapped individual'' and ''section 706(8) of this title'' for ''section 706(7) of this title''.

1978—Pub. L. 95–602 substituted ''section 706(7) of this title'' for ''section 706(6) of this title'' and inserted provision prohibiting discrimination under any program or activity conducted by any Executive agency or by the United States Postal Service and requiring the heads of these agencies to promulgate regulations prohibiting discrimination.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

EXCLUSION FROM COVERAGE

Amendment by Pub. L. 100–259 not to be construed to extend application of this chapter to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100–259, set out as a Construction note under section 1687 of Title 20, Education.

ABORTION NEUTRALITY

Amendment by Pub. L. 100–259 not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100–259, set out as a note under section 1688 of Title 20, Education.

CONSTRUCTION OF PROHIBITION AGAINST DISCRIMINATION UNDER FEDERAL GRANTS

Rights or protections of this section not affected by any provision of Pub. L. 98–457, see section 127 of Pub. L. 98–457, set out as a note under section 5101 of Title 42, The Public Health and Welfare.

COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS

For provisions relating to the coordination of implementation and enforcement of the provisions of this section by the Attorney General, see section 1–201 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d–1 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 11914

Ex. Ord. No. 11914, Apr. 28, 1976, 41 F.R. 17871, which related to nondiscrimination in federally assisted programs, was revoked by Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d–1 of Title 42, The Public Health and Welfare.

§ 794a. Remedies and attorney fees

(a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), including the application of sections 706(f) through 706(k) (42 U.S.C. 2000e–5(f) through (k)), shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 794 of this title.

(b) In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(Pub. L. 93–112, title V, § 505, as added Pub. L. 95–602, title I, § 120(a), Nov. 6, 1978, 92 Stat. 2982.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a)(2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 794b. Removal of architectural, transportation, or communication barriers; technical and financial assistance; compensation of experts or consultants; authorization of appropriations

(a) The Secretary may provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance—

(1) to persons operating community rehabilitation programs; and

(2) with the concurrence of the Access Board established by section 792 of this title, to any public or nonprofit agency, institution, or organization;

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Access Board under paragraph (2) shall reflect its consideration of cost studies carried out by States.

(b) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(c) The Secretary, with the concurrence of the Access Board and the President, may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers. No assistance may be provided under this subsection until a study demonstrating the need for such assistance has been conducted and submitted under section 792(i)(1) of this title.

(d) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.

(Pub. L. 93–112, title V, § 506, as added Pub. L. 95–602, title I, § 120(a), Nov. 6, 1978, 92 Stat. 2983; amended Pub. L. 100–630, title II, § 206(e), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title V, § 507, Oct. 29, 1992, 106 Stat. 4428; Pub. L. 105–220, title IV, § 408(a)(4), Aug. 7, 1998, 112 Stat. 1203; Pub. L. 105–394, title II, § 203(b), Nov. 13, 1998, 112 Stat. 3653.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–220, § 408(a)(4)(A), in concluding provisions, inserted last sentence and struck out former last sentence which read as follows: ''Any concurrence of the Access Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 792(c)(1) of this title.''

Subsec. (c). Pub. L. 105–394 substituted ''792(i)(1)'' for ''792(h)(1)''.

Pub. L. 105–220, § 408(a)(4)(B), substituted ''provided under this subsection'' for ''provided under this paragraph''.

1992—Subsec. (a). Pub. L. 102–569, § 507(a), (b), substituted ''community rehabilitation programs'' for ''rehabilitation facilities'' in par. (1) and inserted ''Access'' before ''Board'' in par. (2) and concluding provisions.

Subsec. (b). Pub. L. 102–569, § 507(c), substituted ''the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382'' for ''the rate of basic pay payable for grade GS–18 of the General Schedule, under section 5332''.

Subsec. (c). Pub. L. 102–569, § 507(a), (d), inserted ''Access'' before ''Board'' and substituted ''792(h)(1)'' for ''792(h)(2)''.

1988—Subsec. (a). Pub. L. 100–630, § 206(e)(1), (2), redesignated former par. (1) as subsec. (a) and former subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 100–630, § 206(e)(1), (3), redesignated former par. (2) as subsec. (b) and substituted ''travel time'' for ''traveltime''.

Subsec. (c). Pub. L. 100–630, § 206(e)(1), (4), redesignated former par. (3) as subsec. (c) and inserted a comma after ''the President''.

Subsec. (d). Pub. L. 100–630, § 206(e)(1), redesignated former par. (4) as subsec. (d).

§ 794c. Interagency Disability Coordinating Council

(a) Establishment

There is hereby established an Interagency Disability Coordinating Council (hereafter in this section referred to as the ''Council'') composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and such other officials as may be designated by the President.

(b) Duties

The Council shall—

(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this subchapter, and the regulations prescribed thereunder;

(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal Government responsible for promoting the full integration into society, independence, and productivity of individuals with disabilities; and

(3) carry out such studies and other activities, subject to the availability of resources, with advice from the National Council on Disability, in order to identify methods for overcoming barriers to integration into society, independence, and productivity of individuals with disabilities.

(c) Report

On or before July 1 of each year, the Interagency Disability Coordinating Council shall prepare and submit to the President and to the Congress a report of the activities of the Council designed to promote and meet the employment needs of individuals with disabilities, together with such recommendations for legislative and administrative changes as the Council concludes are desirable to further promote this section, along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with disabilities. Nothing in this section shall impair any responsibilities assigned by any Executive order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this subchapter.

(Pub. L. 93–112, title V, § 507, as added Pub. L. 95–602, title I, § 120(a), Nov. 6, 1978, 92 Stat. 2983; amended Pub. L. 96–88, title V, § 508(m)(2), Oct. 17, 1979, 93 Stat. 694; Pub. L. 98–221, title I, § 104(b)(4), Feb. 22, 1984, 98 Stat. 18; Pub. L. 99–506, title VI, § 602, title X, § 1001(f)(4), Oct. 21, 1986, 100 Stat. 1830, 1843; Pub. L. 102–569, title V, § 508(a), Oct. 29, 1992, 106 Stat. 4429.)

AMENDMENTS

1992—Pub. L. 102–569 amended section generally, changing Council name from Interagency Coordinating Council to Interagency Disability Coordinating Council, including as members Secretary of Housing and Urban Development, Secretary of Transportation, and such other officials as designated by the President, requiring Council to be responsible for developing and implementing policies and practices to eliminate inconsistencies among Federal departments and agencies responsible for enforcement of provisions of this subchapter and to carry out such studies and other activities, with advice from the National Council on Disability, to identify methods for overcoming barriers to integration into society, independence, and productivity of individuals with disabilities, and directing in annual report inclusion of any comments submitted by National Council on Disability as to effectiveness of activities and recommendations in meeting needs of individuals with disabilities.

1986—Pub. L. 99–506, § 602, inserted reference to Assistant Secretary of the Interior for Indian Affairs.

Pub. L. 99–506, § 1001(f)(4), which directed the substitution of ''Chairperson'' for ''Chairman'' was executed

by substituting ''Chairperson of the Architectural and Transportation Barriers Compliance Board'' for ''Chairman of the Architectural and Transportation Barriers Compliance Board'' to reflect the probable intent of Congress.

1984—Pub. L. 98–221 substituted ''Chairman of the Office of Personnel Management'' for ''Chairman of the United States Civil Service Commission'' and purported to substitute ''Secretary of Education, the Secretary of Health and Human Services,'' for ''Secretary of Health, Education, and Welfare'' which amendment could not be executed in view of the previous amendment by Pub. L. 96–88. See 1979 Amendment note below.

1979—Pub. L. 96–88 substituted requirement that the Secretaries of Education and Health and Human Services be members of the Council for requirement that the Secretary of Health, Education, and Welfare be a member.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of Title 20, Education.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) of this section relating to requirement that the Council submit an annual report of activities to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 175 of House Document No. 103–7.

§ 794d. Electronic and information technology

(a) Requirements for Federal departments and agencies

(1) Accessibility

(A) Development, procurement, maintenance, or use of electronic and information technology

When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology—

(i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and

(ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.

(B) Alternative means efforts

When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board under paragraph (2) would impose an undue burden, the Federal department or agency shall provide individuals with disabilities covered by paragraph (1) with the information and data involved by an alternative means of access that allows the individual to use the information and data.

(2) Electronic and information technology standards

(A) In general

Not later than 18 months after August 7, 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the ''Access Board''), after consultation with the Secretary of Education, the Administrator of General Services, the Secretary of Commerce, the Chairman of the Federal Communications Commission, the Secretary of Defense, and the head of any other Federal department or agency that the Access Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, including organizations representing individuals with disabilities, shall issue and publish standards setting forth—

(i) for purposes of this section, a definition of electronic and information technology that is consistent with the definition of information technology specified in section 11101(6) of title 40; and

(ii) the technical and functional performance criteria necessary to implement the requirements set forth in paragraph (1).

(B) Review and amendment

The Access Board shall periodically review and, as appropriate, amend the standards required under subparagraph (A) to reflect technological advances or changes in electronic and information technology.

(3) Incorporation of standards

Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards. Not later than 6 months after the Access Board revises any standards required under paragraph (2), the Council shall revise the Federal Acquisition Regulation and each appropriate Federal department or agency shall revise the procurement policies and directives, as necessary, to incorporate the revisions.

(4) Acquisition planning

In the event that a Federal department or agency determines that compliance with the standards issued by the Access Board under paragraph (2) relating to procurement imposes an undue burden, the documentation by the department or agency supporting the procurement shall explain why compliance creates an undue burden.

(5) Exemption for national security systems

This section shall not apply to national security systems, as that term is defined in section 11103(a) of title 40.

(6) Construction

(A) Equipment

In a case in which the Federal Government provides access to the public to information or data through electronic and information technology, nothing in this section shall be construed to require a Federal department or agency—

(i) to make equipment owned by the Federal Government available for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public; or

(ii) to purchase equipment for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public.

(B) Software and peripheral devices

Except as required to comply with standards issued by the Access Board under paragraph (2), nothing in paragraph (1) requires the installation of specific accessibility-related software or the attachment of a specific accessibility-related peripheral device at a workstation of a Federal employee who is not an individual with a disability.

(b) Technical assistance

The Administrator of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.

(c) Agency evaluations

Not later than 6 months after August 7, 1998, the head of each Federal department or agency shall evaluate the extent to which the electronic and information technology of the department or agency is accessible to and usable by individuals with disabilities described in subsection (a)(1) of this section, compared to the access to and use of the technology by individuals described in such subsection who are not individuals with disabilities, and submit a report containing the evaluation to the Attorney General.

(d) Reports

(1) Interim report

Not later than 18 months after August 7, 1998, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the extent to which the electronic and information technology of the Federal Government is accessible to and usable by individuals with disabilities described in subsection (a)(1) of this section.

(2) Biennial reports

Not later than 3 years after August 7, 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f) of this section.

(e) Cooperation

Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall provide to the Attorney General such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) of this section and prepare the reports under subsection (d) of this section.

(f) Enforcement

(1) General

(A) Complaints

Effective 6 months after the date of publication by the Access Board of final standards described in subsection (a)(2) of this section, any individual with a disability may file a complaint alleging that a Federal department or agency fails to comply with subsection (a)(1) of this section in providing electronic and information technology.

(B) Application

This subsection shall apply only to electronic and information technology that is procured by a Federal department or agency not less than 6 months after the date of publication by the Access Board of final standards described in subsection (a)(2) of this section.

(2) Administrative complaints

Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 794 of this title for resolving allegations of discrimination in a federally conducted program or activity.

(3) Civil actions

The remedies, procedures, and rights set forth in sections 794a(a)(2) and 794a(b) of this title shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under paragraph (1).

(g) Application to other Federal laws

This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 791 through 794a of this title) that provides greater or equal protection for the rights of individuals with disabilities than this section.

(Pub. L. 93–112, title V, § 508, as added Pub. L. 99–506, title VI, § 603(a), Oct. 21, 1986, 100 Stat. 1830; amended Pub. L. 100–630, title II, § 206(f), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title V, § 509(a), Oct. 29, 1992, 106 Stat. 4430; Pub. L. 105–220, title IV, § 408(b), Aug. 7, 1998, 112 Stat. 1203; Pub. L. 106–246, div. B, title II, § 2405, July 13, 2000, 114 Stat. 555.)

CODIFICATION

''Section 11101(6) of title 40'' substituted in subsec. (a)(2)(A)(i) for ''section 5002(3) of the Clinger-Cohen Act

of 1996 (40 U.S.C. 1401(3))'' and ''section 11103(a) of title 40'' substituted in subsec. (a)(5) for ''section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2000—Subsec. (f)(1)(A). Pub. L. 106–246, § 2405(1), substituted ''Effective 6 months after the date of publication by the Access Board of final standards described in subsection (a)(2) of this section,'' for ''Effective 2 years after August 7, 1998,''.

Subsec. (f)(1)(B). Pub. L. 106–246, § 2405(2), substituted ''6 months after the date of publication by the Access Board of final standards described in subsection (a)(2) of this section.'' for ''2 years after August 7, 1998.''

1998—Pub. L. 105–220 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) and (b) relating to electronic and information technology accessibility guidelines.

1992—Pub. L. 102–569 amended section generally, substituting present provisions for provisions relating to electronic equipment accessibility guidelines, in consultation with electronic industry, designed to insure individuals with handicaps use of electronic office equipment with or without special peripherals, requiring the Administrator of General Services to adopt guidelines for electronic equipment accessibility established under this section for Federal procurement of electronic equipment, and defining term ''special peripherals''.

1988—Subsec. (a)(1). Pub. L. 100–630, § 206(f)(1), inserted ''the Director of'' before ''the National Institute'', struck out ''the'' before ''General Services'', and substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(3). Pub. L. 100–630, § 206(f)(2), inserted ''by the Director of the National Institute on Disability and Rehabilitation Research and the Administrator of General Services in consultation with the electronics industry and the Interagency Committee for Computer Support of Handicapped Employees'' after ''revised''.

Subsec. (c). Pub. L. 100–630, § 206(f)(3), substituted ''an individual with handicaps'' for ''a handicapped individual''.

§ 794e. Protection and advocacy of individual rights

(a) Purpose and construction

(1) Purpose

The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

(A) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 732 of this title; and

(B)(i) are ineligible for protection and advocacy programs under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.] because the individuals do not have a developmental disability, as defined in section 102 of such Act [42 U.S.C. 15002]; and

(ii) are ineligible for services under the Protection and Advocacy for Mentally Ill Individuals Act of 1986[1] (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

[1] See References in Text note below.

(2) Construction

This section shall not be construed to require the provision of protection and advocacy services that can be provided under the Assistive Technology Act of 1998 [29 U.S.C. 3001 et seq.].

(b) Appropriations less than $5,500,000

For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of subparagraphs (A) and (B) of subsection (a)(1) of this section.

(c) Appropriations of $5,500,000 or more

(1) Reservations

(A) Technical assistance

For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

(B) Grant for the eligible system serving the American Indian consortium

For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $10,500,000, the Commissioner shall reserve a portion, and use the portion to make a grant for the eligible system serving the American Indian consortium. The Commission shall make the grant in an amount of not less than $50,000 for the fiscal year.

(2) Allotments

For any such fiscal year, after the reservations required by paragraph (1) have been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for individuals referred to in subsection (b) of this section.

(3) Systems within States

(A) Population basis

Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

(B) Minimums

Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or ⅓ of 1 percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this sec-

tion for any fiscal year that is less than $100,000 or ⅓ of 1 percent of such remainder shall be increased to the greater of the two amounts.

(4) Systems within other jurisdictions

(A) In general

For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

(B) Allotment

The eligible system within a jurisdiction described in subparagraph (A) shall be allotted under paragraph (3)(A) not less than $50,000 for the fiscal year for which the allotment is made.

(5) Adjustment for inflation

For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

(d) Proportional reduction

To provide minimum allotments to systems within States (as increased under subsection (c)(5) of this section) under subsection (c)(3)(B) of this section, or to provide minimum allotments to systems within States (as increased under subsection (c)(5) of this section) under subsection (c)(4)(B) of this section, the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3) of this section, with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5) of this section) under subsection (c)(3)(B) of this section, or the minimum allotment for a State (as increased under subsection (c)(5) of this section) under subsection (c)(4)(B) of this section, as appropriate.

(e) Reallotment

Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) of this section will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

(f) Application

In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

(2) have the same general authorities, including access to records and program income, as are set forth in subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.];

(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a)(1) of this section;

(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;

(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, the individuals' representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 732 of this title, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15001 et seq.], and the Protection and Advocacy for Mentally Ill Individuals Act of 1986[2] (42 U.S.C. 10801 et seq.);

(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

(g) Carryover and direct payment

(1) Direct payment

Notwithstanding any other provision of law, the Commissioner shall pay directly to any

[2] See References in Text note below.

system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

(2) Carryover

Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

(h) Limitation on disclosure requirements

For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

(i) Administrative cost

In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) of this section for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

(j) Delegation

The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

(k) Report

The Commissioner shall annually prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

(*l*) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

(m) Definitions

As used in this section:

(1) Eligible system

The term ''eligible system'' means a protection and advocacy system that is established under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.] and that meets the requirements of subsection (f) of this section.

(2) American Indian consortium

The term ''American Indian consortium'' means a consortium established as described in section 142[2] of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).

(Pub. L. 93–112, title V, § 509, as added Pub. L. 102–569, title V, § 510(a), Oct. 29, 1992, 106 Stat. 4430; amended Pub. L. 103–73, title I, § 112(c), Aug. 11, 1993, 107 Stat. 727; Pub. L. 105–12, § 9(n), Apr. 30, 1997, 111 Stat. 28; Pub. L. 105–220, title IV, § 408(c), Aug. 7, 1998, 112 Stat. 1206; Pub. L. 105–394, title IV, § 402(c), Nov. 13, 1998, 112 Stat. 3662; Pub. L. 106–402, title IV, § 401(b)(3)(C), (D), Oct. 30, 2000, 114 Stat. 1738.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsecs. (a)(1)(B)(i), (f)(2), (5)(B), and (m)(1), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677, which is classified principally to chapter 144 (§ 15001 et seq.) of Title 42, The Public Health and Welfare. Subtitle C of the Act probably means subtitle C of title I of the Act which is classified generally to part C (§ 15041 et seq.) of subchapter I of chapter 144 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in subsecs. (a)(1)(B)(ii) and (f)(5)(B), was Pub. L. 99–319, May 23, 1986, 100 Stat. 478, as amended. Pub. L. 99–319 was renamed the Protection and Advocacy for Individuals with Mental Illness Act by Pub. L. 106–310, div. B, title XXXII, § 3206(a), Oct. 17, 2000, 114 Stat. 1193, and is classified generally to chapter 114 (§ 10801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of Title 42 and Tables.

The Assistive Technology Act of 1998, referred to in subsec. (a)(2), is Pub. L. 105–394, Nov. 13, 1998, 112 Stat. 3627, which is classified principally to chapter 31 (§ 3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Older Americans Act of 1965, referred to in subsec. (f)(5)(B), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§ 3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

Section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042), referred to in subsec. (m)(2), was repealed by Pub. L. 106–402, title IV, § 401(a), Oct. 30, 2000, 114 Stat. 1737.

AMENDMENTS

2000—Subsecs. (a)(1)(B)(i), (f)(2). Pub. L. 106–402, § 401(b)(3)(C), substituted ''subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000'' for ''part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.)''.

Subsec. (f)(5)(B). Pub. L. 106–402, § 401(b)(3)(D), substituted ''Developmental Disabilities Assistance and Bill of Rights Act of 2000'' for ''Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.)''.

Subsec. (m)(1). Pub. L. 106–402, § 401(b)(3)(C), substituted ''subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000'' for ''part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.)''.

1998—Pub. L. 105–220 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (n) relating to protection and advocacy of individual rights.

Subsec. (a)(2). Pub. L. 105–394 substituted ''the Assistive Technology Act of 1998'' for ''the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (42 U.S.C. 2201 et seq.)''.

1997—Subsec. (f)(8). Pub. L. 105–12 added par. (8).

1993—Subsec. (a)(1). Pub. L. 103–73, § 112(c)(1), added par. (1) and struck out former par. (1) which read as follows: ''are ineligible for client assistance programs under section 732 of this title; and''.

Subsec. (b). Pub. L. 103–73, § 112(c)(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

''(1) ALLOTMENTS.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a) of this section.

''(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.''

Subsec. (c)(4)(A). Pub. L. 103–73, § 112(c)(3)(A)(i), substituted ''paragraph (3)(B)'' for ''this subsection''.

Subsec. (c)(4)(B). Pub. L. 103–73, § 112(c)(3)(A)(ii), substituted ''allotted under paragraph (3)(A)'' for ''allotted''.

Subsec. (c)(5). Pub. L. 103–73, § 112(c)(3)(B), added par. (5) and struck out heading and text of former par. (5). Text read as follows:

''(A) STATES.—For purposes of determining the minimum amount of an allotment under paragraph (3)(B), the amount $100,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

''(B) CERTAIN TERRITORIES.—For purposes of determining the minimum amount of an allotment under paragraph (4)(B), the amount $50,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.''

Subsec. (d). Pub. L. 103–73, § 112(c)(4), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: ''Amounts necessary to provide allotments to systems within States in accordance with subsection (c)(3)(B) of this section as increased under subsection (c)(5) of this section, or to provide allotments in accordance with subsection (c)(4)(B) of this section as increased in accordance with subsection (c)(5) of this section, shall be derived by proportionately reducing the allotments of the remaining systems within States under subsection (c)(3) of this section, but with such adjustments as may be necessary to prevent the allotment of any such remaining systems within States from being thereby reduced to less than the greater of $100,000 or one-third of one percent of the sums made available for purposes of this section for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(5) of this section.''

Subsec. (i). Pub. L. 103–73, § 112(c)(6), which directed the amendment of this section ''in subsection (i), to read as follows:'', was executed by adding subsec. (i). Former subsec. (i) redesignated (n).

Subsec. (j). Pub. L. 103–73, § 112(c)(7), added subsec. (j) and struck out heading and text of former subsec. (j). Text read as follows: ''An eligible system may not use more than 5 percent of any allotment under subsection (c) of this section for the cost of administration of the system required by this section.''

Subsec. (n). Pub. L. 103–73, § 112(c)(5), redesignated subsec. (i) as (n).

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–12 effective Apr. 30, 1997, applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, and also applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as an Effective Date note under section 14401 of Title 42, The Public Health and Welfare.

SUBCHAPTER VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

CODIFICATION

Title VI of the Rehabilitation Act of 1973, comprising this subchapter, was originally added to Pub. L. 93–112 by Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2989, and amended by Pub. L. 98–221, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99–506, Oct. 21, 1986, 100 Stat. 1807; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 102–52, June 6, 1991, 105 Stat. 260; Pub. L. 102–119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103–73, Aug. 11, 1993, 107 Stat. 718. Title VI is shown herein, however, as having been added by Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1210, without reference to those intervening amendments because of the extensive revision of title VI by Pub. L. 105–220.

PART A—PROJECTS WITH INDUSTRY

§ 795. Projects With Industry

(a) Purpose; award of grants; eligibility; agreements; evaluation; technical assistance

(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

(2) The Commissioner, in consultation with the Secretary of Labor and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

(A) provide for the establishment of business advisory councils, that shall—

(i) be comprised of—

(I) representatives of private industry, business concerns, and organized labor;

(II) individuals with disabilities and representatives of individuals with disabilities; and

(III) a representative of the appropriate designated State unit;

(ii) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment board for the community under section 2833(b)(1)(B) of this title;

(iii) identify the skills necessary to perform the jobs and careers identified; and

(iv) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities in fields related to the job and career availability identified under clause (ii);

(B) provide job development, job placement, and career advancement services;

(C) to the extent appropriate, provide for—

(i) training in realistic work settings in order to prepare individuals with disabilities for employment and career advancement in the competitive market; and

(ii) to the extent practicable, the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities, except that a project shall not be required to provide for such modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(D) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

(3)(A) An individual shall be eligible for services described in paragraph (2) if the individual is determined to be an individual described in section 722(a)(1) of this title, and if the determination is made in a manner consistent with section 722(a) of this title.

(B) Such a determination may be made by the recipient of a grant under this part, to the extent the determination is appropriate and available and consistent with the requirements of section 722(a) of this title.

(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or the individuals' representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c) of this section), and contain the items required under subsection (b) of this section and such other provisions as the parties to the agreement consider to be appropriate.

(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d) of this section, and, in conducting the review and evaluation, to collect data and information of the type described in subparagraphs (A) through (C) of section 721(a)(10) of this title, as determined to be appropriate by the Commissioner.

(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

(A) assist employers in hiring individuals with disabilities; or

(B) improve or develop relationships between—

(i) grant recipients or prospective grant recipients; and

(ii) employers or organized labor; or

(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.

(b) Requirements for payment

No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) of this section unless such agreement—

(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated nondisabled co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) of this section shall be submitted as determined to be appropriate by the Commissioner.

(c) Amount of payments

Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

(d) Standards for evaluation; recommendations

(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) of this section and shall review and revise the evaluation standards as necessary, subject to paragraph (2).

(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.

(e) Period of grant; renewal; award on competitive basis; equitable distribution

(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(2) The Commissioner shall, to the extent practicable, ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

(f) Indicators for compliance with evaluation standards; annual reports; onsite compliance reviews; analysis included in reports to Congress

(1) The Commissioner shall, as necessary, develop and publish in the Federal Register, in final form, indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1) of this section.

(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

(3)(A) The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

(i) is not an employee of the Federal Government; and

(ii) has experience or expertise in conducting projects.

(D) The Commissioner shall ensure that—

(i) a representative of the appropriate designated State unit shall participate in the review; and

(ii) no person shall participate in the review of a grant recipient if—

(I) the grant recipient provides any direct financial benefit to the reviewer; or

(II) participation in the review would give the appearance of a conflict of interest.

(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) of this section to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 710 of this title an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of onsite compliance reviews, identifying individual grant recipients.

(g) Technical assistance to entities conducting or planning projects

The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

(1) entities conducting projects for the purpose of assisting such entities in—

(A) the improvement of or the development of relationships with private industry or labor; or

(B) the improvement of relationships with State vocational rehabilitation agencies; and

(2) entities planning the development of new projects.

(h) Definitions

As used in this section:

(1) The term ''agreement'' means an agreement described in subsection (a)(4) of this section.

(2) The term ''project'' means a Project With Industry established under subsection (a)(2) of this section.

(3) The term ''grant recipient'' means a recipient of a grant under subsection (a)(2) of this section.

(Pub. L. 93–112, title VI, § 611, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1210.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(2)(C)(ii), (6)(C), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795g of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 795, Pub. L. 93–112, title VI, § 611, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2989; amended Pub. L. 99–506, title I, § 103(d)(2)(C), title X, § 1002(f), Oct. 21, 1986, 100 Stat. 1810, 1844; Pub. L. 102–569, title I, § 102(p)(36), title VI, § 601, Oct. 29, 1992, 106 Stat. 4360, 4434, authorized community service employment pilot programs for individuals with disabilities, prior to the general amendment of this subchapter by Pub. L. 105–220.

SHORT TITLE

For short title of this subchapter as the ''Employment Opportunities for Individuals With Disabilities Act'', see section 601 of Pub. L. 93–112, as amended, set out as a note under section 701 of this title.

§ 795a. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of fiscal years 1999 through 2003.

(Pub. L. 93–112, title VI, § 612, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1214.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795i of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795f were omitted in the general amendment of this subchapter by Pub. L. 105–220.

Section 795a, Pub. L. 93–112, title VI, § 612, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2991; amended Pub. L. 98–221, title I, § 165, Feb. 22, 1984, 98 Stat. 30; Pub. L. 100–630, title II, § 207(a), Nov. 7, 1988, 102 Stat. 3313, related to administration of community service employment pilot programs for individuals with disabilities.

Section 795b, Pub. L. 93–112, title VI, § 613, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2991; amended Pub. L. 102–569, title VI, § 602, Oct. 29, 1992, 106 Stat. 4434, related to employment.

Section 795c, Pub. L. 93–112, title VI, § 614, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2992; amended Pub. L. 98–221, title I, § 104(b)(5), Feb. 22, 1984, 98 Stat. 18, related to interagency cooperation.

Section 795d, Pub. L. 93–112, title VI, § 615, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2992; amended Pub. L. 99–506, title I, § 103(d)(2)(C), title VII, § 701, Oct. 21, 1986, 100 Stat. 1810, 1831; Pub. L. 102–569, title I, § 102(p)(37), Oct. 29, 1992, 106 Stat. 4360, related to award of grants or contracts.

Section 795e, Pub. L. 93–112, title VI, § 616, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2993; amended Pub. L. 99–506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810; Pub. L. 102–569, title I, § 102(p)(38), title VI, § 603, Oct. 29, 1992, 106 Stat. 4361, 4434, defined terms ''community service'' and ''pilot program''.

Section 795f, Pub. L. 93–112, title VI, § 617, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2993; amended Pub. L. 98–221, title I, § 161, Feb. 22, 1984, 98 Stat. 29; Pub. L. 99–506, title VII, § 702, Oct. 21, 1986, 100 Stat. 1831; Pub. L. 102–52, § 7(a), June 6, 1991, 105 Stat. 262; Pub. L. 102–569, title VI, § 604, Oct. 29, 1992, 106 Stat. 4434, authorized appropriations.

PART B—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES

§ 795g. Purpose

It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under subchapter I of this chapter, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities to enable such individuals to achieve the employment outcome of supported employment.

(Pub. L. 93–112, title VI, § 621, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1214; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(12)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–414.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795j of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 795g, Pub. L. 93–112, title VI, § 621, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2993; amended Pub. L. 98–221, title I, §§ 162, 163, Feb. 22, 1984, 98 Stat. 29, 30; Pub. L. 99–506, title I, § 103(d)(2)(B), (C), title VII, § 703(a)(1)–(3), (b)–(d), Oct. 21, 1986, 100 Stat. 1810, 1831, 1832; Pub. L. 100–630, title II, § 207(b), Nov. 7, 1988, 102 Stat. 3313; Pub. L. 102–569, title VI, § 611, Oct. 29, 1992, 106 Stat. 4434, related to Projects With Industry, prior to the general amendment of this subchapter by Pub. L. 105–220. See section 795 of this title.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to section designation and catchline in original.

§ 795h. Allotments

(a) In general

(1) States

The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

(A) no State shall receive less than $250,000, or ⅓ of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or ⅓ of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

(2) Certain territories

(A) In general

For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

(B) Allotment

Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made.

(b) Reallotment

Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

(Pub. L. 93–112, title VI, § 622, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1214; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(13)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–414.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795k of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 795h, Pub. L. 93–112, title VI, § 622, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2994, and amended, which related to business opportuni-

ties for individuals with disabilities and promulgation of regulations, was renumbered section 641 of Pub. L. 93–112, by Pub. L. 102–569, title VI, § 612(a)(2), (3), Oct. 29, 1992, 106 Stat. 4438, and transferred to section 795r of this title, prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment in original to section designation and catchline.

§ 795i. Availability of services

Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, or subchapter I of this chapter, may not be used to provide extended services to individuals who are eligible under this part or subchapter I of this chapter.

(Pub. L. 93–112, title VI, § 623, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1215; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(14)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–414.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795*l* of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 795i, Pub. L. 93–112, title VI, § 622, formerly § 623, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2994; amended Pub. L. 98–221, title I, § 164, Feb. 22, 1984, 98 Stat. 30; Pub. L. 99–506, title VII, § 704, Oct. 21, 1986, 100 Stat. 1834; Pub. L. 100–630, title II, § 207(d), Nov. 7, 1988, 102 Stat. 3313; Pub. L. 102–52, § 7(b), June 6, 1991, 105 Stat. 262; renumbered § 622 and amended Pub. L. 102–569, title VI, § 613(a), Oct. 29, 1992, 106 Stat. 4439, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105–220. See section 795a of this title.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to section designation and catchline in original.

§ 795j. Eligibility

An individual shall be eligible under this part to receive supported employment services authorized under this chapter if—

(1) the individual is eligible for vocational rehabilitation services;

(2) the individual is determined to be an individual with a most significant disability; and

(3) a comprehensive assessment of rehabilitation needs of the individual described in section 705(2)(B) of this title, including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate employment outcome for the individual.

(Pub. L. 93–112, title VI, § 624, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1215; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(15)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–414.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795m of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 795j, Pub. L. 93–112, title VI, § 631, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4439, stated purpose of program for supported employment services for individuals with severe disabilities, prior to the general amendment of this subchapter by Pub. L. 105–220. See section 795g of this title.

Another prior section 795j, Pub. L. 93–112, title VI, § 631, as added Pub. L. 99–506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1834, outlined the purpose of former part C of this subchapter, prior to repeal by Pub. L. 102–569, § 621(a).

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to section designation and catchline in original.

§ 795k. State plan

(a) State plan supplements

To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 721 of this title, a State plan supplement for providing supported employment services authorized under this chapter to individuals who are eligible under this chapter to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

(b) Contents

Each such plan supplement shall—

(1) designate each designated State agency as the agency to administer the program assisted under this part;

(2) summarize the results of the comprehensive, statewide assessment conducted under section 721(a)(15)(A)(i) of this title, with respect to the rehabilitation needs of individuals with significant disabilities and the need for supported employment services, including needs related to coordination;

(3) describe the quality, scope, and extent of supported employment services authorized under this chapter to be provided to individuals who are eligible under this chapter to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 795h of this title;

(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

(6) provide assurances that—

(A) funds made available under this part will only be used to provide supported employment services authorized under this chapter to individuals who are eligible under this part to receive the services;

(B) the comprehensive assessments of individuals with significant disabilities conducted under section 722(b)(1) of this title and funded under subchapter I of this chapter will include consideration of supported employment as an appropriate employment outcome;

(C) an individualized plan for employment, as required by section 722 of this title, will be developed and updated using funds under subchapter I of this chapter in order to—

(i) specify the supported employment services to be provided;

(ii) specify the expected extended services needed; and

(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized plan for employment is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under subchapter I of this chapter, in providing supported employment services specified in the individualized plan for employment;

(E) services provided under an individualized plan for employment will be coordinated with services provided under other individualized plans established under other Federal or State programs;

(F) to the extent jobs skills training is provided, the training will be provided on site; and

(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;

(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

(8) contain such other information and be submitted in such manner as the Commissioner may require.

(Pub. L. 93–112, title VI, § 625, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1215; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(16)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–414.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795n of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 795k, Pub. L. 93–112, title VI, § 632, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4439, related to allotments, prior to the general amendment of this subchapter by Pub. L. 105–220. See section 795h of this title.

Another prior section 795k, Pub. L. 93–112, title VI, § 632, as added Pub. L. 99–506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1834, related to eligibility for services under former part C of this subchapter, prior to repeal by Pub. L. 102–569, § 621(a).

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment in original to section designation and catchline.

§ 795*l*. Restriction

Each State agency designated under section 795k(b)(1) of this title shall collect the information required by section 721(a)(10) of this title separately for eligible individuals receiving supported employment services under this part and for eligible individuals receiving supported employment services under subchapter I of this chapter.

(Pub. L. 93–112, title VI, § 626, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1216; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(17)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–414.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795*o* of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 795*l*, Pub. L. 93–112, title VI, § 633, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4440; amended Pub. L. 103–73, title I, § 113, Aug. 11, 1993, 107 Stat. 728, related to availability of services, prior to the general amendment of this subchapter by Pub. L. 105–220. See section 795i of this title.

Another prior section 795*l*, Pub. L. 93–112, title VI, § 633, as added Pub. L. 99–506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1834; amended Pub. L. 100–630, title II, § 207(e), Nov. 7, 1988, 102 Stat. 3313, provided for allotments to States, unused funds, and planning grants, prior to repeal by Pub. L. 102–569, § 621(a).

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to section designation and catchline in original.

§ 795m. Savings provision

(a) Supported employment services

Nothing in this chapter shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 721 of this title by using funds made available through a State allotment under section 730 of this title.

(b) Postemployment services

Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 721 of this title by using funds made available through a State allotment under section 730 of this title to an individual who is eligible under this part.

(Pub. L. 93–112, title VI, § 627, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1216; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(18)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–414.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795p of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

A prior section 795m, Pub. L. 93–112, title VI, § 634, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4440, related to eligibility for services, prior to the general amendment of this subchapter by Pub. L. 105–220. See section 795j of this title.

Another prior section 795m, Pub. L. 93–112, title VI, § 634, as added Pub. L. 99–506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1835; amended Pub. L. 100–630, title II, § 207(f), Nov. 7, 1988, 102 Stat. 3313; Pub. L. 102–119,

§ 26(e), Oct. 7, 1991, 105 Stat. 607, provided for submission of State plans for assistance under former part C of this subchapter, prior to repeal by Pub. L. 102–569, § 621(a).

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment in original to section designation and catchline.

§ 795n. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1999 through 2003.

(Pub. L. 93–112, title VI, § 628, as added Pub. L. 105–220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1217; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(b)(19)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–414.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795q of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795n to 795r were omitted in the general amendment of this subchapter by Pub. L. 105–220.

Section 795n, Pub. L. 93–112, title VI, § 635, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4440, related to State plans. See section 795k of this title.

Another prior section 795n, Pub. L. 93–112, title VI, § 635, as added Pub. L. 99–506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1836; amended Pub. L. 100–630, title II, § 207(g), Nov. 7, 1988, 102 Stat. 3314, related to availability and comparability of services under former part C of this subchapter, prior to repeal by Pub. L. 102–569, § 621(a).

Section 795*o*, Pub. L. 93–112, title VI, § 636, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4442, related to collection of client information. See section 795*l* of this title.

Another prior section 795*o*, Pub. L. 93–112, title VI, § 636, as added Pub. L. 99–506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1836, related to collection of client information, prior to repeal by Pub. L. 102–569, § 621(a).

Section 795p, Pub. L. 93–112, title VI, § 637, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4442, contained savings provision. See section 795m of this title.

Another prior section 795p, Pub. L. 93–112, title VI, § 637, as added Pub. L. 99–506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1837, contained a savings provision not prohibiting a State from carrying out post-employment services leading to supported employment, prior to repeal by Pub. L. 102–569, § 621(a).

Section 795q, Pub. L. 93–112, title VI, § 638, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4442, authorized appropriations.

Another prior section 795q, Pub. L. 93–112, title VI, § 638, as added Pub. L. 99–506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1837; amended Pub. L. 100–630, title II, § 207(h), Nov. 7, 1988, 102 Stat. 3314; Pub. L. 102–52, § 7(c), June 6, 1991, 105 Stat. 262, authorized appropriations for fiscal years 1987 to 1992, prior to repeal by Pub. L. 102–569, § 621(a).

Section 795r, Pub. L. 93–112, title VI, § 641, formerly § 622, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2994; amended Pub. L. 99–506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810; Pub. L. 100–630, title II, § 207(c), Nov. 7, 1988, 102 Stat. 3313; renumbered § 641 and amended Pub. L. 102–569, title I, § 102(p)(39), title VI, § 612(a)(2), (3), (b), Oct. 29, 1992, 106 Stat. 4361, 4438, related to business opportunities for individuals with disabilities.

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to section designation and catchline in original.

SUBCHAPTER VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

CODIFICATION

Title VII of the Rehabilitation Act of 1973, comprising this subchapter, was originally added to Pub. L. 93–112 by Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4443, and amended by Pub. L. 103–73, Aug. 11, 1993, 107 Stat. 718. Title VII is shown herein, however, as having been added by Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1217, without reference to those intervening amendments because of the extensive revision of title VII by Pub. L. 105–220.

PART A—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

SUBPART 1—GENERAL PROVISIONS

§ 796. Purpose

The purpose of this part is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 796d of this title, State vocational rehabilitation programs receiving assistance under subchapter I of this chapter, State programs of supported employment services receiving assistance under part B of subchapter VI of this chapter, client assistance programs receiving assistance under section 732 of this title, programs funded under other subchapters of this chapter, programs funded under other Federal law, and programs funded through non-Federal sources.

(Pub. L. 93–112, title VII, § 701, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1217.)

PRIOR PROVISIONS

A prior section 796, Pub. L. 93–112, title VII, § 701, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4443; amended Pub. L. 103–73, title I, § 114(a), Aug. 11, 1993, 107 Stat. 728, related to purpose of program to provide assistance for independent living for individuals with severe disabilities, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 796, Pub. L. 93–112, title VII, § 701, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 2995, provided Congressional statement of purpose of former subchapter VII, prior to repeal by Pub. L. 102–569, § 701(1).

§ 796a. Definitions

As used in this part:

(1) Center for independent living

The term ''center for independent living'' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

(A) is designed and operated within a local community by individuals with disabilities; and

(B) provides an array of independent living services.

(2) Consumer control

The term ''consumer control'' means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities.

(Pub. L. 93–112, title VII, § 702, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1218.)

PRIOR PROVISIONS

A prior section 796a, Pub. L. 93–112, title VII, § 702, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4443, defined terms ''center for independent living'' and ''consumer control'', prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 796a, Pub. L. 93–112, title VII, § 702, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 2995; amended Pub. L. 99–506, title I, § 103(d)(2)(A), (C), title VIII, § 801, title X, §§ 1001(g)(1), 1002(h), Oct. 21, 1986, 100 Stat. 1810, 1837, 1843, 1844; Pub. L. 100–630, title II, § 208(a), Nov. 7, 1988, 102 Stat. 3314, provided eligibility requirements and definition of ''comprehensive services for independent living'', prior to repeal by Pub. L. 102–569, § 701(1).

§ 796b. Eligibility for receipt of services

Services may be provided under this part to any individual with a significant disability, as defined in section 705(21)(B) of this title.

(Pub. L. 93–112, title VII, § 703, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1218.)

PRIOR PROVISIONS

A prior section 796b, Pub. L. 93–112, title VII, § 703, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4444, related to eligibility for receipt of services, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 796b, Pub. L. 93–112, title VII, § 703, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 2996; amended Pub. L. 99–506, title X, § 1001(g)(2), Oct. 21, 1986, 100 Stat. 1843; Pub. L. 100–630, title II, § 208(b), Nov. 7, 1988, 102 Stat. 3314, related to State allotments for comprehensive services for independent living, prior to repeal by Pub. L. 102–569, § 701(1).

§ 796c. State plan

(a) In general

(1) Requirement

To be eligible to receive financial assistance under this part, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

(2) Joint development

The plan under paragraph (1) shall be jointly developed and signed by—

(A) the director of the designated State unit; and

(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

(3) Periodic review and revision

The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

(A) the provision of State independent living services;

(B) the development and support of a statewide network of centers for independent living; and

(C) working relationships between—

(i) programs providing independent living services and independent living centers; and

(ii) the vocational rehabilitation program established under subchapter I of this chapter, and other programs providing services for individuals with disabilities.

(4) Date of submission

The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this part until such time as the State submits such a plan.

(b) Statewide Independent Living Council

The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 796d of this title.

(c) Designation of State unit

The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

(1) receive, account for, and disburse funds received by the State under this part based on the plan;

(2) provide administrative support services for a program under subpart 2, and a program under subpart 3 in a case in which the program is administered by the State under section 796f–2 of this title;

(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

(d) Objectives

The plan shall—

(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

(2) explain how such objectives are consistent with and further the purpose of this part.

(e) Independent living services

The plan shall provide that the State will provide independent living services under this part to individuals with significant disabilities, and will provide the services to such an individual in

accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

(f) Scope and arrangements

The plan shall describe the extent and scope of independent living services to be provided under this part to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

(g) Network

The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 796f–4 of this title.

(h) Centers

In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under subpart 3, as provided in section 796f–2 of this title, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 796f–2 of this title.

(i) Cooperation, coordination, and working relationships among various entities

The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

(j) Coordination of services

The plan shall describe how services funded under this part will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

(k) Coordination between Federal and State sources

The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

(*l*) Outreach

With respect to services and centers funded under this part, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this subchapter, including minority groups and urban and rural populations.

(m) Requirements

The plan shall provide satisfactory assurances that all recipients of financial assistance under this part will—

(1) notify all individuals seeking or receiving services under this part about the availability of the client assistance program under section 732 of this title, the purposes of the services provided under such program, and how to contact such program;

(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 793 of this title;

(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this part;

(4)(A) maintain records that fully disclose—

(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part; and

(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

(n) Evaluation

The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d) of this section, including evaluation of satisfaction by individuals with disabilities.

(Pub. L. 93–112, title VII, § 704, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1218.)

PRIOR PROVISIONS

A prior section 796c, Pub. L. 93–112, title VII, § 704, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4444; amended Pub. L. 103–73, title I, § 114(b), Aug. 11, 1993, 107 Stat. 728, related to State plans, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 796c, Pub. L. 93–112, title VII, § 704, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 2997; amended Pub. L. 100–630, title II, § 208(c), Nov. 7, 1988, 102 Stat. 3314, related to payments to States from allotments to pay Federal share of expenditures, prior to repeal by Pub. L. 102–569, § 701(1).

§ 796d. Statewide Independent Living Council

(a) Establishment

To be eligible to receive financial assistance under this part, each State shall establish a

Statewide Independent Living Council (referred to in this section as the ''Council''). The Council shall not be established as an entity within a State agency.

(b) Composition and appointment

(1) Appointment

Members of the Council shall be appointed by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

(2) Composition

The Council shall include—

(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

(B) as ex officio, nonvoting members—

(i) a representative from the designated State unit; and

(ii) representatives from other State agencies that provide services for individuals with disabilities; and

(C) in a State in which one or more projects are carried out under section 741 of this title, at least one representative of the directors of the projects.

(3) Additional members

The Council may include—

(A) other representatives from centers for independent living;

(B) parents and guardians of individuals with disabilities;

(C) advocates of and for individuals with disabilities;

(D) representatives from private businesses;

(E) representatives from organizations that provide services for individuals with disabilities; and

(F) other appropriate individuals.

(4) Qualifications

(A) In general

The Council shall be composed of members—

(i) who provide statewide representation;

(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

(iii) who are knowledgeable about centers for independent living and independent living services; and

(iv) a majority of whom are persons who are—

(I) individuals with disabilities described in section 705(20)(B) of this title; and

(II) not employed by any State agency or center for independent living.

(B) Voting members

A majority of the voting members of the Council shall be—

(i) individuals with disabilities described in section 705(20)(B) of this title; and

(ii) not employed by any State agency or center for independent living.

(5) Chairperson

(A) In general

Except as provided in subparagraph (B), the Council shall select a chairperson from among the voting membership of the Council.

(B) Designation by chief executive officer

In States in which the Governor does not have veto power pursuant to State law, the appointing authority described in paragraph (3) shall designate a voting member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a voting member.

(6) Terms of appointment

(A) Length of term

Each member of the Council shall serve for a term of 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority described in paragraph (3)) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(B) Number of terms

No member of the Council may serve more than two consecutive full terms.

(7) Vacancies

(A) In general

Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(B) Delegation

The appointing authority described in paragraph (3) may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

(c) Duties

The Council shall—

(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 796c of this title;

(2) monitor, review, and evaluate the implementation of the State plan;

(3) coordinate activities with the State Rehabilitation Council established under section 725 of this title, if the State has such a Council, or the commission described in section

721(a)(21)(A) of this title, if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

(d) Hearings and forums

The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

(e) Plan

(1) In general

The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this part, and under section 730 of this title (consistent with section 721(a)(18) of this title), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(2) Supervision and evaluation

Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

(3) Conflict of interest

While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

(f) Compensation and expenses

The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

(Pub. L. 93–112, title VII, § 705, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1220; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 402(c)(7)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416.)

PRIOR PROVISIONS

A prior section 796d, Pub. L. 93–112, title VII, § 705, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4446; amended Pub. L. 103–73, title I, § 114(c), Aug. 11, 1993, 107 Stat. 728, related to Statewide Independent Living Councils, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 796d, Pub. L. 93–112, title VII, § 705, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 2997; amended Pub. L. 99–506, title I, § 103(d)(2)(B), (C), (h)(2), title VIII, § 802, title X, § 1001(g)(3), Oct. 21, 1986, 100 Stat. 1810, 1811, 1837, 1843; Pub. L. 100–630, title II, § 208(d), Nov. 7, 1988, 102 Stat. 3314; Pub. L. 102–119, § 26(e), Oct. 7, 1991, 105 Stat. 607, related to State plans for providing comprehensive services for independent living, prior to repeal by Pub. L. 102–569, § 701(1).

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(7)(A)], in first sentence, substituted "by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity" for "by the Governor" and, in second sentence, substituted "The appointing authority" for "The Governor".

Subsec. (b)(5)(B). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(7)(B)], substituted "chief executive officer" for "Governor" in heading and "appointing authority described in paragraph (3) shall" for "Governor shall" in text.

Subsec. (b)(6)(A)(ii), (7)(B). Pub. L. 105–277, § 101(f) [title VIII, § 402(c)(7)(C)], substituted "appointing authority described in paragraph (3)" for "Governor".

§ 796d–1. Responsibilities of Commissioner

(a) Approval of State plans

(1) In general

The Commissioner shall approve any State plan submitted under section 796c of this title that the Commissioner determines meets the requirements of section 796c of this title, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

(2) Procedures

(A) In general

Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 727 of this title shall apply to any State plan submitted to the Commissioner under section 796c of this title.

(B) Application

For purposes of the application described in subparagraph (A), all references in such provisions—

(i) to the Secretary shall be deemed to be references to the Commissioner; and

(ii) to section 721 of this title shall be deemed to be references to section 796c of this title.

(b) Indicators

Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 796f–4 of this title.

(c) Onsite compliance reviews

(1) Reviews

The Commissioner shall annually conduct onsite compliance reviews of at least 15 per-

cent of the centers for independent living that receive funds under section 796f–1 of this title and shall periodically conduct such a review of each such center. The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 796f–2 of this title, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 796f–2 of this title, centers that receive funding under section 796f–2 of this title in such State. The Commissioner shall select the centers and State units described in this paragraph for review on a random basis.

(2) Qualifications of employees conducting reviews

The Commissioner shall—

(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

(C) ensure that at least one member of a team conducting such a review shall be an individual who—

(i) is not a government employee; and

(ii) has experience in the operation of centers for independent living.

(d) Reports

The Commissioner shall include, in the annual report required under section 710 of this title, information on the extent to which centers for independent living receiving funds under subpart 3 have complied with the standards and assurances set forth in section 796f–4 of this title. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under this part.

(Pub. L. 93–112, title VII, § 706, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1223.)

PRIOR PROVISIONS

A prior section 796d–1, Pub. L. 93–112, title VII, § 706, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4448; amended Pub. L. 103–73, title I, § 114(d), Aug. 11, 1993, 107 Stat. 729, related to responsibilities of Commissioner, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 796d–1, Pub. L. 93–112, title VII, § 706, as added Pub. L. 99–506, title VIII, § 803(a), Oct. 21, 1986, 100 Stat. 1837; amended Pub. L. 100–630, title II, § 208(e), Nov. 7, 1988, 102 Stat. 3314, provided for a State Independent Living Council, prior to repeal by Pub. L. 102–569, § 701(1).

SUBPART 2—INDEPENDENT LIVING SERVICES

§ 796e. Allotments

(a) In general

(1) States

(A) Population basis

Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this subpart, the Commissioner shall make an allotment to each State whose State plan has been approved under section 796d–1 of this title of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

(B) Maintenance of 1992 amounts

Subject to the availability of appropriations to carry out this subpart, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this subchapter, as in effect on the day before October 29, 1992.

(C) Minimums

Subject to the availability of appropriations to carry out this subpart, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or ⅓ of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or ⅓ of 1 percent of such sums shall be increased to the greater of the two amounts.

(2) Certain territories

(A) In general

For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

(B) Allotment

Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than ⅛ of 1 percent of the amounts made available for purposes of this subpart for the fiscal year for which the allotment is made.

(3) Adjustment for inflation

For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this subpart exceeds the total amount appropriated to carry out this subpart for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this subpart between the preceding fiscal year and the fiscal year involved.

(b) Proportional reduction

To provide allotments to States in accordance with subsection (a)(1)(B) of this section, to provide minimum allotments to States (as increased under subsection (a)(3) of this section) under subsection (a)(1)(C) of this section, or to provide minimum allotments to States under subsection (a)(2)(B) of this section, the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A) of this section, with such adjustments as may be necessary to prevent the allotment of

any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B) of this section.

(c) Reallotment

Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this subpart, the Commissioner shall make such amount available for carrying out the provisions of this subpart to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

(Pub. L. 93–112, title VII, § 711, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1224.)

REFERENCES IN TEXT

Part A of this subchapter, as in effect on the day before October 29, 1992, referred to in subsec. (a)(1)(B), means former part A (§ 796 et seq.) which was included in the repeal of subchapter VII of this chapter by Pub. L. 102–569, title VII, § 701(1), Oct. 29, 1992, 106 Stat. 4443.

PRIOR PROVISIONS

A prior section 796e, Pub. L. 93–112, title VII, § 711, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4450; amended Pub. L. 103–73, title I, § 114(e), Aug. 11, 1993, 107 Stat. 729, related to allotments to provide independent living services, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 796e, Pub. L. 93–112, title VII, § 711, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 2998; amended Pub. L. 98–221, title I, § 171, Feb. 22, 1984, 98 Stat. 30; Pub. L. 99–506, title I, § 103(d)(2)(C), title VIII, §§ 804(a)(1), (b), (c), 805, Oct. 21, 1986, 100 Stat. 1810, 1838, 1839; Pub. L. 100–630, title II, § 208(f), Nov. 7, 1988, 102 Stat. 3314, related to establishment and operation of independent living centers, prior to repeal by Pub. L. 102–569, § 701(1).

§ 796e–1. Payments to States from allotments

(a) Payments

From the allotment of each State for a fiscal year under section 796e of this title, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 796d–1 of this title. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

(b) Federal share

(1) In general

The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 796d–1 of this title.

(2) Non-Federal share

The non-Federal share of the cost of any project that receives assistance through an allotment under this subpart may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

(Pub. L. 93–112, title VII, § 712, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1225.)

PRIOR PROVISIONS

A prior section 796e–1, Pub. L. 93–112, title VII, § 712, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4451; amended Pub. L. 103–73, title I, § 114(f), Aug. 11, 1993, 107 Stat. 730, related to payments to States from allotments, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 796e–2. Authorized uses of funds

The State may use funds received under this subpart to provide the resources described in section 796d(e) of this title, relating to the Statewide Independent Living Council, and may use funds received under this subpart—

(1) to provide independent living services to individuals with significant disabilities;

(2) to demonstrate ways to expand and improve independent living services;

(3) to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 796f–4 of this title;

(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

(7) to provide outreach to populations that are unserved or underserved by programs under this subchapter, including minority groups and urban and rural populations.

(Pub. L. 93–112, title VII, § 713, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1226.)

PRIOR PROVISIONS

A prior section 796e–2, Pub. L. 93–112, title VII, § 713, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4451; amended Pub. L. 103–73, title I, § 114(g), Aug. 11, 1993, 107 Stat. 730, related to authorized uses of funds, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 796e–3. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93–112, title VII, § 714, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1226.)

PRIOR PROVISIONS

A prior section 796e–3, Pub. L. 93–112, title VII, § 714, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992,

106 Stat. 4452, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105–220.

SUBPART 3—CENTERS FOR INDEPENDENT LIVING

§ 796f. Program authorization

(a) In general

From the funds appropriated for fiscal year 1999 and for each subsequent fiscal year to carry out this subpart, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d) of this section.

(b) Training

(1) Grants; contracts; other arrangements

For any fiscal year in which the funds appropriated to carry out this subpart exceed the funds appropriated to carry out this subpart for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance to eligible agencies, centers for independent living, and Statewide Independent Living Councils for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this subpart for the fiscal year involved.

(2) Allocation

From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

(3) Funding priorities

The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

(4) Review

To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

(5) Prohibition on combined funds

No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this chapter if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this part are separately identified in such grant or payment and are used for the purposes of this part.

(c) In general

(1) States

(A) Population basis

After the reservation required by subsection (b) of this section has been made, and except as provided in subparagraphs (B) and (C), from the remainder of the amounts appropriated for each such fiscal year to carry out this subpart, the Commissioner shall make an allotment to each State whose State plan has been approved under section 796d–1 of this title of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

(B) Maintenance of 1992 amounts

Subject to the availability of appropriations to carry out this subpart, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this subchapter, as in effect on the day before October 29, 1992.

(C) Minimums

Subject to the availability of appropriations to carry out this subpart and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this subpart exceed the amounts appropriated for fiscal year 1992 to carry out part B of this subchapter, as in effect on the day before October 29, 1992—

(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or ⅓ of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or ⅓ of 1 percent of such sums shall be increased to the greater of the 2 amounts;

(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or ⅓ of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or ⅓ of 1 percent of such sums shall be increased to the greater of the 2 amounts; and

(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the 2 amounts described in clause (ii).

(2) Certain territories

(A) In general

For the purposes of paragraph (1)(C), Guam, American Samoa, the United States

Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

(B) Allotment

Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than ⅛ of 1 percent of the remainder for the fiscal year for which the allotment is made.

(3) Adjustment for inflation

For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this subpart exceeds the total amount appropriated to carry out this subpart for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this subpart between the preceding fiscal year and the fiscal year involved.

(4) Proportional reduction

To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B).

(d) Reallotment

Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this subpart, the Commissioner shall make such amount available for carrying out the provisions of this subpart to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

(Pub. L. 93–112, title VII, § 721, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1226.)

REFERENCES IN TEXT

Part B of this subchapter, as in effect on the day before October 29, 1992, referred to in subsec. (c)(1)(B), (C), means former part B (§ 796e) which was included in the repeal of subchapter VII of this chapter by Pub. L. 102–569, title VII, § 701(1), Oct. 29, 1992, 106 Stat. 4443.

PRIOR PROVISIONS

A prior section 796f, Pub. L. 93–112, title VII, § 721, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4452; amended Pub. L. 103–73, title I, § 114(h), Aug. 11, 1993, 107 Stat. 730, authorized program to assist centers for independent living, prior to the general amendment of this subchapter by Pub. L. 105–220.

Another prior section 796f, Pub. L. 93–112, title VII, § 721, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 2999; amended Pub. L. 99–506, title X, § 1001(g)(4), Oct. 21, 1986, 100 Stat. 1843; Pub. L. 100–630, title II, § 208(g), Nov. 7, 1988, 102 Stat. 3314, related to establishment of independent living service programs for older blind individuals, prior to repeal by Pub. L. 102–569, § 701(1).

§ 796f–1. Grants to centers for independent living in States in which Federal funding exceeds State funding

(a) Establishment

(1) In general

Unless the director of a designated State unit awards grants under section 796f–2 of this title to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 796f of this title for such year.

(2) Grants

The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 796f–4 of this title.

(b) Eligible agencies

In any State in which the Commissioner has approved the State plan required by section 796c of this title, the Commissioner may make a grant under this section to any eligible agency that—

(1) has the power and authority to carry out the purpose of this subpart and perform the functions set forth in section 796f–4 of this title within a community and to receive and administer funds under this subpart, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 796f–4 of this title; and

(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(c) Existing eligible agencies

In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this subpart by September 30, 1997, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 796f–4 of this title.

(d) New centers for independent living

(1) In general

If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the

Commissioner may award a grant under this section to the most qualified applicant proposing to serve such region, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

(2) Selection

In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

(B) shall consider the ability of each such applicant to operate a center for independent living based on—

(i) evidence of the need for such a center;

(ii) any past performance of such applicant in providing services comparable to independent living services;

(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 796f–4 of this title;

(iv) the quality of key personnel and the involvement of individuals with significant disabilities;

(v) budgets and cost-effectiveness;

(vi) an evaluation plan; and

(vii) the ability of such applicant to carry out the plans; and

(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 796c of this title regarding establishment of a statewide network of centers for independent living.

(3) Current centers

Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under subpart 2 for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

(e) Order of priorities

The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

(1) The Commissioner shall support existing centers for independent living, as described in subsection (c) of this section, that comply with the standards and assurances set forth in section 796f–4 of this title, at the level of funding for the previous year.

(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

(3) The Commissioner shall fund new centers for independent living, as described in subsection (d) of this section, that comply with the standards and assurances set forth in section 796f–4 of this title.

(f) Nonresidential agencies

A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

(g) Review

(1) In general

The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 796f–4 of this title. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 796f–4 of this title, the Commissioner shall immediately notify such center that it is out of compliance.

(2) Enforcement

The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

(Pub. L. 93–112, title VII, § 722, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1229.)

REFERENCES IN TEXT

This subpart, referred to in subsec. (c), means subpart 3 (§ 796f et seq.) of part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1217.

PRIOR PROVISIONS

A prior section 796f–1, Pub. L. 93–112, title VII, § 722, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4456; amended Pub. L. 103–73, title I, § 114(i), Aug. 11, 1993, 107 Stat. 731, related to grants to centers for independent living in States in which Federal funding exceeds State funding, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 796f–2. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding

(a) Establishment

(1) In general

(A) Initial year

(i) Determination

The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this subpart equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 796f of this title for such year.

(ii) Grants

The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for inde-

pendent living that comply with the standards and assurances set forth in section 796f–4 of this title.

(iii) Regulation

The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B), making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year.

(B) Subsequent years

For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

(2) Grants by designated State units

In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

(3) Grants by Commissioner

If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to eligible agencies in the State in accordance with section 796f–1 of this title.

(b) Eligible agencies

In any State in which the Commissioner has approved the State plan required by section 796c of this title, the director of the designated State unit may award a grant under this section to any eligible agency that—

(1) has the power and authority to carry out the purpose of this subpart and perform the functions set forth in section 796f–4 of this title within a community and to receive and administer funds under this subpart, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 796f–4 of this title; and

(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

(c) Existing eligible agencies

In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this subpart by September 30, 1997, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 796f–4 of this title.

(d) New centers for independent living

(1) In general

If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 796c of this title setting forth the design of the State for establishing a statewide network of centers for independent living.

(2) Selection

In selecting from among eligible agencies in awarding a grant under this subpart for a new center for independent living—

(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 796f–4 of this title and criteria jointly established by such director and such chairperson or individual;

(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

(i) evidence of the need for a center for independent living, consistent with the State plan;

(ii) any past performance of such applicant in providing services comparable to independent living services;

(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 796f–4 of this title;

(iv) the quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

(v) the budgets and cost-effectiveness of the applicant;

(vi) the evaluation plan of the applicant; and

(vii) the ability of such applicant to carry out the plans; and

(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

(3) Current centers

Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under subpart 2 for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

(e) Order of priorities

Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c) of this section, that comply with the standards and assurances set forth in section 796f–4 of this title, at the level of funding for the previous year.

(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d) of this section, that comply with the standards and assurances set forth in section 796f–4 of this title.

(f) Nonresidential agencies

A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

(g) Review

(1) In general

The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 796f–4 of this title. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 796f–4 of this title, the director of the designated State unit shall immediately notify such center that it is out of compliance.

(2) Enforcement

The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

(A) the date of such notification; or

(B) in the case of a center that requests an appeal under subsection (i) of this section, the date of any final decision under subsection (i) of this section,

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

(h) Onsite compliance review

The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State. Each team that conducts onsite compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

(i) Adverse actions

If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

(Pub. L. 93–112, title VII, § 723, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1231.)

REFERENCES IN TEXT

This subpart, referred to in subsec. (c), means subpart 3 (§ 796f et seq.) of part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1217.

PRIOR PROVISIONS

A prior section 796f–2, Pub. L. 93–112, title VII, § 723, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4458; amended Pub. L. 103–73, title I, § 114(j), Aug. 11, 1993, 107 Stat. 731, related to grants to centers for independent living in States in which State funding equals or exceeds Federal funding, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 796f–3. Centers operated by State agencies

A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section (as in effect on the day before August 7, 1998) may continue to receive assistance under this subpart for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

(1) no nonprofit private agency—

(A) submits an acceptable application to operate a center for independent living for the fiscal year before a date specified by the Commissioner; and

(B) obtains approval of the application under section 796f–1 or 796f–2 of this title; or

(2) after funding all applications so submitted and approved, the Commissioner deter-

mines that funds remain available to provide such assistance.

(Pub. L. 93–112, title VII, § 724, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1234.)

PRIOR PROVISIONS

A prior section 796f–3, Pub. L. 93–112, title VII, § 724, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4461; amended Pub. L. 103–73, title I, § 114(k), Aug. 11, 1993, 107 Stat. 731, related to centers operated by State agencies, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 796f–4. Standards and assurances for centers for independent living

(a) In general

Each center for independent living that receives assistance under this subpart shall comply with the standards set out in subsection (b) of this section and provide and comply with the assurances set out in subsection (c) of this section in order to ensure that all programs and activities under this subpart are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this part and the objective of providing assistance effectively and efficiently.

(b) Standards

(1) Philosophy

The center shall promote and practice the independent living philosophy of—

(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

(B) self-help and self-advocacy;

(C) development of peer relationships and peer role models; and

(D) equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

(2) Provision of services

The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this subchapter). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

(3) Independent living goals

The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

(4) Community options

The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

(5) Independent living core services

The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

(6) Activities to increase community capacity

The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

(7) Resource development activities

The center shall conduct resource development activities to obtain funding from sources other than this part.

(c) Assurances

The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

(1) the applicant is an eligible agency;

(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

(3) the applicant will comply with the standards set forth in subsection (b) of this section;

(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 796c of this title;

(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 793 of this title;

(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

(7) the applicant will practice sound fiscal management;

(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

(A) the extent to which the center is in compliance with the standards;

(B) the number and types of individuals with significant disabilities receiving services through the center;

(C) the types of services provided through the center and the number of individuals

with significant disabilities receiving each type of service;

(D) the sources and amounts of funding for the operation of the center;

(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this subchapter, especially minority groups and urban and rural populations;

(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b) of this section; and

(14) an independent living plan described in section 796c(e) of this title will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

(Pub. L. 93–112, title VII, § 725, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1234; amended Pub. L. 105–332, § 5(c), Oct. 31, 1998, 112 Stat. 3127.)

PRIOR PROVISIONS

A prior section 796f–4, Pub. L. 93–112, title VII, § 725, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4462; amended Pub. L. 103–73, title I, § 114(*l*), Aug. 11, 1993, 107 Stat. 731, related to standards and assurances for centers for independent living, prior to the general amendment of this subchapter by Pub. L. 105–220.

AMENDMENTS

1998—Subsec. (c)(7). Pub. L. 105–332 substituted ''management;'' for ''management, including making arrangements for an annual independent fiscal audit, notwithstanding section 7502(a)(2)(A) of title 31;''.

§ 796f–5. "Eligible agency" defined

As used in this subpart, the term ''eligible agency'' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

(Pub. L. 93–112, title VII, § 726, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1237.)

PRIOR PROVISIONS

A prior section 796f–5, Pub. L. 93–112, title VII, § 726, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4464, defined ''eligible agency'', prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 796f–6. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93–112, title VII, § 727, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1237.)

PRIOR PROVISIONS

A prior section 796f–6, Pub. L. 93–112, title VII, § 727, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4464, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 796g to 796i were repealed by Pub. L. 102–569, title VII, § 701(1), Oct. 29, 1992, 106 Stat. 4443.

Section 796g, Pub. L. 93–112, title VII, § 731, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 3000; amended Pub. L. 99–506, title I, § 103(h)(2), Oct. 21, 1986, 100 Stat. 1811; Pub. L. 100–630, title II, § 208(h), Nov. 7, 1988, 102 Stat. 3314, provided for grants to States to establish systems to protect and advocate for rights of individuals with severe handicaps.

Section 796h, Pub. L. 93–112, title VII, § 732, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 3000; amended Pub. L. 99–506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810, related to affirmative action on part of recipients of assistance to employ and advance in employment qualified individuals with handicaps.

Section 796i, Pub. L. 93–112, title VII, § 741, formerly § 731, as added Pub. L. 95–602, title III, § 301, Nov. 6, 1978, 92 Stat. 3001; renumbered § 741 and amended Pub. L. 98–221, title I, § 172(a)(1), (b), Feb. 22, 1984, 98 Stat. 32; Pub. L. 99–506, title VIII, § 806, Oct. 21, 1986, 100 Stat. 1840; Pub. L. 100–630, title II, § 208(i), Nov. 7, 1988, 102 Stat. 3315; Pub. L. 102–52, § 8, June 6, 1991, 105 Stat. 262, provided for appropriations.

PART B—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

§ 796j. "Older individual who is blind" defined

For purposes of this part, the term ''older individual who is blind'' means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

(Pub. L. 93–112, title VII, § 751, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1237.)

PRIOR PROVISIONS

A prior section 796j, Pub. L. 93–112, title VII, § 751, as added Pub. L. 102–569, title VII, § 703(a), Oct. 29, 1992, 106 Stat. 4464, defined ''older individual who is blind'', prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 796k. Program of grants

(a) In general

(1) Authority for grants

Subject to subsections (b) and (c) of this section, the Commissioner may make grants to

States for the purpose of providing the services described in subsection (d) of this section to older individuals who are blind.

(2) Designated State agency

The Commissioner may not make a grant under this subsection unless the State involved agrees that the grant will be administered solely by the agency described in section 721(a)(2)(A)(i) of this title.

(b) Contingent competitive grants

Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 796*l* of this title is less than $13,000,000, grants made under subsection (a) of this section shall be—

(1) discretionary grants made on a competitive basis to States; or

(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

(A) under this part; or

(B) under part C of this subchapter, as in effect on the day before October 29, 1992.

(c) Contingent formula grants

(1) In general

In the case of any fiscal year for which the amount appropriated under section 796*l* of this title is equal to or greater than $13,000,000, grants under subsection (a) of this section shall be made only to States and shall be made only from allotments under paragraph (2).

(2) Allotments

For grants under subsection (a) of this section for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j) of this section, and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i) of this section.

(d) Services generally

The Commissioner may not make a grant under subsection (a) of this section unless the State involved agrees that the grant will be expended only for purposes of—

(1) providing independent living services to older individuals who are blind;

(2) conducting activities that will improve or expand services for such individuals; and

(3) conducting activities to help improve public understanding of the problems of such individuals.

(e) Independent living services

Independent living services for purposes of subsection (d)(1) of this section include—

(1) services to help correct blindness, such as—

(A) outreach services;

(B) visual screening;

(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

(D) hospitalization related to such services;

(2) the provision of eyeglasses and other visual aids;

(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

(4) mobility training, braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

(5) guide services, reader services, and transportation;

(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

(8) other independent living services.

(f) Matching funds

(1) In general

The Commissioner may not make a grant under subsection (a) of this section unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

(2) Determination of amount contributed

Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(g) Certain expenditures of grants

A State may expend a grant under subsection (a) of this section to carry out the purposes specified in subsection (d) of this section through grants to public and nonprofit private agencies or organizations.

(h) Requirement regarding State plan

The Commissioner may not make a grant under subsection (a) of this section unless the State involved agrees that, in carrying out subsection (d)(1) of this section, the State will seek to incorporate into the State plan under section 796c of this title any new methods and approaches relating to independent living services for older individuals who are blind.

(i) Application for grant

(1) In general

The Commissioner may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4) of this section).

(2) Contents

An application for a grant under this section shall contain—

(A) an assurance that the agency described in subsection (a)(2) of this section will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the agency operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

(i) the number and types of older individuals who are blind and are receiving services;

(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

(iii) the sources and amounts of funding for the operation of each project or program;

(iv) the amounts and percentages of resources committed to each type of service provided;

(v) data on actions taken to employ, and advance in employment, qualified individuals with significant disabilities, including older individuals who are blind; and

(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

(B) an assurance that the agency will—

(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

(ii) engage in—

(I) capacity-building activities, including collaboration with other agencies and organizations;

(II) activities to promote community awareness, involvement, and assistance; and

(III) outreach efforts; and

(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 796c of this title.

(j) Amount of formula grant

(1) In general

Subject to the availability of appropriations, the amount of an allotment under subsection (a) of this section for a State for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (2); or

(B) the amount determined under paragraph (3).

(2) Minimum allotment

(A) States

In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

(i) $225,000; or

(ii) an amount equal to ⅓ of 1 percent of the amount appropriated under section 796*l* of this title for the fiscal year and available for allotments under subsection (a) of this section.

(B) Certain territories

In the case of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000.

(3) Formula

The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

(A) the amount appropriated under section 796*l* of this title and available for allotments under subsection (a) of this section; and

(B) a percentage equal to the quotient of—

(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

(4) Disposition of certain amounts

(A) Grants

From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) of this section relative to the populations in other States of older individuals who are blind.

(B) Amounts

The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) of this section as a result of—

(i) the failure of any State to submit an application under subsection (i) of this section;

(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a) of this section.

(C) Conditions

The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a) of this section.

(Pub. L. 93–112, title VII, § 752, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1237.)

REFERENCES IN TEXT

Part C of this subchapter, as in effect on the day before October 29, 1992, referred to in subsec. (b)(2)(B), means former part C (§ 796f) which was included in the repeal of subchapter VII of this chapter by Pub. L. 102–569, title VII, § 701(1), Oct. 29, 1992, 106 Stat. 4443.

PRIOR PROVISIONS

A prior section 796k, Pub. L. 93–112, title VII, § 752, as added Pub. L. 102–569, title VII, § 703(a), Oct. 29, 1992, 106

Stat. 4465; amended Pub. L. 103–73, title I, § 114(m), Aug. 11, 1993, 107 Stat. 732, authorized grants to provide independent living services for older individuals who are blind, prior to the general amendment of this subchapter by Pub. L. 105–220.

§ 796*l*. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93–112, title VII, § 753, as added Pub. L. 105–220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1241.)

PRIOR PROVISIONS

A prior section 796*l*, Pub. L. 93–112, title VII, § 753, as added Pub. L. 102–569, title VII, § 703(a), Oct. 29, 1992, 106 Stat. 4468, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105–220.

SUBCHAPTER VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

§§ 797 to 797b. Repealed. Pub. L. 105–220, title IV, § 411, Aug. 7, 1998, 112 Stat. 1241

Section 797, Pub. L. 93–112, title VIII, § 801, as added Pub. L. 102–569, title VIII, § 801(a), Oct. 29, 1992, 106 Stat. 4469, authorized appropriations.

Section 797a, Pub. L. 93–112, title VIII, § 802, as added Pub. L. 102–569, title VIII, § 801(a), Oct. 29, 1992, 106 Stat. 4469, authorized grants for various demonstration projects.

Section 797b, Pub. L. 93–112, title VIII, § 803, as added Pub. L. 102–569, title VIII, § 801(a), Oct. 29, 1992, 106 Stat. 4478, authorized grants for training projects.

CHAPTER 17—COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAMS

CODIFICATION

The Comprehensive Employment and Training Act of 1973, Pub. L. 93–203, Dec. 28, 1973, 87 Stat. 839, as amended by Pub. L. 93–567, Dec. 31, 1974, 88 Stat. 1845; Pub. L. 94–444, Oct. 1, 1976, 90 Stat. 1476; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–40, June 3, 1977, 91 Stat. 203; Pub. L. 95–44, June 15, 1977, 91 Stat. 220; Pub. L. 95–93, Aug. 5, 1977, 91 Stat. 627, comprised this chapter prior to its complete revision by Pub. L. 95–524, Oct. 27, 1978, 92 Stat. 1909. The Act, Pub. L. 93–203, as amended generally by Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1909, was known as the Comprehensive Employment and Training Act, and was set out as having been added by Pub. L. 95–524 without reference to the intervening amendments in view of the extensive revision of the Act's provisions by Pub. L. 95–524.

§§ 801, 802. Repealed. Pub. L. 97–300, title I, § 184(a)(1), Oct. 13, 1982, 96 Stat. 1357

Section 801, Pub. L. 93–203, § 2, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1912, set out Congressional statement of purpose in enacting this chapter.

A prior section 801, Pub. L. 93–203, § 2, Dec. 28, 1973, 87 Stat. 839, provided for a Congressional statement of purpose for this chapter, prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Section 802, Pub. L. 93–203, § 3, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1912, provided definitions for this chapter.

A prior section 802, Pub. L. 93–203, § 4, Dec. 28, 1973, 87 Stat. 839; Pub. L. 95–44, § 2(a), June 15, 1977, 91 Stat. 220; Pub. L. 95–93, title III, § 302, Aug. 5, 1977, 91 Stat. 650, authorized appropriations for this chapter, prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

A prior section 3 of Pub. L. 93–203, Dec. 28, 1973, 87 Stat. 839, provided for transitional provisions and was set out as a note under section 801 of this title, prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Provisions similar to those comprising this section were contained in former section 981 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

A prior section 803, Pub. L. 95–93, title III, § 305, Aug. 5, 1977, 91 Stat. 651, providing for increased participation of veterans in public service employment programs and job training opportunities, was omitted because it was limited to fiscal years 1977 and 1978.

EFFECTIVE DATE OF REPEAL

Pub. L. 97–300, title I, § 184(a), Oct. 13, 1982, 96 Stat. 1357, which provided for the repeal of the Comprehensive Employment and Training Act, this chapter, effective Oct. 13, 1982, was itself repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, eff. July 1, 2000.

SUBCHAPTER I—ADMINISTRATIVE PROVISIONS

PART A—ORGANIZATIONAL PROVISIONS

§§ 811 to 822. Repealed. Pub. L. 97–300, title I, § 184(a)(1), Oct. 13, 1982, 96 Stat. 1357

Section 811, Pub. L. 93–203, title I, § 101, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1917, related to prime sponsors under this chapter.

A prior section 811, Pub. L. 93–203, title I, § 101, Dec. 28, 1973, 87 Stat. 840, provided description of a program to provide comprehensive manpower services, prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Provisions similar to those comprising this section were contained in former section 812 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Section 812, Pub. L. 93–203, title I, § 102, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1918, related to authority of Secretary to provide services.

A prior section 812, Pub. L. 93–203, title I, § 102, Dec. 28, 1973, 87 Stat. 841, related to prime sponsors, prior to the general revision of Pub. L. 93–203, by Pub. L. 95–524.

Provisions similar to those comprising this section were contained in former section 820 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Section 813, Pub. L. 93–203, title I, § 103, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1918, related to submission and contents of a comprehensive employment and training plan.

A prior section 813, Pub. L. 93–203, title I, § 103, Dec. 28, 1973, 87 Stat. 842, provided for allocation of funds with respect to comprehensive manpower services program, prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Provisions similar to those comprising this section were contained in former section 815 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Section 814, Pub. L. 93–203, title I, § 104, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1922, related to review of comprehensive employment and training plans.

A prior section 814, Pub. L. 93–203, title I, § 104, Dec. 28, 1978, 87 Stat. 843, related to establishment of prime sponsor's planning councils, prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Provisions similar to those comprising this section were contained in former section 818 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Section 815, Pub. L. 93–203, title I, § 105, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1925, related to Governor's coordination and special services plan.

A prior section 815, Pub. L. 93–203, title I, § 105, Dec. 28, 1973, 87 Stat. 843; Pub. L. 94–444, § 12(b)(1), Oct. 1, 1976, 90 Stat. 1483, related to conditions for receipt of financial assistance, prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.