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.)

CHAPTER 16—VOCATIONAL REHABILITATION AND OTHER REHABILITATION SERVICES

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 762a, 780a, 1533, 1605, 1792 of this title; title 2 sections 1302, 1311, 1371, 1434; title 3 sections 402, 411; title 5 section 8104; title 20 sections 107a, 107d–4, 1142, 1203a, 1206a, 1453, 2323, 2403, 3441, 4356, 6143; title 22 section 2102; title 26 section 51; title 38 sections 3117, 3118, 7462; title 42 sections 290dd, 1320b–6, 3013, 3026, 5116, 6008, 6024, 6042, 6705, 11701, 12117, 12592.

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 the provision of individualized training, independent living services, educational and 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) 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 severe 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 a parent, a family member, a guardian, an advocate, or an authorized 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, 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.)

CODIFICATION

The content of Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617, including provisions thereof which amended various sections of this chapter and enacted provisions set out as notes under this section, was originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353), H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this chapter should be deemed to have been amended by Pub. L. 93–651, Nov. 21, 1974, 89 Stat. 2–3, in exactly the same manner as it was amended by Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617.

PRIOR PROVISIONS

Prior similar provisions were contained in former section 31 of this title.

AMENDMENTS

1992—Pub. L. 102–569 amended section generally. Prior to amendment, section read as follows: ''The purpose of this chapter is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational rehabilitation and independent living, for individuals with handicaps in order to maximize their employability, independence, and integration into the workplace and the community.''

1986—Pub. L. 99–506 inserted '', for individuals with handicaps in order to maximize their employability, independence, and integration into the workplace and the community''.

1978—Pub. L. 95–602 substituted provision declaring that the purpose of this chapter is to develop and implement, through research, training, services, and equal opportunity guarantee, comprehensive and coordinated programs of vocational rehabilitation and independent living for provision declaring the purpose of this chapter was to provide a statutory basis for the Rehabilitation Services Administration and to authorize a wide range of programs designed to improve rehabilitation methods, services, and facilities, increase the number and skill of trained personnel, and provide employment opportunities for the handicapped.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 138 of title I of Pub. L. 102–569, 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 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, 791 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 this section] 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

Section 1006 of Pub. L. 99–506 provided that: ''Except as otherwise provided in this Act [see Short Title of 1986 Amendment note below], this Act shall take effect on the date of its enactment [Oct. 21, 1986].''

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 provisions 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 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. See Codification note above.

SHORT TITLE

Section 1 of Pub. L. 93–112 provided that Pub. L. 93–112, which enacted this chapter and repealed sections 31 to 41c and 42–1 to 42b of this title, may be cited as the ''Rehabilitation Act of 1973''.

Section 601 of title VI of Pub. L. 93–112, 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: ''This title [adding subchapter VI of this chapter] may be cited as the 'Employment Opportunities for Handicapped Individuals Act'.''

[Section 102(p)(34) of Pub. L. 102–569 which directed the substitution of ''Disabilities'' for ''Handicaps'' in section 601 of Pub. L. 93–112, set out above, could not be executed because the word ''Handicaps'' did not appear.]

WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Pub. L. 93–516, title III, Dec. 7, 1974, 88 Stat. 1631, as amended by Pub. L. 94–224, §§1, 2, Feb. 27, 1976, 90 Stat. 201, authorized the President to call a White House Conference on Handicapped Individuals not later than Dec. 7, 1977, to develop recommendations and stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps, and established a National Planning Advisory Council to provide guidance and planning for the Conference which Council would cease to exist 120 days after submission of a final report to the President, such report to be submitted not later than 120 days following the date on which the Conference was called.

Identical provisions are contained in Pub. L. 93–651, title III, Nov. 21, 1974, 89 Stat. 2–16. See Codification note above.

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 entering 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, 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 Chair of the President's Committee on Employment of People with Disabilities, 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 Chair of the President's Committee on Employment of People with Disabilities 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 706 of this title.

§ 702. Rehabilitation Services Administration

(a) Establishment; appointment and qualification of Commissioner; principal officer and principal agency; administrative responsibility; delegation of authority; guiding policies

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 and part A of subchapter VI 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) Expenditure of funds only for programs, personnel, and administration of programs carried out under this chapter

The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this chapter, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act, are expended only for the programs, personnel, and administration of programs carried out under this chapter.

(c) Staffing requirements

The Secretary shall take such action as necessary to ensure that—

(1) the staffing of the Rehabilitation Services Administration shall be in sufficient numbers to meet program needs and at levels which will attract and maintain the most qualified personnel; and

(2) such staff includes individuals who have training and experience in the provision of rehabilitation services and that staff competencies meet professional standards.

(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.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (b), is act June 2, 1920, ch. 219, 41 Stat. 735, which was classified generally to chapter 4 (§ 31 et seq.) of this title and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified generally to this chapter. Section 500(a), which was classified to section 790 of this title, provided in part that references to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–630 substituted ''National Council on Disability'' for ''National Council on the Handicapped''.

1986—Subsec. (a). Pub. L. 99–506, § 1001(a)(1), which directed the substitution of ''the functions of the office'' for ''his functions'' in third and sixth sentences was executed to fourth and seventh sentences in view of amendment by section 102(a) of Pub. L. 99–506.

Pub. L. 99–506, § 102(a), which directed the insertion after second sentence of provision that the Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management, was executed by inserting that provision after second sentence of subsec. (a) as the probable intent of Congress.

Subsec. (c). Pub. L. 99–506, § 102(b), added subsec. (c).

1978—Subsec. (a). Pub. L. 95–602, § 122(a)(2), inserted ''and part A of subchapter VI of this chapter'' after ''subchapters IV and V of this chapter'' and provision deeming any reference in this chapter to the duties carried out by the Commissioner to be a reference to the duties carried out by the Secretary through the Commissioner and requiring the Commissioner to be guided by the policies of the National Council on the Handicapped.

Subsecs. (b), (c). Pub. L. 95–602, § 122(a)(3), redesignated subsec. (c) as (b). Former subsec. (b), which required the Secretary, through coordination with appropriate programs in the Department of Health, Education, and Welfare and consultation with the National Science Foundation and National Academy of Science, to develop innovative methods of applying advanced medical, scientific, psychological, and social knowledge to solve rehabilitation problems, and made the Secretary responsible for establishment of rehabilitation engineering research centers, was struck out.

1974—Subsec. (a). Pub. L. 93–516 substantially reenacted existing provisions, and in subsec. (a) as so reenacted, substituted reference to Office of the Secretary for reference to the Department of Health, Education, and Welfare, inserted requirement that the appointment of Commissioner be approved by the Senate, inserted provisions that the Commissioner shall be the principal officer of the Department for carrying out provisions of this chapter, that the Commissioner shall be directly responsible to the Secretary, Under Secretary, or Assistant Secretary, as the case may be, and that the functions of the Commissioner shall not be delegated to any officer not directly responsible to the Commissioner both with respect to program operation and administration, and struck out provisions relating to procedure for delegation of functions of the Commissioner to other officers.

Pub. L. 93–651 made identical amendment as made by Pub. L. 93–516.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 101(b) of Pub. L. 93–651 provided that: ''The amendment made by subsection (a) [amending this section] shall be effective sixty days after the date of enactment of this Act [Nov. 21, 1974].''

Section 101(b) of Pub. L. 93–516 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall be effective sixty days after the date of enactment of this Act [Dec. 7, 1974].''

TRANSFER OF FUNCTIONS

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, under this chapter to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of Title 20, Education.

ADDITIONAL PERSONNEL FOR OFFICE FOR THE BLIND AND VISUALLY HANDICAPPED

Section 208(a) of Pub. L. 93–516 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 section 208(a) of Pub. L. 93–651.

PREFERENCE TO BLIND IN SELECTING PERSONNEL

Section 208(c) of Pub. L. 93–516 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 section 208(c) of Pub. L. 93–651.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 761a of this title.

§ 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 appropriation 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, Sept. 26, 1973, 87 Stat. 358.)

§ 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, Sept. 26, 1973, 87 Stat. 359.)

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. Consolidated rehabilitation plan

(a) Election by State; agency concurrence

In order to secure increased flexibility to respond to the varying needs and local conditions within the State, and in order to permit more effective and interrelated planning and operation of its rehabilitation programs, the State may submit a consolidated rehabilitation plan which includes the State's plan under section 721(a) of this title and its program for persons with developmental disabilities under the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.]: *Provided*, That the agency administering such State's program under such Act concurs in the submission of such a consolidated rehabilitation plan.

(b) Approval by Secretary of consolidated rehabilitation plan meeting statutory requirements; submission by State of separate rehabilitation plans

Such a consolidated rehabilitation plan must comply with, and be administered in accordance with, all the requirements of this chapter and the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.]. If the Secretary finds that all such requirements are satisfied, the Secretary may—

(1) approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein; or

(2) advise the State to submit separate plans for such programs.

(c) Noncompliance; assistance termination procedures

Findings of noncompliance in the administration of an approved consolidated rehabilitation plan, and any reductions, suspensions, or terminations of assistance as a result thereof, shall be carried out in accordance with the procedures set forth in subsections (c) and (d) of section 727 of this title.

(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.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsecs. (a) and (b), is title I of Pub. L. 88–164, as added by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, and amended, which is classified generally to chapter 75 (§ 6000 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 6000 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–569 substituted ''727'' for ''721''.

1988—Subsec. (a). Pub. L. 100–630, § 201(b)(1), substituted ''Assistance and Bill of Rights Act'' for ''Services and Facilities Construction Amendments of 1970''.

Subsec. (b). Pub. L. 100–630, § 201(b)(2), substituted ''Assistance and Bill of Rights Act'' for ''Services and Facilities Construction Amendments of 1970'' and ''the Secretary may—'' for ''the Secretary may'' in introductory provisions and substituted pars. (1) and (2) for ''approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein, or may advise the State to submit separate plans for such programs''.

1986—Subsec. (b). Pub. L. 99–506 substituted ''the Secretary may approve'' for ''he may approve'' and ''or may advise'' for ''or he may advise''.

§ 706. Definitions

For the purposes of this chapter:

(1) The term ''construction'' means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term ''cost of construction'' includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(2) 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, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(3)(A) The term ''designated State agency'' means an agency designated under section 721(a)(1)(A) of this title.

(B) The term ''designated State unit'' means (i) any State agency unit required under section 721(a)(2)(A) of this title, or (ii) in cases in which no such unit is so required, the State agency described in section 721(a)(1)(B)(i) of this title.

(4)(A) 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) 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.

(5) The term ''employment outcome'' means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this chapter.

(6) 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.

(7)(A) Subject to subparagraphs (B) and (C), the term ''Federal share'' means 78.7 percent.

(B) The term ''Federal share'' means 90 percent for the purposes of part C of subchapter I of this chapter and as 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 which 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) 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.

(8)(A) 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, VI, or VIII of this chapter.

(B) Subject to subparagraphs (C), (D), (E), and (F), the term ''individual with a disability'' means, for purposes of sections 701, 713, and 714 of this title, and subchapters II, IV, V, and VII of this chapter, 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.

(C)(i) 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) 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) 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) 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 34 CFR 104.36 shall not apply to such disciplinary actions.

(v) 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) For the purpose 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) 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) 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.

(9) 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 State agency designated pursuant to section 721(a)(1) of this title 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 utilizing another local public or nonprofit agency to provide vocational rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(10) 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.

(11) 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.

(12) The term ''public safety officer'' means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(13) 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.

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

(15)(A) Except as provided in subparagraph (B) or (C), the term ''individual with a severe 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 subparagraphs (A) and (C) of paragraph (22) to cause comparable substantial functional limitation.

(B) For purposes of subchapter VII of this chapter, the term ''individual with a severe 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 towards functioning independently in the family or community or to continue in employment, respectively.

(C) For purposes of section 712 of this title and subchapter II of this chapter, the term ''individual with a severe disability'' includes an individual described in subparagraph (A) or (B).

(16) 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, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

(17) 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.

(18)(A) The term ''supported employment'' means competitive work in integrated work settings for individuals with the most severe 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 severe 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 (34)(C) and extended services after the transition described in paragraph (27)(C) in order to perform such work.

(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.

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

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

(21) 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.]).

(22) 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 the priority 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 additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

(B) to the extent additional data is necessary, a comprehensive assessment (including the administration of the assessment) of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment—

(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the 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; 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 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; and

(C)(i) referral;

(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

(23) The term ''assistive technology device'' has the meaning given such term in section 2202(2) 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 (8)(A).

(24) The term ''assistive technology service'' has the meaning given such term in section 2202(3) 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 (8)(A); and

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

(25) 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).

(26) 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, 713, and 714 of this title, and subchapters II, IV, V, and VII of this chapter, a physical or mental impairment that substantially limits one or more major life activities.

(27) The term ''extended services'' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe 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 integrated, competitive employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; 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.

(28)(A) 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 Advisory Council described in section 725 of this title;

(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

(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) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

(29) 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.

(30) 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;

(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.

(31)(A) The term ''individuals with disabilities'' means more than one individual with a disability.

(B) The term ''individuals with severe disabilities'' means more than one individual with a severe disability.

(C) The term ''individuals with the most severe disabilities'' means more than one individual with the most severe disability.

(32) The term ''institution of higher education'' has the meaning given the term in section 1141(a) of title 20.

(33) The term ''ongoing support services'' means services—

(A) provided to individuals with the most severe 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 (22)(B);

(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;[1]

(iii) job development and placement;

(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 parents, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors, 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.

(34) The term ''supported employment services'' means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

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

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; 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 jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

(35) 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 post secondary 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.

(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, § 512, July 26, 1990, 104 Stat. 376; 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.)

REFERENCES IN TEXT

Section 721(a)(B)(i) of this title, referred to in par. (3), was in the original ''section 101(a)(B)(i) of this Act''. As enacted the citation omitted a paragraph designation but is probably a reference to section 721(a)(1)(B)(i) of this title.

The Controlled Substances Act, referred to in par. (4)(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.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in par. (16), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

The Alaska Native Claims Settlement Act, referred to in par. (21), 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.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see note set out under section 701 of this title.

PRIOR PROVISIONS

Prior similar provisions were contained in former sections 41, 41a, 42–1, and 42a of this title.

[1] So in original. Probably should be ''worksite;''.

AMENDMENTS

1994—Par. (23). Pub. L. 103–218, §404(a), substituted ''2202(2)'' for ''2202(1)''.

Par. (24). Pub. L. 103–218, §404(b), substituted ''2202(3)'' for ''2202(2)''.

1993—Par. (3). Pub. L. 103–73, §102(1), made technical correction to Pub. L. 102–569, §102(a). See 1992 Amendment note below.

Pub. L. 103–73, §103(1), designated second sentence of subpar. (A) as subpar. (B), and in cl. (ii) substituted ''section 721(a)(1)(B)(i)'' for ''section 721(a)(B)(i)''.

Par. (8)(A). Pub. L. 103–73, §103(2)(A), substituted ''subchapter I, III, VI, or VIII'' for ''subchapters I, II, III, VI, and VIII''.

Par. (8)(B). Pub. L. 103–73, §103(2)(B), substituted ''subchapters II, IV, V, and VII'' for ''subchapters IV and V''.

Subsec. (15)(A). Pub. L. 103–73, §103(3), which directed amendment of introductory provisions by inserting a comma after ''subparagraph (C)'', was executed by making the insertion after ''subparagraph (B) or (C)'', to reflect the probable intent of Congress.

Par. (18)(A)(ii). Pub. L. 103–73, §103(4), substituted ''employment services for the period, and any extension, described in paragraph (34)(C) and extended services after the transition described in paragraph (27)(C)'' for ''employment services or extended services''.

Par. (26)(B). Pub. L. 103–73, §103(5), substituted ''II, IV, V, and VII'' for ''II, III, IV, V, and VIII''.

1992—Par. (3). Pub. L. 102–569, §102(a), as amended by Pub. L. 103–73, §102(1), substituted ''(3)(A) The term 'designated State agency' means an agency designated under section 721(a)(1)(A) of this title.'' for ''(3)'' and redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively.

Par. (4). Pub. L. 102–569, §102(d)(4), (5), redesignated par. (22) as (4) and inserted it after par. (3). Former par. (4) redesignated (6).

Pub. L. 102–569, §102(b), substituted ''community rehabilitation program'' for ''rehabilitation facility'' in two places, ''includes the acquisition'' for ''means the acquisition'', and ''facilities for community rehabilitation programs)'' for ''such facilities)''.

Par. (5). Pub. L. 102–569, §102(d)(1), (2), redesignated par. (6) as (5) and struck out former par. (5) which defined ''evaluation of rehabilitation potential''.

Par. (6). Pub. L. 102–569, §102(d)(2), (3), redesignated par. (4) as (6) and inserted it before par. (7). Former par. (6) redesignated (5).

Pub. L. 102–569, §102(c), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''The term 'employability', with respect to an individual, means a determination that, with the provision of vocational rehabilitation services, the individual is likely to enter or retain, as a primary objective, full-time employment, and when appropriate, part-time employment, consistent with the capacities or abilities of the individual in the competitive labor market or any other vocational outcome the Secretary may determine consistent with this chapter.''

Par. (7). Pub. L. 102–569, §102(e), substituted ''78.7 percent'' for ''80 percent'' in subpar. (A), redesignated subpar. (C) as (B) and substituted ''section 731(a)(3)'' for ''section 771(b)(3)'' in two places, struck out former subpar. (B) which read as follows: ''For any fiscal year for which payments to a State under section 731(a) of this title exceed such payments for fiscal year 1988, the Federal share for those payments in excess of the fiscal year 1988 amount shall be 79 percent for fiscal year 1989, 78 percent for fiscal year 1990, 77 percent for fiscal year 1991, 76 percent for fiscal year 1992, and 75 percent for fiscal year 1993.'', and redesignated subpar. (D) as (C).

Par. (8)(A). Pub. L. 102–569, §102(f)(1), in introductory provisions, substituted ''a disability'' for ''handicaps'', in cl. (i), substituted ''impairment'' for ''disability'' and ''impediment'' for ''handicap'', and in cl. (ii), substituted ''can benefit'' for ''can reasonably be expected to benefit'', ''an employment outcome'' for ''employability'', and ''subchapters I, II, III, VI, and VIII'' for ''subchapters I and III''.

Par. (8)(B). Pub. L. 102–569, §102(f)(2), substituted ''(C), (D), (E), and (F)'' for ''(C) and (D)'' and ''a disability'' for ''handicaps'', and inserted references to sections 701, 713, and 714 of this title.

Par. (8)(C). Pub. L. 102–569, §102(f)(3), in cls. (i) and (ii), substituted ''a disability'' for ''handicaps'', in cl. (iv), substituted ''student who is an individual with a disability and'' for ''handicapped student'' and ''students who are not individuals with disabilities'' for ''nonhandicapped students'', and in cl. (v), substituted ''a disability'' for ''handicaps''.

Par. (8)(E), (F). Pub. L. 102–569, §102(f)(4), added subpars. (E) and (F).

Par. (10). Pub. L. 102–569, §102(g), substituted ''with respect to a community rehabilitation program, means a community rehabilitation program carried out by'' for ''with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by''.

Pars. (11), (12). Pub. L. 102–569, §102(h)(2), (3), added par. (11) and redesignated former pars. (11) and (12) as (12) and (13), respectively.

Par. (13). Pub. L. 102–569, §102(h)(1), (2), (i), (p)(3)(A), redesignated par. (12) as (13), substituted ''rehabilitation technology'' for ''rehabilitation engineering'' and ''disabilities'' for ''handicaps'', inserted at end ''The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.'', and struck out former par. (13) which defined ''rehabilitation facility''.

Par. (15)(A). Pub. L. 102–569, §102(j)(1), (p)(3)(B), in introductory provisions, substituted ''subparagraph (B) or (C)'' for ''subparagraph (B)'', ''a severe disability'' for ''severe handicaps'', and ''a disability'' for ''handicaps (as defined in paragraph (8))'', in cl. (i), substituted ''impairment'' for ''disability'' and ''an employment outcome'' for ''employability'', and in cl. (iii), substituted ''assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)'' for ''evaluation of rehabilitation potential''.

Par. (15)(B), (C). Pub. L. 102–569, §102(j)(2), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: ''For purposes of subchapter VII of this chapter the term 'individual with severe handicaps' means an individual whose ability to function independently in family or community or whose ability to engage or continue in employment is so limited by the severity of his or her physical or mental disability that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning in family or community or engaging or continuing in employment.''

Par. (16). Pub. L. 102–569, §102(k), amended par. (16) generally. Prior to amendment, par. (16) read as follows: ''The term 'State' includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 721(a)(1) of this title shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.''

Par. (17). Pub. L. 102–569, §102(p)(3)(C), substituted ''disabilities'' for ''handicaps''.

Par. (18). Pub. L. 102–569, §102(*l*), amended par. (18) generally. Prior to amendment, par. (18) read as follows: ''The term 'supported employment' means competitive work in integrated work settings—

''(A) for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

''(B) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and

who, because of their handicap, need on-going support services to perform such work. Such term includes transitional employment for individuals with chronic mental illness. For the purpose of this chapter, supported employment as defined in this paragraph may be considered an acceptable outcome for employability.''

Par. (19). Pub. L. 102–569, § 102(m), amended par. (19) generally. Prior to amendment, par. (19) read as follows: ''The term 'public or nonprofit agency or organization' shall include an Indian tribe.''

Pars. (22) to (35). Pub. L. 102–569, § 102(n), added pars. (22) to (35). Former par. (22) redesignated (4).

1990—Par. (8)(B). Pub. L. 101–336, § 512(c), substituted ''Subject to subparagraphs (C) and (D)'' for ''Subject to the second sentence of this subparagraph'' in first sentence and struck out at end ''For purposes of sections 793 and 794 of this title as such sections relate to employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.''

Par. (8)(C), (D). Pub. L. 101–336, § 512(a), added subpar. (C) and redesignated former subpar. (C) as (D).

Par. (22). Pub. L. 101–336, § 512(b), added par. (22).

1988—Par. (2). Pub. L. 100–630, § 201(c)(1), inserted comma after ''local government''.

Par. (5)(B). Pub. L. 100–630, § 201(c)(2), inserted comma after ''employability''.

Par. (5)(C). Pub. L. 100–630, § 201(c)(3), substituted ''skills'' for ''skill''.

Par. (5)(G)(i). Pub. L. 100–630, § 201(c)(4), substituted ''neither'' for ''neither such individual''.

Par. (8)(C). Pub. L. 100–259 added subpar. (C).

Par. (13)(B). Pub. L. 100–630, § 201(c)(5), reenacted cl. (B). See 1986 Amendment note below.

Par. (13)(F). Pub. L. 100–630, § 201(c)(6), amended cl. (F) generally, inserting a comma after ''psychological''. See 1986 Amendment note below.

Par. (13)(L). Pub. L. 100–630, § 201(c)(7), which directed the substitution of ''provision'' for ''provisions'', could not be executed because the word ''provisions'' did not appear.

Par. (15)(A). Pub. L. 100–630, § 201(c)(8), struck out '', for purposes of this chapter'' before ''the term'' in introductory provisions.

1986—Par. (3). Pub. L. 99–506, § 1002(a)(1), substituted ''designated State unit'' for ''designated State units''.

Par. (4). Pub. L. 99–506, § 1001(a)(3), substituted ''the Secretary shall prescribe'' for ''he shall prescribe''.

Par. (5)(B). Pub. L. 99–506, § 103(a)(1), (2), inserted ''recreational,'' after ''cultural, social,'' and ''employability'' after ''an evaluation of the individual's''.

Par. (5)(G). Pub. L. 99–506, § 103(d)(2)(A), substituted ''an individual with handicaps'' for ''a handicapped individual'' in two places.

Par. (5)(H). Pub. L. 99–506, § 103(a)(3)–(5), added subpar. (H).

Par. (6). Pub. L. 99–506, § 103(b), added par. (6) and redesignated former par. (6) as (7).

Par. (7). Pub. L. 99–506, § 103(c)(1), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''The term 'Federal share' means 80 per centum, except that it shall mean 90 per centum for the purposes of part C of subchapter I of this chapter and as specifically set forth in section 771(b)(3) of this title: *Provided*, That with respect to payments pursuant to part B of subchapter I of this chapter to any State which 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 771(b)(3) of this title applicable with respect to that State and that, for the purpose of determining the non-Federal share with respect to any State, expenditures by a political subdivision thereof or by a local agency shall, subject to such limitations and conditions as the Secretary shall by regulation prescribe, be regarded as expenditures by such State.''

Pub. L. 99–506, § 103(b), redesignated former par. (6) as (7). Former par. (7) redesignated (8).

Par. (8). Pub. L. 99–506, § 103(b), (d)(1), redesignated former par. (7) as (8) and substituted ''individual with handicaps'' for ''handicapped individual'' in subpars. (A) and (B). Former par. (8) redesignated (9).

Par. (9). Pub. L. 99–506, § 103(b), (e), redesignated former par. (8) as (9) and substituted ''Indian tribe (or combination of such units or tribes)'' for ''Indian tribal organization (or combination of such units or organizations)''. Former par. (9) redesignated (10).

Par. (10). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Pub. L. 99–506, § 103(b), redesignated former par. (9) as (10). Former par. (10) redesignated (11).

Par. (11). Pub. L. 99–506, § 103(b), redesignated former par. (10) as (11). Former par. (11) redesignated (13).

Par. (12). Pub. L. 99–506, § 103(f), added par. (12). Former par. (12) redesignated (14).

Par. (13). Pub. L. 99–506, § 1002(a)(2), which provided for the reenactment of cl. (B) of par. (11), and the amendment of cl. (F) of par. (11) by inserting ''psychiatric,'' before ''psychological'', to correct amendment made by section 122(a)(7)(B) of Pub. L. 95–602 (see 1978 Amendment note below), was executed to cls. (B) and (F) of par. (13) to reflect the probable intent of Congress and the intervening redesignation of par. (11) as par. (13) by section 103(f) of Pub. L. 99–506. See note below.

Pub. L. 99–506, § 103(d)(2)(C), (f), (g), redesignated former par. (11) as (13) and substituted ''individuals with handicaps'' for ''handicapped individuals'' in three places and added cl. (M). Former par. (13) redesignated (15).

Par. (14). Pub. L. 99–506, § 103(f), redesignated former par. (12) as (14). Former par. (14) redesignated (16).

Par. (15). Pub. L. 99–506, § 103(f), (h)(1), redesignated former par. (13) as (15) and amended it generally, substituting definition of term ''individual with severe handicaps'' for definition of term ''severe handicap''. Former par. (15) redesignated (17).

Par. (16). Pub. L. 99–506, § 103(i)(1), redesignated former par. (14) as (16).

Par. (17). Pub. L. 99–506, § 103(d)(2)(C), (i)(1), redesignated former par. (15) as (17) and substituted ''individuals with handicaps'' for ''handicapped individuals''.

Pars. (18) to (21). Pub. L. 99–506, § 103(i)(2), (j), added pars. (18) to (21).

1984—Par. (12). Pub. L. 98–221 substituted ''Secretary of Education'' for ''Secretary of Health, Education, and Welfare''.

1978—Par. (3). Pub. L. 95–602, § 122(a)(8), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 95–602, § 122(a)(4), (8), redesignated former par. (3) as (4) and substituted ''and may include such additional equipment and staffing as the Commissioner considers appropriate'' for ''and the initial equipment for such buildings, and may include the initial staffing thereof''. Former par. (4) redesignated (5).

Par. (5). Pub. L. 95–602, § 122(a)(5), (8), redesignated former par. (4) as (5) and inserted in subpar. (B), ''psychiatric'' after ''medical''. Former par. (5) redesignated (6).

Par. (6). Pub. L. 95–602, § 122(a)(8), redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Par. (7). Pub. L. 95–602, § 122(a)(6), (8), redesignated former par. (6) as (7), substituted ''(A) Except as otherwise provided in subparagraph (B), the term'' for ''The term'', redesignated cls. (A) and (B) as cls. (i) and (ii), respectively, struck out provision defining ''handicapped individual'' for purposes of subchapters IV and V of this chapter as any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment, and added subpar. (B). Former par. (7) redesignated (8).

Pars. (8) to (10). Pub. L. 95–602, § 122(a)(8), redesignated former pars. (7) to (9) as (8) to (10), respectively.

Par. (11). Pub. L. 95–602, § 122(a)(7), (8), redesignated former par. (10) as (11) and inserted in cl. (A), '', psychiatric'' after ''medical'' and in cl. (F), ''psychiatric'' before ''psychological''. Notwithstanding directory language that amendment be made to cl. (B) of par. (11), amendment was executed to cl. (F) of par. (11)

to reflect the probable intent of Congress. Former par. (11) redesignated (12).

Pars. (12) to (15). Pub. L. 95–602, § 122(a)(8), redesignated former pars. (11) to (14) as (12) to (15), respectively.

1974—Par. (6). Pub. L. 93–516 expanded definition of handicapped individual to include for the purposes of subchapters IV and V of this chapter any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such as impairment, or is regarded as having such an impairment.

Pub. L. 93–651 made identical amendment as made by Pub. L. 93–516.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 103(c)(1) of Pub. L. 99–506 provided that the amendment made by that section is effective Oct. 1, 1988.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 722, 725, 794, 795, 795g, 796b, 796d, 796f–4, 796k, 797a, 1503, 1583, 2211 of this title; title 42 sections 1769h, 5061, 6862, 12511.

§ 707. Allotment percentage

(a) Percentage limitation; promulgation and computation; "United States" defined

(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 Republic of Palau (until the Compact of Free Association with Palau takes effect) 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 two 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 fifty States and the District of Columbia.

(b) Population determination

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, 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.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (a)(1), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

Prior similar provisions were contained in former section 41 of this title.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–569 substituted "For purposes of section 730 of this title, the" for "The" and "and the Republic of Palau (until the Compact of Free Association with Palau takes effect)" for "and the Trust Territory of the Pacific Islands".

1976—Subsec. (a)(2). Pub. L. 94–273 substituted "October" for "July" wherever appearing, and "December 31" for "September 30".

§ 708. Repealed. Pub. L. 103–382, title II, § 272, Oct. 20, 1994, 108 Stat. 3931

Section, 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.

§ 709. Nonduplication prohibition

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, 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.)

PRIOR PROVISIONS

Prior similar provisions were contained in former sections 33 and 42–1 of this title.

AMENDMENTS

1992—Pub. L. 102–569 substituted "community rehabilitation programs" for "rehabilitation facilities" in second sentence.

1988—Pub. L. 100–630 inserted comma after "any other provision of this chapter".

1978—Pub. L. 95–602 provided that this section not be construed to limit or reduce fees for services rendered by rehabilitation facilities.

§ 710. Application of other laws

The provisions of chapter 71 of title 31 and of section 1469a of title 48 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, as added Pub. L. 95–602, title I, § 121, Nov. 6, 1978, 92 Stat. 2984.)

CODIFICATION

''Chapter 71 of title 31'' substituted in text for ''the Act of December 5, 1974 (Public Law 93–510) [42 U.S.C. 4251 et seq.]'' 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.

§ 711. 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;

(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 establishing criteria for selection of vocational rehabilitation services

(1) Not later than 120 days after October 29, 1992, the Secretary shall receive public comment and promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services, and of vocational rehabilitation services providers, by an individual with a disability, consistent with the individualized written rehabilitation program of the individual under section 722 of this title.

(2) Regulations under paragraph (1) shall include the following:

(A) Procedures that States must adopt to ensure that the services provided under this chapter are of sufficient scope and quality, that the costs of such services and the length of time such services are provided are reasonable, and that such services are available in a timely manner.

(B) Procedures that prevent fraud, waste, and abuse.

(C) Procedures to assure that services are provided in the most integrated settings.

(D) Procedures to assure that rehabilitation providers comply with State guarantees, such as—

(i) affirmative action procedures with respect to the employment of individuals with disabilities;

(ii) standards governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services; and

(iii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client.

(E) Standards to be adhered to by providers to help ensure the integrity of services.

(F) Guidelines for assisting individuals with disabilities and for providing information about available vocational rehabilitation service providers, especially for assisting—

(i) individuals with cognitive and other disabilities who, due to the nature of the disability, require support and assistance in fully implementing the selection and procurement of services; and

(ii) the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(f) 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, 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.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 780 of this title, prior

to repeal by Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102–569, § 105(a), inserted before semicolon at end ", including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)".

Subsecs. (d) to (f). Pub. L. 102–569, § 105(b), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

1988—Subsec. (c). Pub. L. 100–630 substituted "the Commissioner's" for "his".

1986—Subsec. (a)(5). Pub. L. 99–506, § 104(a), substituted "provide monitoring and conduct evaluations" for "provide staff and other technical assistance to the National Council on the Handicapped".

Subsec. (b). Pub. L. 99–506, §§ 104(b), 1001(a)(4)(A), designated existing provisions as par. (1), substituted "the duties" for "his duties", and added par. (2).

Subsec. (c). Pub. L. 99–506, § 1001(a)(4)(B), substituted "as are considered" for "as he considers".

§ 712. Reports to President and Congress

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 714 of this title. The Commissioner shall annually collect information on each client whose case is closed out in the preceding fiscal year and include the information in the report required by this section. The information shall set forth a complete count of such cases in a manner permitting the greatest possible cross-classification of data. The data elements shall include, but not be limited to, age, sex, race, ethnicity, education, type of disability, severity of disability, key rehabilitation process dates, earnings at time of entry into program and at closure, work status, occupation, cost of case services, types of services provided, including types of rehabilitation technology services provided, types of facilities or agencies which furnished services and whether each such facility or agency is public or private, and reasons for closure. The Commissioner shall take whatever action is necessary to assure that the identity of each client for which information is supplied under this subsection is confidential. Such annual reports shall also include statistical data reflecting services and activities provided individuals during the preceding fiscal year. The annual report shall include an evaluation of the status of individuals with severe disabilities participating in programs under this chapter.

(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.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 784 of this title, prior to repeal by Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

AMENDMENTS

1995—Pub. L. 104–66 substituted "eighty" for "twenty" before "days after" in first sentence.

1992—Pub. L. 102–569 inserted "including types of rehabilitation technology services provided," after "provided," in fourth sentence and substituted "disabilities" for "handicaps" in last sentence.

1986—Pub. L. 99–506 substituted "to the President and to the Congress" for "to the President for transmittal to the Congress", inserted ", including the activities and staffing of the information clearinghouse under section 714 of this title", and inserted "The annual report shall include an evaluation of the status of individuals with severe handicaps participating in programs under this chapter."

1984—Pub. L. 98–221 inserted "The Commissioner shall annually collect information on each client whose case is closed out in the preceding fiscal year and include the information in the report required by this section. The information shall set forth a complete count of such cases in a manner permitting the greatest possible cross-classification of data. The data elements shall include, but not be limited to, age, sex, race, ethnicity, education, type of disability, severity of disability, key rehabilitation process dates, earnings at time of entry into program and at closure, work status, occupation, cost of case services, types of services provided, types of facilities or agencies which furnished services and whether each such facility or agency is public or private, and reasons for closure. The Commissioner shall take whatever action is necessary to assure that the identity of each client for which information is supplied under this subsection is confidential." and inserted "also" after "Such annual reports shall".

TRANSFER OF FUNCTIONS

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, under this chapter to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of Title 20, Education.

REVIEW OF DATA COLLECTION SYSTEM

Section 136 of Pub. L. 102–569 directed Commissioner of Rehabilitation Services Administration to undertake a comprehensive review of the current system for collecting and reporting client data under this chapter, particularly data on clients of the programs under subchapter I of this chapter, specified considerations in conducting the review, required recommendations for improvements in the data collection and reporting system based on the review, and directed Commissioner, not later than 18 months after Oct. 29, 1992, to publish the recommendations in the Federal Register and prepare and submit a report containing the recommendations to the appropriate committees of Congress but not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

EXCHANGE OF DATA

Section 137 of Pub. L. 102–569 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 Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973 (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."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 721, 722, 726, 753a, 776, 795g, 795*o*, 796d–1 of this title.

§ 713. Program and project 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. The standards shall, to the extent feasible, for all appropriate programs include standards relating to the increases in employment and earnings, taking into account economic factors in the area to be served by the program, the characteristics of the individuals with disabilities to be served, and the employment outcomes to be attained. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project 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) Publication of annual summaries

The Secretary shall annually publish summaries of the results of evaluative research and evaluations of program and project impact and effectiveness, including the standards used for such evaluations, the full contents of which shall be available to the Congress and the public.

(d) 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 shall become the property of the United States.

(e) Information from other departments and agencies

Such information as the Secretary may deem 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.

(f) 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 the individuals 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[1]

(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, 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.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 781 of this title, prior to repeal by Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, § 107(2)(C), inserted ", and the employment outcomes to be attained" before period at end of third sentence.

Pub. L. 102–569, § 107(2)(B), which directed substitution of ", the characteristics" for "and the characteristics" in third sentence, could not be executed because "and the characteristics" did not appear subsequent to amendment by Pub. L. 102–569, § 107(2)(A). See below.

Pub. L. 102–569, § 107(2)(A), substituted "program, the characteristics" for "program and the characteristics" in third sentence.

Pub. L. 102–569, §§ 102(p)(5), 107(1), substituted "Secretary, in consultation with the Commissioner," for "Commissioner" before "shall evaluate", "Secretary" for "Commissioner" before "shall establish", and "disabilities" for "handicaps" after "individuals with".

Subsec. (b). Pub. L. 102–569, § 107(1)(B), (3), substituted "the Secretary shall obtain the opinions" for "the Commissioner shall, whenever possible, arrange to obtain the opinions".

Subsecs. (c) to (e). Pub. L. 102–569, § 107(1)(B), substituted "Secretary" for "Commissioner" wherever appearing.

Subsecs. (f), (g). Pub. L. 102–569, § 107(4), added subsec. (f) and redesignated former subsec. (f) as (g).

1988—Subsec. (a). Pub. L. 100–630, § 201(f)(1), inserted comma after "earnings".

Subsec. (c). Pub. L. 100–630, § 201(f)(2), substituted "evaluations of program" for "evaluation of program".

1986—Subsec. (a). Pub. L. 99–506, §§ 103(d)(2)(C), 106(a), (c), substituted provision that the Commissioner evaluate all programs authorized by this chapter for the purpose of improving program management and effectiveness, using appropriate methodology and evaluative research designs, for provision that the Secretary evaluate the impact of all authorized programs and their general effectiveness in achieving stated goals, including, where appropriate, comparisons with appropriate control groups composed of persons who had not participated in such programs, "The Commissioner shall establish" for "The Secretary shall establish", and "individuals with handicaps" for "handicapped individuals".

Subsec. (b). Pub. L. 99–506, § 106(c), substituted "the Commissioner" for "the Secretary".

Subsec. (c). Pub. L. 99–506, § 106(b), (c), substituted "The Commissioner" for "The Secretary" and inserted

[1] So in original. Probably should be followed by a period.

''including the standards used for such evaluations,'' after ''effectiveness,''.

Subsec. (d). Pub. L. 99–506, § 106(c), substituted ''The Commissioner'' for ''The Secretary''.

Subsec. (e). Pub. L. 99–506, § 1001(a)(5)(B), substituted ''upon request of the Commissioner'' for ''to him, upon request''.

Pub. L. 99–506, §§ 106(c), 1001(a)(5)(A), made identical amendments, substituting ''as the Commissioner may deem necessary'' for ''as the Secretary may deem necessary''.

1984—Subsec. (a). Pub. L. 98–221 inserted provisions requiring the Secretary to establish and use standards for the evaluations required by this subsection, with such standards, to the extent feasible, for all appropriate programs to include standards relating to the increases in employment and earnings taking into account economic factors in the area to be served by the program and the characteristics of the handicapped individuals to be served.

STUDY ON SPECIAL PROBLEMS AND NEEDS OF HANDICAPPED INDIVIDUALS RESIDING IN RURAL AREAS; REPORT TO PRESIDENT AND CONGRESS

Section 402 of Pub. L. 95–602, as amended by Pub. L. 98–221, title I, § 104(c)(2), Feb. 22, 1984, 98 Stat. 19, provided that the Secretary, after consultation with the Commissioner of the Rehabilitation Services Administration, Assistant Secretary of Education for the Office of Special Education and Rehabilitation Services, the Director of the National Institute on Handicapped Research, and other appropriate officials, organizations, and individuals, conduct a study of the special problems and needs of handicapped individuals who reside in rural areas in the United States, and upon the completion of such study, but not later than eighteen months after the date of Nov. 6, 1978, submit the results of such study, together with such recommendations as deemed appropriate to the President, and to the appropriate committees of the Congress.

STUDY ON ELIMINATION OF DISINCENTIVES TO EMPLOYMENT FOR INDIVIDUALS RECEIVING BENEFITS; REPORT TO PRESIDENT AND CONGRESS

Section 403 of Pub. L. 95–602 provided that, in consultation with appropriate Federal departments and agencies, the Secretary conduct a study of possible ways to structure Federal programs providing benefits to handicapped individuals in order to eliminate any disincentives for individuals receiving benefits under such programs to obtain and continue in employment, and upon the completion of such study, but not later than twenty-four months after Nov. 6, 1978, submit the results of such study, together with such recommendations as deemed appropriate to the President and the Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 706 of this title.

§ 714. 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, (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. 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, 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.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, § 102(p)(6)(A), (B), substituted ''individuals with disabilities'' for ''individuals with handicaps'' wherever appearing and ''scientific developments bearing on disabilities'' for ''scientific developments bearing on handicapping conditions''.

Subsec. (b). Pub. L. 102–569, § 102(p)(6)(A), substituted ''disabilities'' for ''handicaps''.

Subsec. (c). Pub. L. 102–569, § 102(p)(6)(C), substituted ''Individuals with Disabilities'' for ''the Handicapped''.

1986—Subsecs. (a), (b). Pub. L. 99–506 substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

1984—Subsec. (b). Pub. L. 98–221 substituted ''Department of Education'' for ''Department of Health, Education, and Welfare''.

1980—Subsec. (a). Pub. L. 96–374, § 1322(a), substituted ''The Secretary shall establish'' for ''The Secretary may establish''.

Subsec. (c). Pub. L. 96–374, § 1322(b), substituted ''The office'' for ''Any office''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 712 of this title.

§ 715. Transfer of funds

(a) Except as provided in subsection (b) of this section, no funds appropriated under this chapter for any research 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, 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.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–569 substituted ''1 percent'' for ''one-half of 1 percent''.

1986—Pub. L. 99–506 substituted ''Transfer of funds'' for ''Use of funds'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''No funds appropriated under this chapter for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.''

§ 716. 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, as added Pub. L. 99–506, title I, § 108(a), Oct. 21, 1986, 100 Stat. 1812.)

§ 717. Review of applications

Applications for grants or contracts in excess of $60,000 in the aggregate authorized to be funded under this chapter, other than grants or contracts for evaluations, 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, 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.)

AMENDMENTS

1992—Pub. L. 102–569 substituted ''the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382'' for ''the rate provided for grade GS–18 of the General Schedule under section 5332''.

1988—Pub. L. 100–630 inserted comma after ''this chapter'' and after ''conferences''.

§ 718. 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 or C of subchapter I of this chapter, section 794e of this title (except as provided in section 794e(b) of this title), part C 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, 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.)

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.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Except as provided in subsection (b) of this section, and notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of subchapter I of this chapter, section 794e of this title, part C of subchapter VI of this chapter, or subpart 2 or 3 of part A of subchapter VII of this chapter, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.''

§ 718a. 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 parents, family members, guardians, advocates, or authorized representatives of the individuals, 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, 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.)

AMENDMENTS

1993—Pub. L. 103–73 substituted ''such individuals who are applicants for or recipients of the services'' for ''such individuals''.

§ 718b. Traditionally underserved populations

(a) Findings

With respect to the programs authorized in subchapters II through VIII 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 African-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 severely 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 pre-service 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) Policy

The Commissioner shall develop a policy to mobilize the resources of the Nation to prepare minorities for careers in vocational rehabilitation, independent living, and related services.

(2) Focus

This policy shall focus on—

(A) the recruitment of minorities into the field of vocational rehabilitation counseling and related disciplines; and

(B) financially assisting Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority enrollment is at least 50 percent to prepare students for vocational rehabilitation and related service careers.

(3) Plan

(A) Development

The Commissioner shall develop a plan to provide outreach services and other related activities (such as cooperative efforts) to the entities described in subparagraph (B) in order to enhance the capacity and increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under subchapters I through VIII of this chapter.

(B) Entities

The entities referred to in subparagraph (A) are—

(i) Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority student enrollment is at least 50 percent;

(ii) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

(iii) underrepresented populations.

(C) Funding

For the purpose of implementing the plan required in subparagraph (A), the Commissioner shall, for each of the fiscal years 1993 through 1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in subchapters II through VIII of this chapter, except programs authorized under subchapter IV or V of this chapter.

(4) Effort

The Commissioner shall exercise the utmost authority, resourcefulness, and diligence to meet the requirements of this section.

(5) Report

(A) In general

Not later than January 31 of each year, starting with fiscal year 1994, the Commissioner shall prepare and submit to Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year.

(B) Contents

The report shall include—

(i) a full explanation of any progress toward meeting the goals of this section; and

(ii) a plan to meet the goals, if necessary.

(6) Demonstration

In awarding grants, contracts, or cooperative agreements under subchapters I, II, III, VI, VII, and VIII of this chapter, and section 794e of this title, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research, where appropriate, shall require applicants to demonstrate

how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

(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.)

AMENDMENTS

1993—Subsec. (b)(3) to (6). Pub. L. 103–73 redesignated the par. (3) relating to Commissioner's effort to meet requirements of this section as par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

SUBCHAPTER I—VOCATIONAL REHABILITATION SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 706, 718b, 762, 795j, 795*l*, 795n, 795*o*, 796, 796c, 2231, 2243 of this title; title 20 section 1413; title 42 sections 422, 1382d.

PART A—GENERAL PROVISIONS

§ 720. Federal grants

(a) Congressional findings; purpose; policy

(1) 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 America;

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

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

(D) reasons for the significant number of individuals with disabilities not working, or working at a level 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 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 existing private health insurance; and

(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain 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; and

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

(2) The purpose of this subchapter is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

(3) 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 severe 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 with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational rehabilitation services they receive.

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

(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.

(F) Individuals with disabilities and their advocates are full partners in the 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 and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.

(b) Authorization of appropriations

(1) For the purpose of making grants to States under part B of this subchapter (other than grants under section 732 of this title) 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 1993 through 1997, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) of this section for the immediately preceding fiscal year.

(2) There are authorized to be appropriated to carry out part C of this subchapter such sums as may be necessary for fiscal years 1993 through 1997.

(c) Percentage change in Consumer Price Index; publication in Federal Register; increase in appropriations

(1) No later than November 15 of each fiscal year (beginning with the 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)(A) 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) of this section for the subsequent fiscal year shall be at least the amount appropriated for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

(B) 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) of this section for the subsequent fiscal year shall be at least the amount appropriated for the fiscal year in which the publication is made under paragraph (1).

(3) 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 of program authorization or duration; appropriation

(1)(A) 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 is automatically extended for one additional year for the program authorized by this subchapter.

(B) 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 1997, plus the amount of the Consumer Price Index addition determined under subsection (c) of this section for the immediately preceding fiscal year.

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

(B) 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 that part of paragraph (1) of this subsection which follows subdivision (ii) of paragraph (1) is in operation.

(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.)

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. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

PRIOR PROVISIONS

Prior similar provisions were contained in former sections 31 and 42–1 of this title.

AMENDMENTS

1992—Pub. L. 102–569, § 121(a)(1), amended section catchline.

Subsec. (a). Pub. L. 102–569, § 121(a)(2), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The purpose of this subchapter is to authorize grants to assist States to meet the current and future needs of individuals with handicaps, so that such individuals may prepare for and engage in gainful employment to the extent of their capabilities.''

Subsec. (b). Pub. L. 102–569, § 121(b)(1), amended subsec. (b) generally, substituting provisions authorizing appropriations necessary to carry out parts B and C for fiscal years 1993 to 1997 for provisions authorizing appropriations for fiscal years 1987 to 1992.

Subsec. (c)(2)(A), (B). Pub. L. 102–569, § 121(b)(2), substituted ''to be appropriated under subsection (b) of this section for the subsequent fiscal year shall be at least the amount'' for ''authorized to be appropriated under subsection (b)(1) of this section for the subsequent fiscal year is the amount authorized to be''.

Subsec. (d)(1)(B). Pub. L. 102–569, § 121(b)(3), substituted ''1997,'' for ''1992, or the amount authorized to be appropriated for such program for fiscal year 1992, whichever is higher,''.

1991—Subsec. (b)(1)(A). Pub. L. 102–52, § 2(a)(1)(A), substituted ''are authorized'' for ''is authorized'' and ''1990, 1991, and 1992'' for ''1990, and 1991''.

Subsec. (b)(1)(B). Pub. L. 102–52, § 2(a)(1)(B), substituted ''1992'' for ''1991''.

Subsec. (b)(1)(C). Pub. L. 102–52, § 2(a)(1)(C), struck out ''and'' after ''1990,'' and inserted '', and $1,875,512,100 for fiscal year 1992'' after ''1991''.

Subsec. (b)(2). Pub. L. 102–52, § 2(b)(1), substituted ''1990, 1991, and 1992'' for ''1990, and 1991''.

Subsec. (d)(1)(B). Pub. L. 102–52, § 2(a)(2), substituted ''1992'' for ''1991'' in two places.

1988—Subsec. (b)(3). Pub. L. 100–630, § 202(a)(1), struck out par. (3) which read as follows: ''For the purpose of making grants to Indian tribes under part D of this subchapter, there are authorized to be appropriated for each of the fiscal years 1984, 1985, and 1986, in addition to any other amounts authorized to be appropriated under this section, such sums as may be necessary for such fiscal year, but not more than an amount equal to 1 percent of the amount appropriated for that fiscal year under paragraph (1) of this subsection.''

Subsec. (c)(1), (2)(A), (B). Pub. L. 100–630, § 202(a)(2)(A), substituted ''Consumer Price Index'' for ''price index''.

Subsec. (c)(3). Pub. L. 100–630, § 202(a)(2), substituted ''section'' for ''subsection'' and ''Consumer Price Index'' for ''price index''.

Subsec. (d)(1). Pub. L. 100–630, § 202(a)(3), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

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

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

either—

''(i) has passed or has formally rejected legislation which would have the effect of extending the authorization or duration (as the case may be) of that program; or

''(ii) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this section shall no longer apply to such program;

such authorization or duration is automatically extended for one additional fiscal year for the program authorized by this subchapter. The amount appropriated for the additional year shall be the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated based upon the amount authorized for fiscal year 1991 and the amount authorized under subsection (c) of this section.''

1986—Subsec. (a). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (b)(1). Pub. L. 99–506, § 201(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

''(A) For the purpose of making grants to States under part B of this subchapter (other than grants under section 732 of this title) to assist them in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 721 of this title, there is authorized to be appropriated $1,037,800,000 for the fiscal year 1984, and the amount determined under subsection (c) of this section for each of the fiscal years 1985, 1986, and 1987.

''(B) In addition, there are authorized to be appropriated for such purpose such additional sums as may be necessary for each of the fiscal years 1985 and 1986. Any amount appropriated pursuant to this subparagraph shall be allocated in accordance with section 730(a)(4) of this title.

''(C) In no event may the amount appropriated for the purpose of making grants to States under part B of this subchapter (other than section 732 of this title) be more than $1,117,500,000 for the fiscal year 1985 and $1,203,200,000 for the fiscal year 1986.''

Subsec. (b)(2). Pub. L. 99–506, § 201(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For the purpose of allotments under section 740(a)(1) of this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986. There are further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary.''

Subsec. (d)(1). Pub. L. 99–506, § 201(c), substituted ''fiscal year 1991'' for ''fiscal year 1986'' in concluding provisions.

1984—Subsec. (b)(1). Pub. L. 98–221, § 111(a), inserted exception for grants under section 732 of this title, substituted provisions authorizing appropriations of $1,037,800,000 for fiscal year 1984 and of amounts determined under subsec. (c) of this section for each of the fiscal years 1985, 1986, and 1987, authorizing necessary additional amounts for each of the fiscal years 1985 and 1986, and setting upper limits on the amounts appropriated to make grants under part B of this subchapter other than section 732 of this title for fiscal years 1985 and 1986 for provisions which had formerly authorized appropriations for fiscal years 1974 through 1982 and had set upper limits on the amount appropriated for fiscal years 1980, 1981, and 1982.

Subsec. (b)(2). Pub. L. 98–221, § 111(b), substituted provisions authorizing appropriations of such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986 for provisions which had formerly authorized appropriations for fiscal years 1979, 1980, 1981, and 1982.

Subsec. (b)(3). Pub. L. 98–221, § 111(c), substituted ''each of the fiscal years 1984, 1985, and 1986'' for ''the fiscal year ending September 30, 1979, and for each of the three fiscal years thereafter''.

Subsec. (d). Pub. L. 98–221, § 111(d), added subsec. (d).

1978—Subsec. (b)(1). Pub. L. 95–602, § 101(a)(1), inserted provisions authorizing appropriations of $808,000,000 for the fiscal year ending Sept. 30, 1979 and for amounts determined under subsec. (c) for the succeeding three fiscal years providing that the amounts appropriated not exceed $880,000,000 for the fiscal year ending Sept. 30, 1980, $945,000,000 for the fiscal year ending Sept. 30, 1981, and $972,000,000 for the fiscal year ending Sept. 30, 1982.

Subsec. (b)(2). Pub. L. 95–602, § 101(a)(2), substituted provision authorizing appropriations for allotments under section 740(a)(1) of this title of $45,000,000 for the fiscal year ending Sept. 30, 1979, $50,000,000 for the fiscal year ending Sept. 30, 1980, $55,000,000 for the fiscal year ending Sept. 30, 1981, and $60,000,000 for the fiscal year ending Sept. 30, 1982 for provision authorizing appropriations for carrying out part C of this subchapter (relating to grants to States and public and nonprofit agencies) and former part D of this subchapter (relating to a comprehensive study of the needs of the most severely handicapped) of $37,000,000 for the fiscal year ending June 30, 1974, $39,000,000 for the fiscal year ending June 30, 1975, $42,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal years ending Sept. 30, 1977 and Sept. 30, 1978, but restricting the amount available in each fiscal year for carrying out former part D to $1,000,000.

Subsec. (b)(3). Pub. L. 95–602, § 101(a)(3), added par. (3).

Subsec. (c). Pub. L. 95–602, § 101(b), added subsec. (c).

1976—Subsec. (b)(1). Pub. L. 94–230, § 2(a)(1), inserted provisions authorizing appropriations of $740,000,000 for the fiscal year ending Sept. 30, 1977.

Pub. L. 94–230, § 11(b)(2), inserted provisions authorizing appropriations of $760,000,000 for the fiscal year ending Sept. 30, 1978.

Subsec. (b)(2). Pub. L. 94–230, § 2(a)(2), inserted provisions authorizing appropriations of $25,000,000 for the fiscal year ending Sept. 30, 1977.

Pub. L. 94–230, § 11(b)(3), inserted provisions authorizing appropriations of $25,000,000 for the fiscal year ending Sept. 30, 1978.

1974—Subsec. (b)(1). Pub. L. 93–516, § 102(a)(1), inserted provisions authorizing appropriation of $720,000,000 for fiscal year ending June 30, 1976.

Pub. L. 93–651, § 102(a)(1), amended subsec. (b)(1) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (b)(2). Pub. L. 93–516, § 102(a)(2), inserted provisions authorizing appropriation of $42,000,000 for fiscal year ending June 30, 1976.

Pub. L. 93–651, § 102(a)(2), amended subsec. (b)(2) in exactly the same manner as it was amended by Pub. L. 93–516.

EXTENSION OF VOCATIONAL REHABILITATION PROGRAMS THROUGH FISCAL YEAR ENDING SEPTEMBER 30, 1978; EFFECTIVE DATE OF 1976 AMENDMENT

Section 11(a), (b)(1), (c) of Pub. L. 94–230 provided that:

''(a) Unless the Congress, before April 15, 1977, has passed legislation which would have the effect of extending the authorization of each program and activity the authorization for which is extended through the fiscal year ending September 30, 1977, by the amendments made by section 2 through section 10 [amending sections 720, 732, 741, 761, 771, 772, 774, 775, 783, 785, and 792 of this title], each such authorization shall be automatically extended through the fiscal year ending September 30, 1978, in accordance with the amendments made by subsection (b).

''(b)(1) The amendments made by this subsection [amending sections 720, 732, 761, 771, 772, 774, 775, 783, 785, and 792 of this title] shall take effect at the close of April 15, 1977, unless the Congress has passed legislation in accordance with the provisions of subsection (a).

''(c) For purposes of this section, the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 730, 732, 744, 794e, 796e, 796f of this title; title 42 sections 6025, 6042, 10822.

§ 721. State plans

(a) Three year plan; annual revisions; general and specific requirements

In order to be eligible to participate in programs under this subchapter, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a 3-year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this subchapter, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—

(1) State agency for plan administration, designation; separate agencies for services to individuals who are blind and for other services; joint program; political subdivision participation, waiver; qualification of State agency

(A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where, under the State's law, the State agency for individuals who are blind or other agency which provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to such individuals, such 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 with respect to the rest of the State plan, (ii) the Commissioner, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such 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 such programs with the requirement of paragraph (4) of this subsection that the plan be in effect in all political subdivisions of that State, and (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa;

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subparagraph (A) of this paragraph) to supervise or administer the part of the State plan that does not relate to services for individuals who are blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State;

(2) State rehabilitation bureau; director; staff; major organizational status; separate units for services to individuals who are blind and for other services

provide, except in the case of agencies described in paragraph (1)(B)(i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (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 such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work; and

(B)(i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in paragraph (1)(B)(ii), either that such unit shall be so located and have such status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to paragraph (1) of this subsection, such State may, if it so desires, assign responsibility for the

part of the plan under which vocational rehabilitation services are provided for individuals who are blind to one organizational unit of such agency, and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this paragraph applying separately to each of such units;

(3) State financial participation

provide for financial participation by the State, or if the State so elects, by the State and local agencies to meet the amount of the non-Federal share;

(4) Political subdivision participation, waiver; regulations; funds of local agency for non-Federal share of cost of services

provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, 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 herein 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 such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual);

(5) Plans, policies, and methods for execution, administration, and supervision of State plan; comprehensive, Statewide assessment of rehabilitation needs of individuals with severe disabilities; expansion and improvement of services; maximum utilization of facilities; priorities in order of selection; achievement of outcome and service goals; assistance to individuals with most severe disabilities; rehabilitation technology services

(A) contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including the results of a comprehensive, Statewide assessment of the rehabilitation needs of individuals with severe disabilities residing within the State and the State's response to the assessment, a description of the method to be used to expand and improve services to individuals with the most severe disabilities, including individuals served under part C of subchapter VI of this chapter, and a description of the method to be used to utilize community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services, and, in the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities who apply for such services, (i) show and provide the justification for the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided,,[1] and (ii) show the outcomes and service goals,,[1] and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe disabilities in accordance with criteria established by the State, and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving individuals with disabilities, established in regulations prescribed by the Commissioner;

(B) provide satisfactory assurances to the Commissioner that the State has studied and considered a broad variety of means for providing services to individuals with the most severe disabilities, including the use of funds under part C of subchapter VI of this chapter to supplement funds under part B of this subchapter to pay for the cost of services leading to supported employment; and

(C) describe—

(i) how a broad range of rehabilitation technology services will be provided at each stage of the rehabilitation process;

(ii) how a broad range of such rehabilitation technology services will be provided on a statewide basis; and

(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;

(6) Methods of administration; State employment requirement; architectural barriers requirement

(A) provide for such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Commissioner to be necessary for the proper and efficient administration of the plan (including a requirement that the State agency and facilities 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); and

(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the Act of 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) Personnel development; standards for training of personnel; minimum standards to assure availability of trained language interpreters

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

[1] So in original.

(i) a description of the procedures and activities the 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 State agency in the provision of vocational rehabilitation services, including ratios of 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 field, and other relevant factors;

(ii) where appropriate, a description of the manner in which activities will be undertaken through this section to coordinate the system of personnel development with personnel development 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 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 who graduated with certification or licensure, or with credentials to qualify for certification or licensure, 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 and institutions of higher education (as defined in section 1141(a) of title 20) 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 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 1992;

(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including professionals and paraprofessionals, needed within the State agency 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 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 the client;

(8) Determination regarding availability of comparable services and benefits under any other program

provide, at a minimum, for the provision of the vocational rehabilitation services specified in paragraphs (1) through (3) and paragraph (12) of section 723(a) of this title, and for the provision of such other services as are specified under such section after a determination that comparable services and benefits are not available under any other program, except that such a determination shall not be required—

(A) if the determination would delay the provision of such services to any individual at extreme medical risk; or

(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;

(9) Information utilized in making eligibility determinations; individualized written rehabilitation program; recordkeeping requirements

provided that—

(A) to the maximum extent appropriate, and consistent with the requirements of this chapter, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;

(B) an individualized written rehabilitation program meeting the requirements of

section 722 of this title will be developed for each individual with a disability eligible for vocational rehabilitation services under this chapter;

(C) such services will be provided under the plan in accordance with such program; and

(D) records of the characteristics of each applicant will be kept specifying, as to those individuals who apply for services under this subchapter and are determined not to be eligible therefor, the reasons for such determinations in such detail as required by the Commissioner in order for the Commissioner to analyze and evaluate annually the reasons for and numbers of such ineligibility determinations as part of the Commissioner's responsibilities under section 712 of this title, and that the State agency will at least annually categorize and analyze such reasons and numbers and report this information to the Commissioner and will, not later than 12 months after each such determination, review each such ineligibility determination in accordance with the criteria set forth in section 722 of this title;

(10) Reports of State agency; form; scope of information; time of report; correctness and verification

(A) provide that the State agency will make such reports in such form, containing such information (including the data described in subparagraph (D) of paragraph (9) of this subsection, periodic estimates of the population of individuals with disabilities eligible for services under this chapter in such State, specifications of the number of such individuals who will be served with funds provided under this chapter and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with paragraph (5) of this subsection, and the service costs for each such category), and at such time as the Commissioner may require to carry out the functions of the Commissioner under this subchapter, and comply with such provisions as are necessary to assure the correctness and verification of such reports; and

(B) provide that reports under subparagraph (A) will include information on—

(i) the number of such individuals who are evaluated and the number rehabilitated;

(ii) the costs of administration, counseling, provision of direct services, development of community rehabilitation programs, and other functions carried out under this chapter; and

(iii) the utilization by such individuals of other programs pursuant to paragraph (11);

(11) Intergovernmental cooperation

(A) provide for interagency cooperation with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for individuals with disabilities, veterans programs, community mental health programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health and Human Services, the Department of Veterans Affairs, and other Federal, State, and local public agencies providing services related to the rehabilitation of individuals with disabilities (specifically including arrangements for the coordination of services to individuals eligible for services under this chapter, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.);

(B) provide that cooperation under subparagraph (A) shall include, to the extent practicable, means for providing training to staff of the agencies described in subparagraph (A) as to the availability and benefits of, and eligibility standards for, vocational rehabilitation services, in order to enhance the opportunity of individuals receiving the services described in subparagraph (A) to obtain vocational rehabilitation services; and

(C) in providing for interagency cooperation under subparagraph (A), provide for such cooperation by means including, if appropriate—

(i) establishing interagency working groups; and

(ii) entering into formal interagency cooperative agreements that—

(I) identify policies, practices, and procedures that can be coordinated among the agencies (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals);

(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

(III) include all additional components necessary to ensure meaningful cooperation and coordination;

(12) Community resources; utilization; agreements for services provided by community rehabilitation programs

(A) provide satisfactory assurances to the Commissioner that, in the provision of vocational rehabilitation services, maximum utilization shall be made of public or other vocational or technical training programs or other appropriate resources in the community; and

(B) provide (as appropriate) for entering into agreements with the operators of community rehabilitation programs for the provision of services for the rehabilitation of individuals with disabilities;

(13) Disabled Federal employees; disabled public safety officers

(A) provide that vocational rehabilitation services provided under the State plan shall be available to any civil employee of the United States who is disabled while in the performance of the employee's duty on the same terms and conditions as apply to other persons, and

(B) provide that special consideration will be given to the rehabilitation under this chapter of an individual with a disability whose disability was sustained in the line of duty while such individual was performing as a public

safety officer if the proximate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities;

(14) Residency requirement; prohibition

provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State;

(15) Continuing studies

provide for continuing statewide studies of the needs of individuals with disabilities and how these needs may be most effectively met, including—

(A) a full needs assessment for serving individuals with severe disabilities;

(B) an assessment of the capacity and effectiveness of community rehabilitation programs, plans for improving such programs, and policies for the use thereof by the State agency;

(C) review of the efficacy of the criteria employed with respect to ineligibility determinations described in paragraph (9)(C)[2] of this subsection with a view toward the relative need for services to significant segments of the population of individuals with disabilities and the need for expansion of services to those individuals with the most severe disabilities; and

(D) 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 system;

(16) Employment review and reevaluation

provide for—

(A)(i) at least annual review and reevaluation of the status of each individual with a disability placed in an extended employment setting in a community rehabilitation program (including a workshop) or other employment under section 214(c) of this title, to determine the interests, priorities, and needs of the individual for employment, or training for competitive employment, in an integrated setting in the labor market; and

(ii) input into the review and reevaluation by the individual with a disability, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual, if the individual requests, desires, or needs assistance;

(B) maximum efforts, including the identification of vocational rehabilitation services, reasonable accommodations, and other support services, to enable such an individual to benefit from training or to be placed in employment in an integrated setting; and

(C) services designed to promote movement from extended employment to integrated employment, including supported employment, independent living, and community participation;

[2] See References in Text note below.

(17) State facilities, construction; Federal share of construction costs; general grant and contract requirements applicable; nonreduction of other rehabilitation services

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 thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

(B) the provisions of section 776 of this title 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 its plan includes such provisions for construction;

(18) Policy planning; trainee participation

provide satisfactory assurances to the Commissioner that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational rehabilitation services (or, in appropriate cases, their parents or guardians), personnel working in the field of vocational rehabilitation, providers of vocational rehabilitation services, and the Director of the client assistance program under section 732 of this title;

(19) Amendments; continuing studies and annual evaluation as basis

provide satisfactory assurances to the Commissioner that the continuing studies required under paragraph (15) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Commissioner may require, of appropriate amendments to the plan, and for developing and updating the strategic plan required under part C of this subchapter;

(20) Consultation with Indian tribes and tribal organizations and native Hawaiian organizations; services to American Indians who are individuals with disabilities

provide satisfactory assurances to the Commissioner that, as appropriate, the State shall actively consult with Indian tribes and tribal organizations and native Hawaiian organizations in the development of the State plan, and that, except as otherwise provided in section 750 of this title, the State shall provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the State provides such services to other signifi-

cant segments of the population of individuals with disabilities residing in the State;

(21) Contracts with profitmaking organizations; on-the-job training

provide that the State agency has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for individuals with disabilities under part B of subchapter VI of this chapter upon a determination by such agency that such profitmaking organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations;

(22) Information and referral programs

provide for the establishment and maintenance of information and referral programs (the staff of which shall include, to the maximum extent feasible, interpreters for individuals who are deaf) in sufficient numbers to assure that individuals with disabilities within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which would benefit them;

(23) Public meetings; notice and comment; response

(A) provide satisfactory assurances that in the formulation of policies governing the provision of the rehabilitation services consistent with the State plan, and any revisions, that the State agency conducts public meetings throughout the State, after appropriate and sufficient notice, to allow interested groups and organizations and all segments of the public an opportunity to comment on the State plan before development of the plan by the State, (B) include a summary of such comments and the State agency's response to such comments, and (C) provide satisfactory assurances that the State agency will consult with the Director of the client assistance program under section 732 of this title in the formulation of policies governing the provision of vocational rehabilitation services consistent with the State plan and other revisions;

(24) Goals and public education

contain plans, policies, and procedures to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(C)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

(A) facilitate the development and accomplishment of—

(i) long-term rehabilitation goals;

(ii) intermediate rehabilitation objectives; and

(iii) goals and objectives related to enabling a student to live independently before the student leaves a school setting,

to the extent the goals and objectives described in clauses (i) through (iii) are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services;

(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 723(a)(14) of this title to an individual, consistent with the individualized written rehabilitation program of the individual; and

(C) provide that such plans, policies, and procedures will address—

(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

(ii) procedures for outreach to and identification of youth in need of such services; and

(iii) a timeframe for evaluation and followup of youth who have received such services;

(25) Use of supported employment funds

provide assurances satisfactory to the Secretary that the State has an acceptable plan for carrying out part C of subchapter VI of this chapter, including the use of funds under that part to supplement funds under part B of this subchapter for the cost of services leading to supported employment;

(26) Manner of providing personal assistance services

describe the manner in which on-the-job or other related personal assistance services will be provided to assist individuals with disabilities while the individuals are receiving vocational rehabilitation services;

(27) Cooperative agreements with private nonprofit vocational rehabilitation service providers

describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established;

(28) Identification of needs and utilization of community rehabilitation programs

identify the needs and utilization of community rehabilitation programs under the Act commonly known as the Wagner-O'Day Act (41 U.S.C. 46 et seq.);

(29) Choice and control of determining vocational rehabilitation goals and objectives

describe the manner in which individuals with disabilities will be given choice and increased control in determining their vocational rehabilitation goals and objectives;

(30) Access to vocational rehabilitation services

describe the manner in which students who are individuals with disabilities and who are not in special education programs can access and receive vocational rehabilitation services, where appropriate;

(31) Assistive technology devices and services

describe the manner in which assistive technology devices and services will be provided,

or worksite assessments will be made as part of the assessment for determining eligibility and vocational rehabilitation needs of an individual;

(32) Modification of State policies and procedures

describe the manner in which the State will modify the policies and procedures of the State based on consumer satisfaction surveys conducted by the State Rehabilitation Advisory Council or independent commission described in paragraph (36);

(33) Coordination of Statewide Independent Living Council and independent living centers

provide for coordination and working relationships with the Statewide Independent Living Council established under section 796d of this title and independent living centers within the State;

(34) Strategic plan for expansion and improvement of vocational rehabilitation services statewide

provide satisfactory assurances to the Commissioner that the State—

(A) has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this subchapter; and

(B) will use at least 1.5 percent of the allotment of the State under section 730 of this title for the uses described in section 743 of this title;

(35) Evaluation of performance of rehabilitation personnel

(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this subchapter, including the policy of serving, among others, individuals with the most severe disabilities; and

(B) provide satisfactory assurances that the system in no way impedes such accomplishment; and

(36) State Rehabilitation Advisory Council; designated State agencies

provide satisfactory assurances to the Commissioner that—

(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 725 of this title;

(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the designated State agency to such advice and recommendations (including explanations with respect to advice and recommendations that were rejected); and

(iv) the designated State unit transmits to the Council—

(I) all plans, reports, and other information required under the[3] chapter to be submitted to the Commissioner;

(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings;

(B) an independent commission—

(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—

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

(II) represent individuals with a broad range of disabilities;

(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

(iv) undertakes the function set forth in section 725(c)(3) of this title; or

(C) in the case of a State that, under subsection (a)(1)(A)(i) 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 and designates a separate State agency to administer the remainder of the State plan—

(i) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation programs of both such agencies and meets the requirements of clauses (ii) and (iv) of subparagraph (B);

(ii)(I) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for individuals who are blind, is consumer-controlled by and represents individuals who are blind, and undertakes the function set forth in section 725(c)(3) of this title; and

(II) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for all individuals with disabilities except for individuals who are blind and meets the requirements of clauses (ii) and (iv) of subparagraph (B); or

[3] So in original. Probably should be ''this''.

(iii)(I) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for individuals who are blind, is consumer-controlled by and represents individuals who are blind, and undertakes the function set forth in section 725(c)(3) of this title; and

(II) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 725 of this title and carries out the duties of such a Council with respect to functions for, and services provided to, individuals with disabilities except for individuals who are blind.

(b) Approval or disapproval by Commissioner; notice and hearing

The Commissioner shall approve any plan which the Commissioner finds fulfills the conditions specified in subsection (a) of this section, and shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Commissioner shall notify a State of the intention to disapprove its plan, and shall afford such State reasonable notice and opportunity for hearing.

(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.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a), 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. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, referred to in subsec. (a)(6)(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. (a)(6)(B), 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. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act Amendments of 1992, referred to in subsec. (a)(7)(A)(v)(II), is Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 701 of this title and Tables.

Paragraph (9)(C) of this subsection, referred to in subsec. (a)(15)(C), was redesignated paragraph (9)(D) of this subsection by Pub. L. 102–569, title I, § 122(g)(1), Oct. 29, 1992, 106 Stat. 4370.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (a)(11)(A), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Javits-Wagner-O'Day Act and the Wagner-O'Day Act, referred to in subsec. (a)(11)(A), (28), is act June 25, 1938, ch. 697, 52 Stat. 1196, as amended, which is classified to sections 46 to 48c of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

PRIOR PROVISIONS

Prior similar provisions were contained in former sections 35, 41c, and 42–1 of this title.

AMENDMENTS

1996—Subsec. (a)(11)(A). Pub. L. 104–106 substituted "the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.)" for "the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.)".

1993—Subsec. (a)(10)(A). Pub. L. 103–73, § 107(a)(1), substituted "described in subparagraph (D)" for "described in subparagraph (C)".

Subsec. (a)(13)(B). Pub. L. 103–73, § 102(2), made technical correction to Pub. L. 102–569, § 102(p)(7)(E). See 1992 Amendment note below.

Subsec. (a)(32). Pub. L. 103–73, § 107(a)(2), inserted "or independent commission described in paragraph (36)" after "Council".

Subsec. (a)(34)(B). Pub. L. 103–73, § 107(a)(3), substituted "section 730 of this title" for "part B of this subchapter".

Subsec. (a)(36)(B)(i). Pub. L. 103–73, § 107(a)(4)(A), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "is responsible under State law for overseeing the operation of the designated State agency;".

Subsec. (a)(36)(C)(i). Pub. L. 103–73, § 107(a)(4)(B)(i), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "an independent commission is responsible under State law for overseeing both such agencies and meets the requirements of subparagraph (B)(ii); or".

Subsec. (a)(36)(C)(ii), (iii). Pub. L. 103–73, § 107(a)(4)(B)(ii), added cls. (ii) and (iii) and struck out former cl. (ii) which read as follows:

"(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

"(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind."

1992—Subsec. (a). Pub. L. 102–569, § 122(a), substituted "for a 3-year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under

this subchapter, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary.'' for ''for a three-year period and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary.''

Subsec. (a)(1)(A). Pub. L. 102–569, § 122(b), struck out ''and'' at end of cl. (i) and inserted '', and'' and cl. (iii) before semicolon at end.

Pub. L. 102–569, § 102(*o*)(1), (p)(7)(A)(i), (ii), in cl. (i), substituted ''individuals who are blind'' for ''the blind'' in two places and ''adults who are blind'' for ''the adult blind'' and in cl. (ii), substituted ''individuals with disabilities'' for ''individuals with handicaps'' and ''paragraph (4)'' for ''clause (4)''.

Subsec. (a)(1)(B). Pub. L. 102–569, § 102(*o*)(1), (2), (p)(7)(A)(i), (iii), substituted ''subparagraph (A) of this paragraph'' for ''subclause (A) of this clause'', ''individuals who are blind'' for ''the blind'', and ''individuals with disabilities'' for ''individuals with handicaps''.

Subsec. (a)(2). Pub. L. 102–569, § 102(*o*)(1), (p)(7)(B), (C), in introductory provisions, substituted ''paragraph'' for ''clause'' in subpar. (A), substituted ''individuals with disabilities'' for ''individuals with handicaps'', and in subpar. (B), substituted ''paragraph'' for ''clause'' wherever appearing and ''individuals who are blind'' for ''the blind''.

Subsec. (a)(4). Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps'' in two places.

Subsec. (a)(5)(A). Pub. L. 102–569, § 122(c)(1), substituted ''community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services,'' for ''existing rehabilitation facilities to the maximum extent feasible;'' and in cl. (ii), inserted ''in accordance with criteria established by the State,'' before ''and shall be consistent''.

Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps'' wherever appearing.

Subsec. (a)(5)(B). Pub. L. 102–569, § 122(c)(2), inserted before semicolon at end '', including the use of funds under part C of subchapter VI of this chapter to supplement funds under part B of this subchapter to pay for the cost of services leading to supported employment''.

Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps''.

Subsec. (a)(5)(C). Pub. L. 102–569, § 122(c)(3), added subpar. (C) and struck out former subpar. (C) which read as follows: ''describe how rehabilitation engineering services will be provided to assist an increasing number of individuals with disabilities;''.

Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps''.

Subsec. (a)(6)(A). Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps''.

Subsec. (a)(6)(B). Pub. L. 102–569, § 122(d), inserted before semicolon at end '', with section 794 of this title, and with the Americans with Disabilities Act of 1990''.

Subsec. (a)(7). Pub. L. 102–569, § 122(e), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and qualified personnel utilized therein the provision of vocational rehabilitation services, but the Commissioner shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provision, and (C) provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel, to the maximum extent feasible, trained to communicate in the client's native language or mode of communication;''.

Subsec. (a)(8). Pub. L. 102–569, § 122(f), substituted ''except that such a determination shall not be required—'' and subpars. (A) and (B) for ''except that such determinations shall not be required where it would delay the provision of such services to any individual at extreme medical risk;''.

Pub. L. 102–569, § 102(*o*)(1), (3), substituted ''paragraphs'' for ''clauses'' and ''paragraph'' for ''clause''.

Subsec. (a)(9). Pub. L. 102–569, § 122(g), added subpar. (A), redesignated former subpars. (A) to (C) as (B) to (D), respectively, realigned margins, and substituted a semicolon for the comma at end of subpars. (B) and (C).

Pub. L. 102–569, § 102(p)(7)(D), substituted ''a disability'' for ''handicaps'' in cl. (A).

Subsec. (a)(10). Pub. L. 102–569, § 122(h), designated existing provisions as subpar. (A) and added subpar. (B).

Pub. L. 102–569, § 102(*o*)(1), (2), (p)(7)(C), substituted ''subparagraph'' for ''subclause'', ''paragraph'' for ''clause'' in two places, and ''disabilities'' for ''handicaps''.

Subsec. (a)(11). Pub. L. 102–569, § 122(i), designated existing provisions as subpar. (A), substituted ''provide for interagency cooperation'' for ''provide for entering into cooperative arrangements'' and ''(20 U.S.C. 1400 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.);'' for '', and the Carl D. Perkins Vocational Education Act);'', and added subpars. (C) and (D).

Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps'' in two places.

Subsec. (a)(12)(A). Pub. L. 102–569, § 122(j)(1), substituted ''programs'' for ''facilities''.

Subsec. (a)(12)(B). Pub. L. 102–569, § 122(j)(2), substituted ''community rehabilitation programs'' for ''rehabilitation facilities''.

Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps''.

Subsec. (a)(13)(B). Pub. L. 102–569, § 102(p)(7)(E), as amended by Pub. L. 103–73, § 102(2), substituted ''with a disability whose disability was sustained'' for ''with handicaps whose handicapping condition arises from a disability sustained''.

Subsec. (a)(15). Pub. L. 102–569, § 122(k)(1), inserted par. designation ''(15)''.

Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps'' in introductory provisions.

Subsec. (a)(15)(A). Pub. L. 102–569, § 122(k)(2)(A), struck out ''conducting'' before ''a full needs assessment''.

Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps''.

Subsec. (a)(15)(B). Pub. L. 102–569, § 122(k)(2)(B), substituted ''capacity and effectiveness of community rehabilitation programs, plans for improving such programs,'' for ''capacity and condition of rehabilitation facilities, plans for improving such facilities,'' and struck out ''and'' at end.

Subsec. (a)(15)(C). Pub. L. 102–569, § 122(k)(2)(C), inserted ''and'' at end.

Pub. L. 102–569, § 102(p)(7)(C), substituted ''disabilities'' for ''handicaps'' in two places.

Subsec. (a)(15)(D). Pub. L. 102–569, § 122(k)(2)(D), added subpar. (D).

Subsec. (a)(16). Pub. L. 102–569, § 122(*l*), amended par. (16) generally. Prior to amendment, par. (16) read as follows: ''provide for (A) periodic review and reevaluation of the status of individuals with handicaps placed in extended employment in rehabilitation facilities (including workshops) to determine the feasibility of their employment, or training for employment, in the competitive labor market, and (B) maximum efforts to place such individuals in such employment or training whenever it is determined to be feasible;''.

Subsec. (a)(17). Pub. L. 102–569, § 122(m)(1), in introductory provisions, substituted ''if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs'' for ''where such State plan includes provisions for the construction of rehabilitation facilities''.

Subsec. (a)(17)(C). Pub. L. 102–569, §122(m)(2), substituted ''facilities for community rehabilitation programs'' for ''rehabilitation facilities''.

Subsec. (a)(18). Pub. L. 102–569, §122(n), substituted ''providers of vocational rehabilitation services, and the Director of the client assistance program under section 732 of this title'' for ''and providers of vocational rehabilitation services''.

Pub. L. 102–569, §102(*o*)(1), substituted ''paragraph'' for ''clause''.

Subsec. (a)(19). Pub. L. 102–569, §122(*o*), inserted '', and for developing and updating the strategic plan required under part C of this subchapter'' before semicolon at end.

Pub. L. 102–569, §102(*o*)(1), substituted ''paragraph'' for ''clause''.

Subsec. (a)(20). Pub. L. 102–569, §102(p)(7)(F), substituted ''American Indians who are individuals with disabilities'' for ''American Indians with handicaps'' and ''individuals with disabilities'' for ''individuals with handicaps''.

Subsec. (a)(21). Pub. L. 102–569, §102(p)(7)(C), substituted ''disabilities'' for ''handicaps''.

Subsec. (a)(22). Pub. L. 102–569, §102(p)(7)(G), substituted ''individuals who are deaf'' for ''the deaf'' and ''disabilities'' for ''handicaps''.

Subsec. (a)(23). Pub. L. 102–569, §122(p), inserted ''before development of the plan by the State'' after ''comment on the State plan'', struck out ''and'' before ''(B)'', and inserted before semicolon '', and'' and subpar. (C).

Subsec. (a)(24). Pub. L. 102–569, §122(q), amended par. (24) generally. Prior to amendment, par. (24) read as follows: ''contain the plans, policies, and methods to be followed to assist in the transition from education to employment related activities; and''.

Subsec. (a)(25). Pub. L. 102–569, §122(r), amended par. (25) generally. Prior to amendment, par. (25) read as follows: ''provide satisfactory assurances that the State has an acceptable plan for part C of subchapter VI of this chapter.''

Subsec. (a)(26) to (36). Pub. L. 102–569, §122(s), added pars. (26) to (36).

Subsecs. (c), (d). Pub. L. 102–569, §122(t), struck out subsec. (c) which provided for payment limitations in cases of noncompliance and disbursement of withheld funds and subsec. (d) which provided for judicial review, additional submissions and presentations, new or modified determinations by the Commissioner, relief, and scope of review. See section 727(c) and (d) of this title.

1991—Subsec. (a)(11). Pub. L. 102–119 substituted ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act''.

Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1988—Subsec. (a)(1)(A)(i). Pub. L. 100–630, §202(b)(1), inserted comma after ''where'' and after ''law'' and struck out comma after ''adult blind''.

Subsec. (a)(4). Pub. L. 100–630, §202(b)(2), substituted ''prescribed by the Commissioner'' for ''prescribed by him''.

Subsec. (a)(5)(A). Pub. L. 100–630, §202(b)(3)–(5), in introductory provisions, substituted ''individuals with the most severe handicaps,'' for ''individuals with handicaps with the most severe handicaps'', in cl. (i), substituted ''provided,, and'' for ''provided, and'', and in cl. (ii), substituted ''goals,, and'' for ''goals, and''.

Subsec. (a)(7)(B). Pub. L. 100–630, §202(b)(6), substituted ''utilized therein'' for ''utilized in''.

Subsec. (a)(9)(C). Pub. L. 100–630, §202(b)(7), substituted ''the Commissioner to analyze'' for ''him to analyze'' and ''the Commissioner's responsibilities'' for ''his responsibilities''.

Subsec. (a)(13)(A). Pub. L. 100–630, §202(b)(8), inserted ''who is'' before ''disabled'' and substituted ''the employee's'' for ''his''.

Subsec. (a)(13)(B). Pub. L. 100–630, §202(b)(9), substituted ''if the proximate cause'' for ''and the proximate cause''.

Subsec. (a)(15). Pub. L. 100–630, §202(b)(10), amended par. (15) generally, substituting new text without a par. designation. Prior to amendment, par. (15) read as follows: ''provide for continuing statewide studies of the needs of individuals with handicaps and how these needs may be most effectively met, including conducting a full needs assessment for serving individuals with severe handicaps and including the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency and review of the efficacy of the criteria employed with respect to ineligibility determinations described in subclause (C) of clause (9) of this subsection with a view toward the relative need for services to significant segments of the population of individuals with handicaps and the need for expansion of services to those individuals with the most severe handicaps;''.

Subsec. (a)(20). Pub. L. 100–630, §202(b)(11), substituted ''American Indians with handicaps'' for ''handicapped American Indians''.

1986—Subsec. (a)(1), (2)(A), (4). Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (a)(5)(A). Pub. L. 99–506, §§103(d)(2)(C), 202(a)(1)(A), (B), inserted ''the results of a comprehensive, Statewide assessment of the rehabilitation needs of individuals with severe handicaps residing within the State and the State's response to the assessment,'' after ''including'', substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing, and inserted ''including individuals served under part C of subchapter VI of this chapter''.

Subsec. (a)(5)(A)(i). Pub. L. 99–506, §202(a)(1)(C), substituted ''(i) show and provide the justification for'' for ''show (i)''.

Subsec. (a)(5)(A)(ii). Pub. L. 99–506, §§103(d)(2)(C), 202(a)(1)(D), inserted ''show'' after ''(ii)'' and substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(5)(C). Pub. L. 99–506, §202(a)(2), added subpar. (C).

Subsec. (a)(6)(A). Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(7)(B). Pub. L. 99–506, §202(b), inserted ''qualified'' after ''facilities and''.

Subsec. (a)(8). Pub. L. 99–506, §202(c), amended par. (8) generally. Prior to amendment, par. (8) read as follows: ''provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 723 of this title, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;''.

Subsec. (a)(9)(A). Pub. L. 99–506, §103(d)(2)(B), substituted ''individual with handicaps'' for ''handicapped individual''.

Subsec. (a)(10). Pub. L. 99–506, §103(d)(2)(C), 1001(b)(1), substituted ''individuals with handicaps'' for ''handicapped individuals'', ''to carry out the functions of the Commissioner'' for ''to carry out his functions'', and ''such provisions as are necessary'' for ''such provisions as he may find necessary''.

Subsec. (a)(11). Pub. L. 99–506, §§103(d)(2)(C), 202(d), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing, and inserted ''community mental health programs,'' after ''veterans programs,''.

Subsec. (a)(12)(B). Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(13)(B). Pub. L. 99–506, §103(d)(2)(A), substituted ''an individual with handicaps'' for ''a handicapped individual''.

Subsec. (a)(15). Pub. L. 99–506, §§103(d)(2)(C), 202(e), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing, and inserted

''; including conducting a full needs assessment for serving individuals with severe handicaps and'' after ''effectively met'' and struck out opening and closing parentheses before ''including the capacity'' and after ''by the State agency'', respectively.

Subsec. (a)(16)(A). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(20). Pub. L. 99–506, §§ 103(d)(2)(C), 202(f), inserted provisions relating to consultation with Indian tribes and tribal organizations and native Hawaiian organizations in the development of the State plan and substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(21), (22). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(23) to (25). Pub. L. 99–506, § 202(g), (h), added pars. (23) to (25).

Subsec. (b). Pub. L. 99–506, § 1001(b)(2), substituted ''which the Commissioner finds'' for ''which he finds'', ''and shall disapprove'' for ''and he shall disapprove'', and ''notify a State of the intention to disapprove its plan, and shall afford'' for ''notify a State of his intention to disapprove its plan, and he shall afford''.

Subsec. (c)(1). Pub. L. 99–506, § 1001(b)(3), in provisions following lettered subpar. (B), substituted ''(or, in the discretion of the Commissioner'' for ''(or, in his discretion'', ''until the Commissioner is satisfied'' for ''until he is satisfied'', and ''Until the Commissioner is'' for ''Until he is''.

Subsec. (d)(1). Pub. L. 99–506, § 1001(b)(4), substituted ''designated by the Commissioner for that purpose'' for ''designated by him for that purpose'' and ''on which the Commissioner based'' for ''on which he based''.

1984—Subsec. (a)(11). Pub. L. 98–524 substituted ''the Carl D. Perkins Vocational Education Act'' for ''the Vocational Education Act''.

Pub. L. 98–221 substituted ''Department of Health and Human Services'' for ''Department of Health, Education, and Welfare''.

1978—Subsec. (a). Pub. L. 95–602, § 102(a)(1), substituted in introductory text, provision requiring a State to submit to the Commissioner a plan for a three year period and upon request to make annual revisions for provision requiring a State to submit to the Secretary an annual plan.

Subsec. (a)(1)(A), (4). Pub. L. 95–602, § 122(b)(1), substituted ''Commissioner'' for ''Secretary'' wherever appearing.

Subsec. (a)(5)(A). Pub. L. 95–602, §§ 102(a)(2), 122(b)(1), inserted provision requiring a description of the method to be used to utilize existing facilities to the maximum extent feasible and substituted ''Commissioner'' for ''Secretary''.

Subsec. (a)(5)(B). Pub. L. 95–602, § 122(b)(1), substituted ''Commissioner'' for ''Secretary''.

Subsec. (a)(6). Pub. L. 95–602, §§ 102(a)(3), 122(b)(1), designated existing provision as subpar. (A), substituted ''Commissioner'' for ''Secretary'', and added subpar. (B).

Subsec. (a)(7). Pub. L. 95–602, §§ 102(a)(4), 122(b)(1), substituted in cl. (B), ''Commissioner'' for ''Secretary'' and added cl. (C).

Subsec. (a)(9). Pub. L. 95–602, §§ 102(a)(5), 122(b)(1), substituted in cl. (C), ''section 712 of this title'' for ''section 781 of this title'' and ''Commissioner'' for ''Secretary'' wherever appearing.

Subsec. (a)(10). Pub. L. 95–602, § 122(b)(1), substituted ''Commissioner'' for ''Secretary''.

Subsec. (a)(11). Pub. L. 95–602, § 102(a)(6), inserted ''(specifically including arrangements for the coordination of services to individuals eligible for services under this chapter, the Education of the Handicapped Act, and the Vocational Education Act)'' after ''handicapped individuals''.

Subsec. (a)(12). Pub. L. 95–602, §§ 102(a)(7), 122(b)(1), designated existing provision as subpar. (A), substituted ''Commissioner'' for ''Secretary'', and added subpar. (B).

Subsec. (a)(15). Pub. L. 95–602, § 102(a)(8), substituted ''(including the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency)'' for ''(including the State's needs for rehabilitation facilities)''.

Subsec. (a)(17)(C). Pub. L. 95–602, § 122(b)(1), substituted ''Commissioner'' for ''Secretary''.

Subsec. (a)(18). Pub. L. 95–602, §§ 102(a)(9), 122(b)(1), substituted ''Commissioner'' for ''Secretary'' and inserted ''personnel'' before ''working in the field''.

Subsec. (a)(19). Pub. L. 95–602, §§ 102(a)(10), 122(b)(1), substituted ''Commissioner'' for ''Secretary'' in two places.

Subsec. (a)(20) to (22). Pub. L. 95–602, § 102(a)(11), added pars. (20) to (22).

Subsec. (b). Pub. L. 95–602, § 122(b)(1), substituted ''Commissioner'' for ''Secretary'' wherever appearing.

Subsec. (c). Pub. L. 95–602, §§ 102(b), 122(b)(1), designated existing provision as par. (1), and in par. (1) as so designated, redesignated pars. (1) and (2) as subpars. (A) and (B), respectively, added par. (2), and substituted ''Commissioner'' for ''Secretary'' wherever appearing.

Subsec. (d). Pub. L. 95–602, § 102(c), substituted provisions authorizing judicial review of determinations by the Commissioner in the Court of Appeals for the circuit in which the State is located provided a petition is filed within thirty days after the date notice of the final determination was received by the State, permitting additional submissions and presentations, and granting the court jurisdiction to administer appropriate relief in accordance with chapter 7 of title 5, except with respect to interim relief for a determination under subsec. (c) and to the standard of relief under section 706(2)(E) of title 5 for provisions authorizing judicial review of the action of the Secretary in the United States district court for the district where the capital of the State is located and providing review of such action be on the record in accordance with chapter 7 of title 5.

1974—Subsec. (a)(6). Pub. L. 93–516, § 111(b), inserted parenthetical provisions relating to the requirement that the State take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in section 793 of this title.

Pub. L. 93–651, § 111(b), amended subsec. (a)(6) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (a)(9). Pub. L. 93–516, § 111(c), in par. (C), inserted provisions that the records be in such detail as required by the Secretary in order for him to analyze and evaluate annually the reasons for and numbers of such ineligibility determinations as part of his responsibilities under section 781 of this title, and that the state agency will at least annually categorize and analyze such reasons and numbers and report this information to the Secretary and will, not later than 12 months after each such determination, review each such ineligibility determination in accordance with the criteria set forth in section 722 of this title.

Pub. L. 93–651, § 111(c), amended subsec. (a)(9) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (a)(15). Pub. L. 93–516, § 111(d), substituted ''needs for rehabilitation facilities and review of the efficacy of the criteria employed with respect to ineligibility determinations described in subclause (C) of clause (9) of this subsection'' for ''needs for rehabilitation.''

Pub. L. 93–651, § 111(d), amended subsec. (a)(15) in exactly the same manner as it was amended by Pub. L. 93–516.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 122 of Pub. L. 102–569 to be implemented by Secretary of Education as soon as practicable after Oct. 29, 1992, consistent with effective and efficient administration of this chapter, but not later than Oct. 1, 1993, see section 138(b) of Pub. L. 102–569, set out as a note under section 701 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–524 effective for fiscal years beginning on or after Oct. 1, 1984, except as otherwise provided, see section 2 of Pub. L. 98–524, set out as an Effective Date note under section 2301 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 705, 706, 709, 711, 720, 722, 723, 725, 727, 730, 731, 740, 744, 762, 772, 776, 777b, 777e, 795, 795n, 795p, 796d–1, 796k, 797a, 2212 of this title; title 20 section 107a.

§ 722. Individualized written rehabilitation program

(a) Eligibility

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

(A) is an individual with a disability under section 706(8)(A) of this title; and

(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

(2) 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 considered to have—

(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 706(8)(A)(i) of this title; and

(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 706(15)(A)(i) of this title.

(3) Determinations made by officials of other agencies, particularly the education officials described in section 721(a)(24) 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 706(8)(A) of this title or an individual with a severe disability under section 706(15)(A) of this title, shall be used (to the extent appropriate and available and consistent with the requirements under this chapter) for making such determinations under this chapter.

(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 706(8)(A)(ii) of this title, unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the assessment described in subparagraph (C)(iii)(II), of section 706(22) of this title.

(5)(A) 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 to receive the services unless—

(i) the designated State unit notifies the individual that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual agrees that an extension of time is warranted; or

(ii) such an extended evaluation is required.

(B) The determination of eligibility shall be based on the review of existing data described in section 706(22)(A)(i) of this title, and, to the extent necessary, the preliminary assessment described in section 706(22)(A)(ii) of this title.

(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

(A) the reasons for such a determination;

(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d) of this section; and

(C) the availability of services provided by the client assistance program under section 732 of this title to the individual.

(b) Development and scope of program; annual review; joint redevelopment and agreement of terms; revision as needed

(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the designated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 706(22) of this title (if such assessment is necessary) and ensure that—

(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

(I) such eligible individual (or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual); and

(II) the vocational rehabilitation counselor or coordinator; and

(ii) such program meets the requirements set forth in subparagraph (B).

(B) Each individualized written rehabilitation program shall—

(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

(ii) include a statement of the long-term rehabilitation goals based on the assessment for

determining eligibility and vocational rehabilitation needs described in section 706(22)(B) of this title, including an assessment of career interests, for the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;

(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through such assessment carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service;

(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate rehabilitation objectives and long-term rehabilitation goals for the individual; and

(III) if appropriate, include a statement of the specific on-the-job and related personal assistance services to be provided to the individual, and, if appropriate and desired by the individual, the training in managing, supervising, and directing personal assistance services to be provided to the individual;

(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

(vi) provide for—

(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

(viii) include the terms and conditions under which goods and services described above will be provided to the individual in the most integrated settings;

(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

(xi) include, if necessary, an amendment specifying—

(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d) of this section;

(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d) of this section;

(xiii) provide a description of the availability of a client assistance program established pursuant to section 732 of this title;

(xiv) to the maximum extent possible, be provided in the native language, or mode of communication, of the individual, or, in an appropriate case, of a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual; and

(xv) include information identifying other related services and benefits provided pursuant to any Federal, State, or local program that will enhance the capacity of the individual to achieve the vocational objectives of the individual.

(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual.

(2) Each individualized written rehabilitation program shall be reviewed annually, at which time such individual (or, in appropriate cases, the parents or guardian of the individual) will be afforded an opportunity to review such program and jointly redevelop and agree to its terms. Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program. Such revisions or amendments shall not take effect until agreed to and signed by the individual with a disability, or, if appropriate, by a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual. Each individualized written rehabilitation program shall be revised as needed.

(c) Determination and achievement of vocational goal; decision respecting potential and capability of achievement; annual review of decision

The Director of the designated State unit shall also ensure that (1) in making any determination of ineligibility referred to in subsection (a) of this section, or in developing and carrying out the individualized written rehabilitation program required by section 721 of this title in the case of each individual with a disability, emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal and thus is not eligible for vocational rehabilitation services provided with assistance under this part, is made only in full consultation with such individual (or, in appropriate cases, such individual's parents or guardians), and only upon the certification, as an amendment to such written program, or as a part of the specification of reasons for an ineligibility determination, as appropriate, that the preliminary diagnosis or assessment for determining eligibility

and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 706(22) of this title, as appropriate, has demonstrated that such individual is not then capable of achieving such a goal, and (3) any such decision, as an amendment to such written program, shall be reviewed at least annually in accordance with the procedure and criteria established in this section.

(d) Review by Director of determinations by rehabilitation counselor or coordinator; notice and opportunity for submission of evidence and information; written decision; delegation of responsibility; fair hearing board; collection of data and report to Commissioner; summary of data by Commissioner

(1) Except as provided in paragraph (4), the Director of any designated State unit shall establish procedures for the review of determinations made by the rehabilitation counselor or coordinator under this section, upon the request of an individual with a disability (or, in appropriate cases, such individual's parents or guardian).

(2)(A) Such review procedures shall provide an opportunity to such individuals for the submission of additional evidence and information to an impartial hearing officer who shall make a decision based on the provisions of the State plan approved under section 721(a) of this title.

(B) The impartial hearing officer shall be selected to hear a particular case—

(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 an appropriate case, the Director and a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.

(C) The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by—

(i) the designated State unit; and

(ii)(I) the members of the State Rehabilitation Advisory Council established under section 725 of this title who were appointed under one of clauses (v) through (viii) of section 725(b)(1)(A) of this title, or under one of clauses (v) through (ix) of section 725(b)(1)(B) of this title, as appropriate;

(II) the commission described in subparagraph (B) or (C)(i) of section 721(a)(36) of this title; or

(III) the commissions described in section 721(a)(36)(C)(ii) of this title.

(3)(A) Within 20 days of the mailing of the decision to the individual with a disability (or, in appropriate cases, such individual's parents or guardian), the Director shall notify such individuals of the intent to review such decision in whole or in part.

(B) If the Director decides to review the decision, such individuals shall be provided an opportunity for the submission of additional evidence and information relevant to a final decision.

(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision.

(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.

(D) Except as provided in paragraph (4), the Director may not delegate responsibility to make any such final decision to any other officer or employee of the designated State unit.

(4)(A) A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations under this chapter, is authorized to carry out the responsibilities of the Director under this subsection.

(B) The provisions of paragraphs (1) through (3) of this subsection shall not apply to any State to which subparagraph (A) of this paragraph applies.

(5) Unless the individual with a disability so requests, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.

(6)(A) The Director shall collect data described in subparagraph (B) and prepare and submit to the Commissioner a report containing such data. For the report submitted on or before February 1, 1988, the Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 712 of this title.

(B) The data required to be collected under this paragraph shall include—

(i) a description of State procedures for review;

(ii) the number of appeals to the independent hearing officer and the State Director, including the type of complaint and the issues involved;

(iii) the number of decisions by the State Director reversing in whole or in part the decision of the impartial hearing officer; and

(iv) the number of decisions affirming the position of the individual with a disability assisted through the client assistance program.

(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.)

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. 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.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

AMENDMENTS

1993—Subsec. (a)(5)(B). Pub. L. 103–73, § 107(b)(1), substituted ''section 706(22)(A)(ii)'' for ''section 706(22)(A)(iii)''.

Subsec. (d)(2)(C)(ii)(I). Pub. L. 103–73, § 107(b)(2)(A), substituted ''who were appointed under one of clauses (v) through (viii) of section 725(b)(1)(A), or under one of clauses (v) through (ix) of section 725(b)(1)(B), as appropriate'' for ''who were appointed under one of subparagraphs (E) through (H) of section 725(b)(1) of this title''.

Subsec. (d)(6)(B). Pub. L. 103–73, § 107(b)(2)(B), redesignated pars. (1) to (4) as cls. (i) to (iv), respectively.

1992—Subsec. (a). Pub. L. 102–569, § 123(a), amended subsec. (a) generally, substituting present provisions for provisions requiring joint development of individualized written rehabilitation programs setting forth terms and conditions for provision of goods and services to individuals with handicaps.

Subsec. (b)(1). Pub. L. 102–569, § 123(b)(1), added par. (1) and struck out former par. (1) which related to development and scope of individualized written rehabilitation programs.

Subsec. (b)(2). Pub. L. 102–569, § 123(b)(2), inserted after first sentence ''Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program. Such revisions or amendments shall not take effect until agreed to and signed by the individual with a disability, or, if appropriate, by a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.''

Subsec. (c). Pub. L. 102–569, §§ 102(p)(8), 123(c), substituted ''Director of the designated State unit shall also ensure'' for ''Commissioner shall also insure'', ''individual with a disability'' for ''individual with handicaps'', and ''assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 706(22) of this title'' for ''evaluation of rehabilitation potential''.

Subsec. (d)(1). Pub. L. 102–569, § 102(p)(8), substituted ''a disability'' for ''handicaps''.

Subsec. (d)(2). Pub. L. 102–569, § 123(d)(1), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (d)(3)(A). Pub. L. 102–569, § 102(p)(8), substituted ''a disability'' for ''handicaps''.

Subsec. (d)(3)(C). Pub. L. 102–569, § 123(d)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: ''A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision. When a final decision is made, a copy of such decision shall be provided to such individuals.''

Subsec. (d)(5), (6). Pub. L. 102–569, § 123(d)(3), (4), added par. (5) and redesignated former par. (5) as (6).

Pub. L. 102–569, § 102(p)(8), substituted ''a disability'' for ''handicaps'' in par. (5)(B)(4).

1988—Subsec. (a). Pub. L. 100–630, § 202(c)(1), substituted ''including, where appropriate, recourse to the processes set forth in subsections (b)(2) and (d) of this section, and the availability of services provided under section 732 of this title'' for ''including recourse to the process set forth in subsection (b)(5) of this section''.

Subsec. (b)(1)(H). Pub. L. 100–630, § 202(c)(2), substituted ''individuals with severe handicaps'' for ''severely handicapped individuals''.

Subsec. (b)(2). Pub. L. 100–630, § 202(c)(3), inserted comma after ''annually'' and after ''(or''.

Subsec. (c)(2). Pub. L. 100–630, § 202(c)(4), inserted ''is'' after ''thus''.

1986—Subsec. (a). Pub. L. 99–506, §§ 103(d)(2)(B), 1001(b)(5)(A), substituted ''individual with handicaps'' for ''handicapped individual'' wherever appearing and ''such individual's parents'' for ''his parents''.

Subsec. (b). Pub. L. 99–506, § 203(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Each individualized written rehabilitation program shall be reviewed on an annual basis at which time each such individual (or, in appropriate cases, his parents or guardians) will be afforded an opportunity to review such program and jointly redevelop and agree to its terms. Such program shall include, but not be limited to (1) a statement of long-range rehabilitation goals for the individual and intermediate rehabilitation objectives related to the attainment of such goals, (2) a statement of the specific vocational rehabilitation services to be provided, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and, (5) where appropriate, a detailed explanation of the availability of a client assistance project established in such area pursuant to section 732 of this title.''

Subsec. (c). Pub. L. 99–506, §§ 103(d)(2)(B), 1001(b)(5)(A), substituted ''individual with handicaps'' for ''handicapped individual'' in cl. (1) and ''such individual's parents'' for ''his parents'' in cl. (2).

Subsec. (d)(1). Pub. L. 99–506, § 1001(b)(5)(C), which directed that par. (1) be amended by substituting ''delegate the responsibility'' for ''delegate his responsibility'', could not be executed because of prior amendment by section 203(b) of Pub. L. 99–506, see below.

Pub. L. 99–506, § 203(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Director of any designated State unit shall establish procedures for the review of determinations made by the rehabilitation counselor or coordinator under this section, upon the request of an individual with handicaps (or, in appropriate cases, his parents or guardians). Such procedures shall include a requirement that the final decision concerning the review of any such determination be made in writing by the Director. The Director may not delegate his responsibility to make any such final decision to any other officer or employee of the designated State unit.''

Pub. L. 99–506, § 103(d)(2)(A), substituted ''an individual with handicaps'' for ''a handicapped individual''.

Subsec. (d)(2). Pub. L. 99–506, § 1001(b)(5)(B), which directed the substitution of ''such individual's parent'' for ''his parent'', could not be executed because of prior amendment to par. (2), the only place in section containing ''his parent'', by section 203(b) of Pub. L. 99–506, see below.

Pub. L. 99–506, § 1001(b)(5)(D), which directed the substitution of ''any responsibility of the Secretary'' for ''his responsibilities'', could not be executed because of prior amendment by section 203(b) of Pub. L. 99–506, see below.

Pub. L. 99–506, § 203(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Any individual with handicaps (or, in appropriate cases, his parent or guardian) who is not satisfied with the final decision made under paragraph (1) by the Director of the designated State unit may request the Secretary to review such decision. Upon such request the Secretary shall conduct such a review and shall make recommendations to the Director as to the appropriate disposition of the matter. The Secretary may not delegate

his responsibilities under this paragraph to any officer of the Department of Education who is employed at a position below that of an Assistant Secretary.''

Pub. L. 99–506, §103(d)(2)(B), substituted ''individual with handicaps'' for ''handicapped individual''.

Subsec. (d)(3) to (5). Pub. L. 99–506, §203(b), added pars. (3) to (5).

1984—Subsec. (c)(2). Pub. L. 98–221, §112, struck out ''beyond any reasonable doubt'' after ''rehabilitation potential, as appropriate, has demonstrated''.

Subsec. (d)(2). Pub. L. 98–221, §104(a)(3), substituted ''Department of Education'' for ''Department of Health, Education, and Welfare''.

1978—Subsec. (a). Pub. L. 95–602, §122(b)(1), substituted ''Commissioner'' for ''Secretary''.

Subsec. (b). Pub. L. 95–602, §103(1), inserted ''and agree to'' after ''redevelop''.

Subsec. (c). Pub. L. 95–602, §122(b)(1), substituted ''Commissioner'' for ''Secretary''.

Subsec. (d). Pub. L. 95–602, §103(2), added subsec. (d).

1974—Subsec. (a). Pub. L. 93–516, §111(e)(1), substituted ''written rehabilitation program, or the specification of reasons for a determination of ineligibility prior to initiation of such program based on preliminary diagnosis,'' for ''written rehabilitation program,'' and inserted provisions that the specifications of reasons for an ineligibility determination shall set forth the rights and remedies available to the individual in question, including recourse to the process set forth in subsec. (b)(5) of this section.

Pub. L. 93–651, §111(e)(1), amended subsec. (a) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (c)(1). Pub. L. 93–516, §111(e)(2), substituted ''in making any determination of ineligibility referred to in subsection (a) of this section, or in developing and carrying out the individualized written rehabilitation program required by section 721 of this title in the case of each handicapped individual,'' for ''in developing and carrying out individualized written rehabilitation program required by section 721 of this title in the case of each handicapped individual primary''.

Pub. L. 93–651, §111(e)(2), amended subsec. (c)(1) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (c)(2). Pub. L. 93–516, §111(e)(3), substituted ''program, or as a part of the specification of reasons for an ineligibility determination, as appropriate, that the preliminary diagnosis or evaluation of rehabilitation potential, as appropriate,'' for ''program, that the evaluation of rehabilitation potential''.

Pub. L. 93–651, §111(e)(3), amended subsec. (c)(2) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (c)(3). Pub. L. 93–516, §111(e)(4), substituted ''such decision, as an amendment to such written program,'' for ''such decision''.

Pub. L. 93–651, §111(e)(4), amended subsec. (c)(3) in exactly the same manner as it was amended by Pub. L. 93–516.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 711, 721, 795m, 795n, 2211 of this title.

§ 723. Scope of vocational rehabilitation services

(a) Individual services

Vocational rehabilitation services provided under this chapter are any goods or services necessary to render an individual with a disability employable, including, but not limited to, the following:

(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, guidance, and work-related placement services for individuals with disabilities, including job search assistance, placement assistance, job retention services, personal assistance services, and followup, follow-along, and specific postemployment services necessary to assist such individuals to maintain, regain, or advance in employment;

(3) vocational and other training services for individuals with disabilities, which shall include personal and vocational adjustment, books, and other training materials, and such services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals, except that no training services in institutions of higher education shall be paid for with funds under this subchapter unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial impediment to employment, but is of such 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, under State licensure laws, that 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 under State licensure laws;

(5) maintenance for additional costs incurred while participating in rehabilitation;

(6) interpreter services for individuals who are deaf, and reader services for those individuals determined to be blind after an examination by qualified personnel under State licensure laws;

(7) recruitment and training services for individuals with disabilities to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for individuals who are blind;

(9) occupational licenses, tools, equipment, and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service;

(11) telecommunications, sensory, and other technological aids and devices;

(12) rehabilitation technology services;

(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through

agreements developed under section 721(a)(11) of this title, if such services are not available under this chapter;

(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

(15) on-the-job or other related personal assistance services provided while an individual with a disability is receiving services described in this section; and

(16) supported employment services.

(b) Group services

Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) In the case of any type of small business operated by individuals with the most severe disabilities the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, along or together with the acquisition by the State agency of vending facilities or other equipment and initial stocks and supplies.

(2) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs) which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one individual with a disability. Such programs shall be used to provide services that promote integration and competitive employment.

(3) 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 programing to meet the particular needs of individuals with disabilities.

(4) The use of services providing recorded material for individuals who are blind and captioned films or video cassettes for individuals who are deaf.

(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.

(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.)

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

Prior similar provisions were contained in former sections 34, 35, 41, and 42a of this title.

AMENDMENTS

1993—Subsec. (a)(4)(D). Pub. L. 103–73, § 107(c)(1)(A), substituted ''qualified personnel, under State licensure laws, that are selected by the individual'' for ''a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select''.

Subsec. (a)(4)(F). Pub. L. 103–73, § 107(c)(1)(B), substituted ''qualified personnel under State licensure laws'' for ''a physician or licensed psychologist in accordance with State licensure laws''.

Subsec. (a)(6). Pub. L. 103–73, § 107(c)(2), substituted ''those individuals determined to be blind after an examination by qualified personnel under State licensure laws;'' for ''those individuals determined to be blind after an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select''.

1992—Subsec. (a). Pub. L. 102–569, § 102(p)(9)(A), substituted ''a disability'' for ''handicaps'' in introductory provisions.

Subsec. (a)(1). Pub. L. 102–569, § 124(a)(1), added par. (1) and struck out former par. (1) which read as follows: ''evaluation of rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate—

''(A) an evaluation by personnel skilled in rehabilitation engineering technology; and

''(B) an examination by a physician skilled in the diagnosis and treatment of mental or emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both;''.

Subsec. (a)(2). Pub. L. 102–569, § 124(a)(2), struck out ''referral,'' after ''guidance,'' inserted ''work-related'' before ''placement services'' and ''job search assistance, placement assistance, job retention services, personal assistance services, and'' before ''followup,'' substituted ''maintain, regain, or advance in employment'' for ''maintain or regain employment'', and struck out before semicolon '', and other services designed to help individuals with disabilities secure needed services from other agencies, where such services are not available under this chapter''.

Pub. L. 102–569, § 102(p)(9)(B), substituted ''disabilities'' for ''handicaps'' in two places.

Subsec. (a)(3). Pub. L. 102–569, §§ 102(p)(9)(B), 124(a)(3), substituted ''disabilities'' for ''handicaps'', ''and such services to the families'' for ''and services to the families'', and '', except that'' for '': *Provided*, That''.

Subsec. (a)(4)(A). Pub. L. 102–569, § 124(a)(4), substituted ''impediment to employment,'' for ''handicap to employment,'' and ''reduce such impediment to employment'' for ''substantially reduce the handicap''.

Subsec. (a)(4)(E). Pub. L. 102–569, § 102(p)(9)(C)(i), substituted ''individuals with'' for ''individuals suffering from''.

Subsec. (a)(5). Pub. L. 102–569, § 124(a)(5), substituted ''for additional costs incurred while participating in rehabilitation'' for '', not exceeding the estimated cost of subsistence, during rehabilitation''.

Subsec. (a)(6). Pub. L. 102–569, § 102(p)(9)(C)(ii), substituted ''individuals who are deaf'' for ''deaf individuals''.

Subsec. (a)(7). Pub. L. 102–569, § 102(p)(9)(B), substituted ''disabilities'' for ''handicaps''.

Subsec. (a)(8). Pub. L. 102–569, § 102(p)(9)(C)(iii), substituted ''individuals who are blind'' for ''the blind''.

Subsec. (a)(12). Pub. L. 102–569, § 124(a)(7), substituted ''technology services'' for ''engineering services''.

Subsec. (a)(13) to (16). Pub. L. 102–569, § 124(a)(6), (8), added pars. (13) to (16).

Subsec. (b)(1). Pub. L. 102–569, §§102(p)(9)(B), 124(b)(1), substituted ''In the case'' for ''in the case'', ''disabilities'' for ''handicaps'', and a period for semicolon at end.

Subsec. (b)(2). Pub. L. 102–569, §124(b)(2), substituted ''The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs)'' for ''the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services (including services offered at rehabilitation facilities)'' and a period for semicolon after ''disability'' and inserted at end ''Such programs shall be used to provide services that promote integration and competitive employment.''

Pub. L. 102–569, §102(p)(9)(A), substituted ''individual with a disability'' for ''individual with handicaps''.

Subsec. (b)(3). Pub. L. 102–569, §§102(p)(9)(B), 124(b)(3), substituted ''The use of'' for ''the use of'', ''disabilities'' for ''handicaps'', and a period for ''; and'' at end.

Subsec. (b)(4). Pub. L. 102–569, §§102(p)(9)(D), 124(b)(4), substituted ''The use of'' for ''the use of'', ''individuals who are blind'' for ''the blind'', and ''individuals who are deaf'' for ''the deaf''.

Subsec. (b)(5). Pub. L. 102–569, §124(b)(5), added par. (5).

1988—Subsec. (a)(1). Pub. L. 100–630, §202(d)(1), struck out comma after ''related services'' and substituted ''where appropriate—'' for ''where appropriate,'' in introductory provisions and substituted subpars. (A) and (B) for ''evaluation by personnel skilled in rehabilitation engineering technology, examination by a physician skilled in the diagnosis and treatment of mental or emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both;''.

Subsec. (a)(2). Pub. L. 100–630, §202(d)(2), substituted ''individuals to maintain'' for ''individuals maintain''.

1986—Subsec. (a). Pub. L. 99–506, §103(d)(2)(A), substituted ''an individual with handicaps'' for ''a handicapped individual'' in introductory provisions.

Subsec. (a)(1). Pub. L. 99–506, §204(a), inserted ''evaluation by personnel skilled in rehabilitation engineering technology,'' after ''appropriate,''.

Subsec. (a)(2). Pub. L. 99–506, §§103(d)(2)(C), 204(b), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing, and ''specific postemployment services necessary to assist such individuals maintain or regain employment, and other'' for ''other postemployment services necessary to assist such individuals to maintain their employment and''.

Subsec. (a)(3), (7). Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(12). Pub. L. 99–506, §204(c), added par. (12).

Subsec. (b)(2), (3). Pub. L. 99–506, §103(d)(2)(B), (C), substituted ''individual with handicaps'' for ''handicapped individual''.

1978—Subsec. (a)(1). Pub. L. 95–602, §104(a), inserted ''mental or'' before ''emotional''.

Subsec. (b). Pub. L. 95–602, §104(b), inserted ''(including services offered at rehabilitation facilities)'' after ''services'' in par. (2) and added pars. (3) and (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 721, 797a of this title.

§ 724. Non-Federal share for 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 D 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, 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.)

PRIOR PROVISIONS

Prior similar provisions were contained in former section 32 of this title.

AMENDMENTS

1992—Pub. L. 102–569 substituted ''costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program'' for ''costs of construction or establishment of a public or nonprofit rehabilitation facility'' and directed the substitution of ''establishment of such a program or construction of such a facility'', which was executed by making the substitution for ''construction or establishment of such facility'' to reflect the probable intent of Congress.

1986—Pub. L. 99–506 inserted ''(or to an Indian tribe under part D of this subchapter)''.

1978—Pub. L. 95–602 substituted ''Commissioner'' for ''Secretary''.

§ 725. State Rehabilitation Advisory Council

(a) Establishment

(1) In general

Except as provided in subparagraph (B) or (C) of section 721(a)(36) of this title, to be eligible to receive financial assistance under this subchapter a State shall establish a State Rehabilitation Advisory 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)(1)(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 1431(e)(1) of title 20;

(iii) at least one representative of the client assistance program established under section 732 of this title;

(iv) at least one 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) parents, family members, guardians, advocates, or authorized representatives, of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

(viii) current or former applicants for, or recipients of, vocational rehabilitation services.

(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 parent, family member, guardian, advocate, or authorized 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; and

(ix) applicants or recipients described in subparagraph (A)(viii).

(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 13 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 member of the Council.

(3) Appointment

Members of the Council shall be appointed by the Governor. In the case of a State that, under State law, vests appointment authority in an entity in lieu of, or in conjunction with, the Governor, such as one or more houses of the State legislature, or an independent board that has general appointment authority, that entity shall make the appointments. 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.

(4) Qualifications

A majority of Council members shall be persons who are—

(A) individuals with disabilities described in section 706(8)(B) of this title; and

(B) 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 Governor

In States in which the Governor does not have veto power pursuant to State law, the Governor 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) 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

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.

(c) Functions of Council

The Council shall—

(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 rehabilitation goals and objectives under this subchapter;

(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this subchapter;

(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

(B) vocational rehabilitation services—

(i) provided, or paid for from funds made available, under this chapter or through other public or private sources; and

(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 796d of this title, the advisory panel established under section 1413(a)(12) of title 20, the State Planning Council described in section 6024 of title 42, and the State mental health planning council established under section 1916(e)[1] of the Public Health Service Act (42 U.S.C. 300x–4(e));

(6) advise the State agency designated under section 721(a)(1) of this title and provide for coordination and the establishment of working relationships between the State agency and the Statewide Independent Living Council and centers for independent living within the State; and

(7) perform such other functions, consistent with the purpose of this subchapter, as the State Rehabilitation Advisory 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 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 or appointing agency 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 4 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 appropriated 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(d) of this title to carry out part D 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

[1] See References in Text note below.

to be necessary to carry out the duties of the Council.

(i) Use of existing councils

To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after October 29, 1992, such State shall establish a Council that complies in full with this section.

(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.)

REFERENCES IN TEXT

Section 1916(e) of the Public Health Service Act, referred to in subsec. (c)(5), probably means section 1916(e) of title XIX of act July 1, 1944, ch. 373, as added by Pub. L. 97–35, which was classified to section 300x–4(e) of Title 42, The Public Health and Welfare. Section 1916 was repealed and a new section 1916 enacted by Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 378, 384, which is classified to section 300x–5 of Title 42 and does not relate to the State mental health planning council. However, similar provisions are contained in section 1914 of the Public Health Service Act, as added by Pub. L. 102–321, which is classified to section 300x–3 of Title 42.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–73, § 107(d)(1)(A)(i), added par. (1) and struck out former par. (1) which consisted of subpars. (A) to (H) relating to the composition of the Council.

Subsec. (b)(3). Pub. L. 103–73, § 107(d)(1)(A)(ii), in first sentence struck out ''or the appropriate entity within the State responsible for making appointments'' after ''by the Governor'' and inserted after first sentence: ''In the case of a State that, under State law, vests appointment authority in an entity in lieu of, or in conjunction with, the Governor, such as one or more houses of the State legislature, or an independent board that has general appointment authority, that entity shall make the appointments.''

Subsec. (g). Pub. L. 103–73, § 107(d)(1)(B), inserted ''(except for funds appropriated to carry out the client assistance program under section 732 of this title and funds reserved pursuant to section 730(d) of this title to carry out part D of this subchapter)'' before ''to reimburse members''.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 107(d)(2) of Pub. L. 103–73 provided that: ''In the case of a State that demonstrates to the satisfaction of the Secretary of Education that the State has designated 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 101(a)(1)(A)(i) of the Rehabilitation Act of 1973 [29 U.S.C. 721(a)(1)(A)(i)], and has established by State law a separate Council to perform the duties of a State Rehabilitation Advisory Council with respect to such State agency, the Secretary may delay the effective date of all or part of section 105(b)(1)(B) [29 U.S.C. 725(b)(1)(B)], as amended by paragraph (1), until October 1, 1994.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 721, 722, 727, 742, 796d of this title.

§ 726. Evaluation standards and performance indicators

(a) Establishment

(1) In general

The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this subchapter.

(2) Measures

The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede 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 1996, the Commissioner shall include in each annual report to the Congress under section 712 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. 102–569, title I, § 127(a), Oct. 29, 1992, 106 Stat. 4385.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 727 of this title.

§ 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 on-site 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) strategic plans and updates;

(E) plans and reports prepared under section 726(b) of this title;

(F) consumer satisfaction surveys described in section 721(a)(32) of this title;

(G) information provided by the State Rehabilitation Advisory Council established under section 725 of this title;

(H) reports; and

(I) budget and financial management data.

(3) Procedures for monitoring

In conducting monitoring under this section the Commissioner shall conduct—

(A) on-site visits, including on-site 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 Advisory Council;

(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

(E) meetings with 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) whether the personnel evaluation system described in section 721(a)(35) of this title facilitates and does not impede the accomplishments of the program;

(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

(E) such other areas of inquiry as the Commissioner may consider appropriate.

(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, dis-

burse 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 contribute, 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. 102–569, title I, § 128(a), Oct. 29, 1992, 106 Stat. 4386.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 705, 726, 796d–1 of this title.

§ 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 C 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. 102–569, title I, § 129(a), Oct. 29, 1992, 106 Stat. 4389.)

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.

§ 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. 102–569, title I, § 130(a), Oct. 29, 1992, 106 Stat. 4389.)

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 gener-

ally 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.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 706, 718, 720, 721, 724, 740, 787 of this title.

§ 730. State allotments

(a) Computation; additional amount; minimum amount; adjustments; additional allotment

(1) Subject to the provisions of subsection (d) 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)(A)[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, the Northern Mariana Islands, and the Republic of Palau) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 720(b)(1)(A)[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.

(4) For each fiscal year beginning on or after October 1, 1984, for which any amount is appropriated pursuant to section 720(b)(1)(B)[1] of this title, each State shall receive an allocation (from such appropriated amount) in addition to the allotment to which such State is entitled under paragraphs (2) and (3) of this subsection. Such additional allocation shall be an amount which bears the same ratio to the amount so appropriated as that State's allotment under paragraphs (2) and (3) of this subsection bears to the sum of such allotments of all the States.

(5) The Republic of Palau may receive allotments or allocations under this section only until the Compact of Free Association with Palau takes effect.

(b) Additional payments; authorization of additional appropriations

(1) If the payment to a State under section 731(a) of this title for a fiscal year is less than the total payments such State received under section 2 of the Vocational Rehabilitation Act for the fiscal year ending June 30, 1973, such State shall be entitled to an additional payment (subject to the same terms and conditions applicable to other payments under this part) equal to the difference between such payment under section 731(a) of this title and the amount so received by it.

(2) If a State receives as its Federal share under section 731(a) of this title for any fiscal year less than the applicable Federal share of the expenditure of such State for fiscal year 1972 for vocational rehabilitation services under the plan for such State approved under section 721 of this title (including any amount expended by such State for the administration of the State plan but excluding any amount expended by such State from non-Federal sources for construction under such plan), such State shall be entitled to an additional payment for such fiscal year, subject to the same terms and conditions applicable to other payments under this part, equal to the difference between such payment under section 731(a) of this title and an amount equal to the applicable Federal share of such expenditure for vocational rehabilitation services.

(3) Any payment attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.

(c) Unused funds; redistribution; increase in amount

(1) Not later than forty-five 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 that such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for car-

[1] See References in Text note below.

rying 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.

(d) 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 D of this subchapter.

(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

(A) not less than one-third of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1993 and 1994; and

(B) not less than one-half of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1995, 1996, and 1997.

(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.)

REFERENCES IN TEXT

Section 720(b)(1) of this title, referred to in subsec. (a)(2)(B), (3), (4), was amended generally by Pub. L. 102–569, title I, § 121(b)(1), Oct. 29, 1992, 106 Stat. 4367, and, as so amended, no longer contains subpars. (A) and (B).

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (a)(5), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

Section 2 of the Vocational Rehabilitation Act, referred to in subsec. (b)(1), is section 2 of act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which provided for grants to States for vocational rehabilitation services, including computation of allotments, amount of payments, adjusted Federal shares, and private contributions for construction or establishment of facilities, and which was classified to section 32 of this title. Section 32 was repealed by section 500(a) of Pub. L. 93–112, effective 90 days after Sept. 26, 1973, and is covered by this section and sections 724 and 731 of this title.

PRIOR PROVISIONS

Prior similar provisions were contained in former sections 32 and 42–1 of this title.

AMENDMENTS

1993—Subsec. (c)(2). Pub. L. 103–73, § 107(e)(1), struck out "to pay for initial expenditures during" before "the subsequent fiscal year" in first sentence, and inserted at end: "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."

Subsec. (c)(4). Pub. L. 103–73, § 107(e)(2), struck out par. (4) which read as follows: "If the Commissioner determines, under paragraph (1), 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, the payment shall remain available for reallotment to other States until reallotted."

1992—Subsec. (a)(3). Pub. L. 102–569, § 131(a)(1), substituted "and the Republic of Palau" for "and the Trust Territory of the Pacific Islands".

Subsec. (a)(5). Pub. L. 102–569, § 131(a)(2), added par. (5).

Subsec. (c)(4). Pub. L. 102–569, § 131(b), added par. (4).

Subsec. (d)(2). Pub. L. 102–569, § 131(c), added par. (2) and struck out former par. (2) which read as follows: "For any fiscal year the sum shall be not less than ¼ of one percent and not more than one percent of the amount under paragraph (1), as determined by the Secretary."

1986—Subsec. (a)(1). Pub. L. 99–506, § 207(1), inserted qualification relating to subsec. (d) of this section.

Subsec. (b)(2). Pub. L. 99–506, § 206(a), struck out ", as a result of the maintenance of effort provisions of such section," after "for any fiscal year" and inserted "for fiscal year 1972" after "such State".

Pub. L. 99–506, § 103(c)(2), substituted "the applicable Federal share" for "80 percent" in two places.

Subsec. (c). Pub. L. 99–506, § 206(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Whenever the Commissioner determines, after reasonable opportunity for the submission to him 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, he shall make such amount available for carrying out the purposes of this subchapter to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year."

Subsec. (d). Pub. L. 99–506, § 207(2), added subsec. (d).

1984—Subsec. (a)(2)(B), (3). Pub. L. 98–221, § 111(e)(1), substituted "section 720(b)(1)(A)" for "section 720(b)(1)" wherever appearing.

Subsec. (a)(4). Pub. L. 98–221, § 111(e)(2), added par. (4).

1978—Subsec. (a). Pub. L. 95–602, § 101(c), substituted provision establishing a computation formula for State allotments for fiscal years beginning before Oct. 1, 1978, and for fiscal years beginning on or after Oct. 1, 1978, for provision establishing a computation formula for each fiscal year, inserted a provision establishing a formula for additional amounts, excluded the Northern Mariana Islands from consideration for adjustments, and increased minimum amount of adjustment to $3,000,000.

Subsec. (b). Pub. L. 95–602, § 101(d), designated existing provision as par. (1), struck out provision requiring payments attributable to the additional payment under this subsection to be made only from appropriations specifically made to carry out this subsection and such additional appropriations as authorized, and added pars. (2) and (3).

Subsec. (c). Pub. L. 95–602, § 122(b)(1), substituted "Commissioner" for "Secretary".

EFFECTIVE DATE OF 1986 AMENDMENT

Section 103(c)(2) of Pub. L. 99–506 provided that the amendment made by that section is effective Oct. 1, 1988.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 707, 721, 725, 728, 731, 750, 795p, 797a of this title; title 42 section 1396n.

§ 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 and development and implementation of the strategic plan as provided in section 721(a)(34)(A) of this title. Any State that receives such an amount shall expend, for development and implementation of the strategic plan, not less than the percentage of the allotment of the State referred to in section 721(a)(34)(B) of this title.

(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a),[1] of section 730 of this title for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by section 721(a)(17) of this title.

(B)(i) For fiscal year 1993, 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 average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

(ii) 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 paragraphs (A) and (B) 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 General Accounting 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, 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.)

PRIOR PROVISIONS

Prior similar provisions were contained in former sections 32 and 36 of this title.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–73 realigned margins of pars. (1) and (2).

1992—Subsec. (a)(1). Pub. L. 102–569, § 132(1), struck out "(including any additional payment to it under section 730(b) of this title)" after "for any fiscal year" and substituted "State plan and development and implementation of the strategic plan as provided in section 721(a)(34)(A) of this title. Any State that receives such an amount shall expend, for development and implementation of the strategic plan, not less than the percentage of the allotment of the State referred to in section 721(a)(34)(B) of this title." for "State plan."

Subsec. (a)(2)(A). Pub. L. 102–569, § 132(2)(A), struck out "(and any additional payment under subsection (b))" after "subsection (a)".

Subsec. (a)(2)(B). Pub. L. 102–569, § 132(2)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "For fiscal year 1990 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 average of the total of such expenditures for the three fiscal years preceding that previous fiscal year."

[1] So in original. The comma probably should not appear.

Subsec. (a)(3). Pub. L. 102–569, § 132(3), added par. (3).

1988—Pub. L. 100–630, § 202(e)(1), made technical correction to section number, resulting in no change in text.

Subsec. (a)(2)(B). Pub. L. 100–630, § 202(e)(2)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''The amount otherwise payable to a State for a fiscal year under this section shall be reduced by any amount by which expenditures from non-Federal sources under the State plan during such year under this subchapter are less than the average of the total of such expenditures for the three preceding fiscal years.''

Subsec. (b)(1). Pub. L. 100–630, § 202(e)(3), struck out comma after ''such other investigation''.

1986—Subsec. (a). Pub. L. 99–506, § 208, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''From each State's allotment under this part for any fiscal year (including any additional payment to it under section 730(b) of this title), the Commissioner shall pay to such State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for such State approved under section 721 of this title, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) (and its additional payment under subsection (b), if any) of section 730 of this title for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by clause (17) of section 721(a) of this title and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any) by which expenditures from non-Federal sources during such year under this subchapter are less than expenditures under the State plan for the fiscal year ending June 30, 1972, under the Vocational Rehabilitation Act.''

Subsec. (b)(1). Pub. L. 99–506, § 1001(b)(6)(A), substituted ''prescribed by the Commissioner'' for ''prescribed by him''.

Subsec. (b)(2). Pub. L. 99–506, § 1001(b)(6)(B), substituted ''estimated by the Commissioner'' for ''estimated by him'' and ''the Commissioner finds that the'' for ''he finds that his''.

1978—Pub. L. 95–602 substituted ''Commissioner'' for ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 202(e)(2)(B) of Pub. L. 100–630 provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect on October 1, 1989.''

REDUCTION IN PAYMENTS FOR FISCAL YEARS 1987, 1988, AND 1989

Pub. L. 103–382, title III, § 368, Oct. 20, 1994, 108 Stat. 3976, provided that:

''(a) IN GENERAL.—Notwithstanding any provision of the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the amount otherwise payable to a State under section 111 of such Act [29 U.S.C. 731] shall be reduced for fiscal years 1987, 1988, and 1989, by the amount by which expenditures from non-Federal sources under the State plan under title I of such Act [29 U.S.C. 720 et seq.] for such year are less than the total of such expenditures for fiscal year 1972.

''(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the Rehabilitation Act Amendments of 1992 [Pub. L. 102–569].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 728a, 730 of this title; title 5 section 8104.

§ 732. Client assistance program

(a) Establishment of grant program

From funds appropriated under subsection (i) 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 community rehabilitation programs providing services to them 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 disabilities 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 paragraph, 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) 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 their 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.

(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.

(4) For the purpose of this subsection, the term ''Governor'' means the chief executive of the State.

(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, the Northern Mariana Islands, and the Republic of Palau, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(C) For the purpose of this paragraph, the term ''State'' does not include American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Republic of Palau.

(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 by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 720(c)(1) of this title, the Secretary shall increase each of the minimum allotments under clause (i) by such percentage change in the Consumer Price Index For All Urban Consumers.

(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) Each program shall contain provisions designed to assure that to the maximum extent possible mediation procedures are used prior to resorting to administrative or legal remedies.

(4), (5) Repealed. Pub. L. 104–66, title I, § 1041(c)(1), Dec. 21, 1995, 109 Stat. 714.

(6) 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 1993 through 1997 to carry out the provisions of this section.

(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.)

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.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (e)(1)(B), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

AMENDMENTS

1995—Subsec. (g)(4), (5). Pub. L. 104–66, §1041(c)(1), struck out pars. (4) and (5) which read as follows:

''(4) The agency designated under subsection (c) of this section shall submit an annual report to the Secretary on the operation of the program during the previous year, including a summary of the work done and the uniform statistical tabulation of all cases handled by such program. A copy of each such report shall be submitted to the appropriate committees of the Congress by the Secretary, together with a summary of such reports and the Secretary's evaluation of the program, including appropriate recommendations.

''(5) Each such report shall contain information on the number of requests the client assistance program under this section receives annually, the number of requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.''

Subsec. (g)(6). Pub. L. 104–66, §1041(c)(2), substituted ''any'' for ''such report or for any other'' before ''periodic audit''.

1993—Subsec. (a). Pub. L. 103–73, §107(g)(1), in first sentence substituted ''community rehabilitation programs'' for ''facilities'' before ''providing services to them''.

Subsec. (e)(1)(D)(ii). Pub. L. 103–73, §107(g)(2), added cl. (ii) and struck out former cl. (ii) which read as follows: ''Subject to clause (i), the Commissioner may increase the minimum allotments under subparagraphs (A) and (B) for any fiscal year for which funds appropriated under this section for such fiscal year exceed the sums appropriated under this section for the preceding fiscal year.''

1992—Subsec. (a). Pub. L. 102–569, §133(a), in first sentence, substituted ''to assist and advocate for such clients'' for ''to assist such clients'', inserted ''and advocacy'' after ''including assistance'', and inserted before period ''and to facilitate access to the services funded under this chapter through individual and systemic advocacy'', amended second sentence generally, and inserted at end ''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.''. Prior to amendment, second sentence read as follows: ''The client assistance program may provide information on the available services under this chapter to any individuals with disabilities in the State.''

Pub. L. 102–569, §102(p)(10), substituted ''disabilities'' for ''handicaps'' in second sentence.

Subsecs. (b)(1), (c)(1)(A). Pub. L. 102–569, §102(p)(10), substituted ''disabilities'' for ''handicaps''.

Subsec. (c)(1)(B). Pub. L. 102–569, §133(b), added subpar. (B) and struck out former subpar. (B) which read as follows: ''The Governor may not redesignate the agency designated under subparagraph (A) without good cause and only after notice and an opportunity for public comment has been given of the intention to make such redesignation.''

Subsec. (c)(2). Pub. L. 102–569, §102(p)(10), substituted ''disabilities'' for ''handicaps''.

Subsec. (e)(1)(B). Pub. L. 102–569, §133(c)(1), substituted ''and the Republic of Palau, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.'' for ''and the Trust Territory of the Pacific Islands.''

Subsec. (e)(1)(C). Pub. L. 102–569, §133(c)(2), substituted ''and the Republic of Palau'' for ''and the Trust Territory of the Pacific Islands''.

Subsec. (e)(1)(D). Pub. L. 102–569, §133(c)(3), in cl. (i), substituted ''$100,000'' for ''$75,000'' and in cl. (ii), substituted ''clause (i)'' for ''subsection (c) of this section'', ''minimum allotments under subparagraphs (A) and (B)'' for ''minimum allotment under subparagraph (A)'', and ''fiscal year.'' for ''fiscal year by more than the percentage increase in the Consumer Price Index published monthly by the Bureau of Labor Statistics.''

Subsec. (g)(5), (6). Pub. L. 102–569, §133(d), added pars. (5) and (6).

Subsec. (h). Pub. L. 102–569, §133(e), redesignated subsec. (i) as (h), substituted ''such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section'' for ''$7,100,000 for fiscal year 1987, $7,550,000 for fiscal year 1988, $8,000,000 for fiscal year 1989, $8,450,000 for fiscal year 1990, $8,796,000 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992, to carry out the provisions of this section'', and struck out former subsec. (h) which required Commissioner to conduct a comprehensive evaluation of client assistance program and submit a report to Congress.

Pub. L. 102–569, §102(p)(10), substituted ''individuals with disabilities'' for ''individuals with handicaps'' in par. (2)(A) and (C).

Subsec. (i). Pub. L. 102–569, §133(e)(2), redesignated subsec. (i) as (h).

1991—Subsec. (i). Pub. L. 102–52 struck out ''and'' after ''1990,'' and inserted ''and such sums as may be necessary for fiscal year 1992,'' after ''1991,''.

1988—Subsec. (a). Pub. L. 100–630, §202(f)(1), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (b). Pub. L. 100–630, §202(f)(2), struck out comma after ''client assistance program'' in introductory provisions.

Subsec. (c)(4). Pub. L. 100–630, §202(f)(3), added par. (4).

Subsec. (g)(1). Pub. L. 100–630, §202(f)(4), struck out comma after ''consultants of''.

Subsec. (g)(4). Pub. L. 100–630, §202(f)(5), substituted ''the Secretary's'' for ''his''.

Subsec. (h)(3)(C). Pub. L. 100–630, §202(f)(6), substituted ''February 22, 1984'' for ''this reauthorization'' in two places.

Subsec. (i). Pub. L. 100–630, §202(f)(7), inserted comma after ''1991''.

1986—Subsec. (a). Pub. L. 99–506, §209(a), inserted provision that the client assistance program may provide information on the available services under this chapter to any handicapped individuals in the State.

Subsec. (b)(1). Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (c)(1). Pub. L. 99–506, §§103(d)(2)(C), 209(b), designated existing provisions as subpar. (A), inserted '', in the initial designation,'' after ''the Governor may'' and substituted ''individuals with handicaps'' for ''handicapped individuals'', and added subpar. (B).

Subsec. (c)(2). Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (e)(1)(D). Pub. L. 99–506, §209(d), added subpar. (D).

Subsec. (e)(2). Pub. L. 99–506, § 1001(b)(7), substituted ''at appropriate times'' for ''from time to time on such dates he may fix''.

Subsec. (e)(3). Pub. L. 99–506, § 209(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''(A) The Secretary shall pay to the Governor from the allotment of the State the amount specified in the application approved under subsection (f) of this section.

''(B) For the purpose of this paragraph and subsection (c) of this section, the term 'Governor' means the chief executive of the State.''

Subsec. (g)(1). Pub. L. 99–506, § 209(e), struck out '', or receive benefits of any kind directly or indirectly from'' after ''or consultants of''.

Subsec. (h)(2)(A), (C). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (i). Pub. L. 99–506, § 209(f), amended subsec. (i) generally, substituting provisions authorizing appropriations for fiscal years 1987 through 1991 for provisions authorizing appropriations for fiscal years 1984 through 1986.

1984—Subsec. (a). Pub. L. 98–221 substituted provisions making permanent a client assistance program funded from appropriations authorized by subsec. (i) of this section for provisions which had established the client assistance program as a pilot program for fiscal years 1979, 1980, 1981, and 1982 to be funded from appropriations authorized by section 777 of this title for special projects and demonstrations.

Subsec. (b). Pub. L. 98–221 substituted provisions that no State may receive payments from its allotment under this chapter unless the State has in effect not later than Oct. 1, 1984, a client assistance program meeting certain enumerated conditions for former provisions which had authorized the promulgation of regulations. The former provisions of former subsec. (b) are covered in subsecs. (c) and (g).

Subsecs. (c) to (i). Pub. L. 98–221 added subsecs. (c) to (i).

1982—Subsec. (b)(3). Pub. L. 97–375 struck out par. (3) which provided that the project submit to the Commissioner through the State agency designated by section 721 of this title an annual report on the previous year's operation of the project, including a summary of work done and uniform statistical tabulation of cases handled, and that the Commissioner submit a copy of the report to appropriate committees of Congress, together with a summary of the reports, evaluation of the projects, and appropriate recommendations.

1978—Subsec. (a). Pub. L. 95–602, §§ 105, 122(b)(1), substituted ''section 777 of this title'' for ''section 774 of this title'' in two places, ''Commissioner'' for ''Secretary'' wherever appearing, and ''no less than $3,500,000 for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, to establish in geographically dispersed regions'' for ''up to $1,500,000, but no less than $500,000 for the fiscal year ending June 30, 1974, up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1975, up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1976, up to $2,500,000 but no less than $1,000,000 for the fiscal year ending September 30, 1977, and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending September 30, 1978, to establish in no less than 7 nor more than 20 geographically dispersed regions'' and inserted '', including assistance in pursuing legal, administrative, or other appropriate remedies to insure the protection of the rights of such individuals under this chapter'' after ''them under this chapter''.

Subsec. (b). Pub. L. 95–602, § 122(b)(1), substituted ''Commissioner'' for ''Secretary'' wherever appearing.

1976—Subsec. (a). Pub. L. 94–230, § 2(b), inserted provisions authorizing appropriations up to $2,500,000 but no less than $1,000,000 for the fiscal year ending Sept. 30, 1977.

Pub. L. 94–230, § 11(b)(4), inserted provisions authorizing appropriations up to $2,500,000 but no less than $1,000,000 for the fiscal year ending Sept. 30, 1978.

1974—Subsec. (a). Pub. L. 93–516 substituted ''in excess of $11,860,000'' for ''in excess of an amount equal to the amount obligated for expenditure for carrying out such projects and demonstrations from appropriations under the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973,'', authorized appropriation of up to $2,500,000 but no less than $1,000,000 for fiscal year ending June 30, 1976, and inserted provisions that in the event that funds so appropriated under section 774 of this title do not exceed $11,860,000 in any fiscal year, the Secretary is authorized to utilize such funds to carry out this section.

Pub. L. 93–651 amended subsec. (a) in exactly the same manner as it was amended by Pub. L. 93–516.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 718a, 720, 721, 722, 725, 794e, 796, 796c of this title.

PART C—INNOVATION AND EXPANSION GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 706, 718, 720, 721, 796d of this title.

§ 740. State eligibility

Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this subchapter shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 721 of this title and the supplement to the State plan submitted under part C of subchapter VI of this chapter.

(Pub. L. 93–112, title I, § 120, as added Pub. L. 102–569, title I, § 134(a), Oct. 29, 1992, 106 Stat. 4392.)

PRIOR PROVISIONS

A 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 revision of this part by Pub. L. 102–569.

§ 741. Contents of strategic plans

(a) Purpose and policy

The strategic plan shall be designed to achieve the purpose and policy of this subchapter and carry out the State plan and the supplement to the State plan submitted under part C of subchapter VI of this chapter.

(b) Contents

The strategic plan shall include—

(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement to the State plan submitted under part C of subchapter VI of this chapter;

(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

(Pub. L. 93–112, title I, § 121, as added Pub. L. 102–569, title I, § 134(a), Oct. 29, 1992, 106 Stat. 4392.)

PRIOR PROVISIONS

A 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 revision of this part by Pub. L. 102–569.

§ 742. Process for developing strategic plans

(a) Period and updates

The strategic plan shall cover a 3-year period and shall be updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 725 of this title, individuals with disabilities, and other interested parties.

(b) Recommendations

Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 796d of this title.

(c) Consideration of recommendations

The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

(d) Procedure

The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) of this section as the plan is being implemented.

(e) Dissemination

The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

(Pub. L. 93–112, title I, § 122, as added Pub. L. 102–569, title I, § 134(a), Oct. 29, 1992, 106 Stat. 4393.)

§ 743. Use of funds

A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

(1) programs to initiate and expand employment opportunities for individuals with severe disabilities in integrated settings that allow for the use of on-the-job training to promote the objectives of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.);

(2) programs or activities to improve the provision of, and expand, employment services in integrated settings to individuals with sensory, cognitive, physical, and mental impairments who have traditionally not been served by the State vocational rehabilitation agency;

(3) programs and activities to maximize the ability of individuals with disabilities to use rehabilitation technology in employment settings;

(4) programs and activities that—

(A) assist employers in accommodating, evaluating, training, or placing individuals with disabilities in the workplace of the employer consistent with provisions of this chapter and title I of the Americans with Disabilities Act of 1990 [42 U.S.C. 12111 et seq.]; and

(B) may include short-term technical assistance or other effective strategies;

(5) programs and activities that expand and improve the extent and type of client involvement in the review and selection of the training and employment goals of the client;

(6) programs and activities that expand and improve opportunities for career advancement for individuals with severe disabilities;

(7) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this subchapter and independent living services provided under subchapter VII of this chapter;

(8) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education, and continuing education, and businesses, industry, and labor organizations, in order to create and facilitate cooperation in—

(i) planning and implementing services; and

(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

(C) improve the ability of professionals, clients, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

(9) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this subchapter, including serving, among others, individuals with the most severe disabilities;

(10) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

(11) support the provision of training and technical assistance to clients, business, industry, labor, community rehabilitation programs, and others regarding the implementation of the amendments made by the Rehabilitation Act Amendments of 1992, of subchapter V of this chapter, and of the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.]; and

(12) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 796d of this title.

(Pub. L. 93–112, title I, § 123, as added Pub. L. 102–569, title I, § 134(a), Oct. 29, 1992, 106 Stat. 4393.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in pars. (1), (4)(A), and (11), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified generally 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. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act Amendments of 1992, referred to in par. (11), is Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 701 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 721 of this title.

§ 744. Allotments among States

(a) In general

(1) States

(A) Population basis

Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part (not including sums used in accordance with section 721(a)(34)(B) of this title), the Commissioner shall make an allotment to each State whose State plan has been approved under section 721 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) Minimums

Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than $200,000 or one-third of one 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 $200,000 or one-third of one 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)(B), 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.

(B) Allotment

Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(3) Adjustment for inflation

For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 720(c)(1) of this title, the Commissioner shall increase the minimum allotment under paragraph (1)(B) by such percentage change in the Consumer Price Index For All Urban Consumers.

(b) Proportional reduction

To provide minimum allotments to States (as increased under subsection (a)(3) of this section) under subsection (a)(1)(B) of this section, or to provide minimum allotments to States under subsection (a)(2)(B) of this section, the Commissioner shall proportionately reduce the allot-

ments 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 minimum allotment for a State (as increased under subsection (a)(3) of this section) under subsection (a)(1)(B) of this section, or the minimum allotment for a State under subsection (a)(2)(B) of this section, as appropriate.

(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 for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the purposes 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 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.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (a)(2)(B), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1993—Subsec. (a)(2)(A). Pub. L. 103–73, § 107(h)(1)(A)(i), substituted ''paragraph (1)(B)'' for ''this subsection''.

Subsec. (a)(2)(B). Pub. L. 103–73, § 107(h)(1)(A)(ii), substituted ''allotted under paragraph (1)(A)'' for ''allotted''.

Subsec. (a)(3). Pub. L. 103–73, § 107(h)(1)(B), added par. (3) and struck out heading and text of former par. (3). Text read as follows: ''For purposes of determining the minimum amount of an allotment under paragraph (1)(B), the amount $200,000 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. (b). Pub. L. 103–73, § 107(h)(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''Amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B) of this section as increased under subsection (a)(3) of this section, or to provide allotments in accordance with subsection (a)(2)(B) of this section, shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1) of this section, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of one percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3) of this section.''

PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 724, 725, 730 of this title.

§ 750. 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 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 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 less than twelve months or more than 36 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 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, § 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.)

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.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, § 102(p)(11)(A), substituted ''American Indians who are individuals with disabilities'' for ''American Indians with handicaps''.

Subsec. (b)(1)(B). Pub. L. 102–569, § 102(p)(11), substituted ''American Indians who are individuals with disabilities'' for ''American Indians with handicaps'' and ''other individuals with disabilities'' for ''other individuals with handicaps''.

1988—Subsec. (a). Pub. L. 100–630, § 202(i)(1), inserted comma after ''part'' and substituted ''American Indians with handicaps'' for ''handicapped American Indians''.

Subsec. (b)(1)(B). Pub. L. 100–630, § 202(i)(2), substituted ''American Indians with handicaps'' for ''handicapped American Indians''.

Subsecs. (c) to (e). Pub. L. 100–630, § 202(i)(3), which redesignated subsec. (e) as (c) and struck out subsec. (d), was executed without regard to the purported amendment by Pub. L. 95–602 as the probable intent of Congress. Prior to amendment, subsec. (d) read as follows: ''For the purpose of computing the allotment of any State under section 730(a) of this title, the number of American Indians residing on a reservation to be served by a grant under this part shall be subtracted from the population used for such State in section 730(a)(1) of this title as follows:

''(1) 33 percent of such American Indians in the first fiscal year during which such Indians are served by grants under this part;

''(2) 66 percent of such American Indians in the second fiscal year during which such Indians are served by grants under this part; and

''(3) 100 percent of such American Indians in the third fiscal year during which such Indians are served by grants under this part.''

1986—Subsec. (a). Pub. L. 99–506, § 211(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''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 to pay 90 percent of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations.''

Subsec. (b)(1)(B). Pub. L. 99–506, §§ 103(d)(2)(C), 211(b)(1), substituted ''individuals with handicaps'' for ''handicapped individuals'' and inserted provision including services traditionally used by Indian tribes.

Subsec. (b)(2). Pub. L. 99–506, § 1002(b)(1), substituted ''Secretary of Education'' for ''Secretary of Health, Education, and Welfare''.

Subsec. (b)(3). Pub. L. 99–506, § 211(b)(2), inserted ''or more than 36 months,'' after ''months''.

Subsec. (b)(4), (5). Pub. L. 99–506, § 211(b)(3), added pars. (4) and (5).

Subsecs. (c), (d). Pub. L. 99–506, § 211(c), purported to strike out subsec. (c) and redesignate subsec. (d) as (c). As amended by Pub. L. 95–602 section did not contain a subsec. (c). See 1988 Amendment note above.

1978—Pub. L. 95–602 amended section generally, substituting subsecs. (a), (b), (d), and (e) relating to authorizing vocational rehabilitation services grants to handicapped American Indians for former subsecs. (a) and (b) relating to a study of comprehensive service needs of individuals with the most severe handicaps.

1974—Subsec. (b). Pub. L. 93–516 substituted ''June 30, 1975'' for ''February 1, 1975''.

Pub. L. 93–651 amended subsec. (b) in exactly the same manner as it was amended by Pub. L. 93–516.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 721 of this title.

§ 751. Repealed. Pub. L. 99–506, title X, § 1002(b)(2)(A), Oct. 21, 1986, 100 Stat. 1844

Section, 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 this part.

§ 752. Repealed. Pub. L. 102–569, title I, § 135(a), Oct. 29, 1992, 106 Stat. 4396

Section, 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.

PART E—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

§ 753. Review of data collection and reporting system

(a) Review

The Commissioner shall conduct a comprehensive review of the current system for collecting and reporting data on clients of programs carried out under this chapter, particularly data on clients of the programs carried out under this subchapter.

(b) Considerations

(1) Current data

In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently collected and reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(2) Additional information

In conducting the review, the Commissioner shall examine the feasibility of collecting and

reporting under the system information, if such information can be determined, with respect to each client participating in a program under this chapter, regarding—

(A) other programs in which the client participated during the 3 years before the date on which the client applied to participate in a program under this chapter;

(B) the number of jobs held, hours worked, and earnings received by the client during such 3 years;

(C) the types of major and secondary disabilities of the client;

(D) the dates of the onset of the disabilities;

(E) the severity of the disabilities;

(F) the source from which the client was referred to a program under this chapter;

(G) the hours worked by the client;

(H) the size and industry code of the place of employment of the client at the time of entry into such a program and at the termination of services under the program;

(I) the number of services provided to the client under the programs and the cost of each service;

(J) the types of public support received by the client;

(K) the primary sources of economic support and amounts of public assistance received by the client before and after receiving the services;

(L) whether the client is covered by health insurance from any source and whether health insurance is available through the employer of the client;

(M) the supported employment status of the client; and

(N) the reasons for terminating the services received by the client.

(c) Recommendations

Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

(d) Views

In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of vocational rehabilitation services, professionals in the field of vocational rehabilitation, clients and organizations representing clients, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) Publication and submission of report

Not later than 18 months after October 29, 1992, the Commissioner shall publish the recommendations in the Federal Register and shall prepare and submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

(Pub. L. 93–112, title I, § 140, as added Pub. L. 103–73, title I, § 108, Aug. 11, 1993, 107 Stat. 724.)

§ 753a. Exchange of data

(a) Exchange

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—

(1) that concern clients of State vocational rehabilitation agencies; and

(2) that are data maintained either by—

(A) the Rehabilitation Services Administration, as required by section 712 of this title; or

(B) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

(b) Treatment of information

For purposes of the exchange, the data described in subsection (a)(2)(B) 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 both agencies.

(Pub. L. 93–112, title I, § 141, as added Pub. L. 103–73, title I, § 108, Aug. 11, 1993, 107 Stat. 725.)

SUBCHAPTER II—RESEARCH AND TRAINING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 706, 718b of this title.

§ 760. Congressional 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 long-range plan for research developed under section 761a(g) 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; and

(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently;

(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 tech-

nology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties;

(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in productive work; 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, 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.)

AMENDMENTS

1992—Pub. L. 102–569 added pars. (1) to (6) and struck out former pars. (1) to (4) which read as follows:

''(1) provide for a comprehensive and coordinated approach to the administration and conduct of research, demonstration projects, and related activities for the rehabilitation of individuals with handicaps, including programs designed to train persons who provide rehabilitation services and persons who conduct research, by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this subchapter;

''(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation professionals and to individuals with handicaps to assist such individuals to live more independently;

''(3) improve the distribution of technological devices and equipment for individuals with handicaps by providing financial support for the development and distribution of such devices and equipment; and

''(4) increase the scientific and technological information presently available in the field of rehabilitation.''

1986—Pars. (1) to (3). Pub. L. 99–506 substituted ''individuals with handicaps'' for ''handicapped individuals''.

1978—Pub. L. 95–602 substituted provision declaring that the purpose of this subchapter is to develop a coordinated and comprehensive approach to rehabilitation and training, to facilitate the distribution of information concerning development in the rehabilitation field, to improve distribution of technological devices and equipment, and to increase scientific and technological information for provision declaring the purpose of this subchapter is to authorize Federal assistance to State and public or nonprofit agencies to plan and conduct research and related activities in the rehabilitation field and to plan and conduct courses of training and related activities designed to increase the number of trained personnel and the level of their skills.

§ 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 761a 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 762 of this title, such sums as may be necessary for each of fiscal years 1993 through 1997; and

(2) to carry out section 762 of this title, such sums as may be necessary for each of fiscal years 1993 through 1997.

(b) Funds appropriated under this subchapter shall remain available until expended.

(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.)

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

PRIOR PROVISIONS

Prior similar provisions were contained in former section 31 of this title.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–569, § 202(1), substituted ''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 762 of this title'' for ''other than expenses to carry out section 762 of this title'' and ''each of fiscal years 1993 through 1997'' for ''fiscal year 1987, and for each succeeding fiscal year ending prior to October 1, 1992''.

Subsec. (a)(2). Pub. L. 102–569, § 202(2), added par. (2) and struck out former par. (2) which read as follows: ''$49,000,000 for fiscal year 1987, $52,000,000 for fiscal year 1988, $55,000,000 for fiscal year 1989, $58,000,000 for fiscal year 1990, $60,378,500 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992 for the purpose of carrying out section 762 of this title, of which $1,000,000 shall be available for fiscal year 1987, $1,050,000 for fiscal year 1988, $1,102,500 for fiscal year 1989, $1,160,000 for fiscal year 1990, $1,208,000 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992 for the purpose of carrying out the last sentence of section 762(b)(2)(C) of this title.''

1991—Subsec. (a)(1). Pub. L. 102–52, § 3(1), substituted ''1992'' for ''1991''.

Subsec. (a)(2). Pub. L. 102–52, § 3(2), struck out ''and'' after ''1990,'' in two places and inserted '', and such sums as may be necessary for fiscal year 1992'' after ''1991'' in two places.

1988—Subsec. (a)(1). Pub. L. 100–630 inserted comma after ''1987''.

1986—Subsec. (a). Pub. L. 99–506 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''There are authorized to be appropriated—

''(1) for the purpose of providing for the expenses of the National Institute of Handicapped Research under section 761a of this title, other than expenses to carry out section 762 of this title, such sums as may be necessary for fiscal year 1984, and for each of the two succeeding fiscal years; and

''(2) for the purpose of carrying out section 762 of this title, $36,000,000 for the fiscal year 1984, $40,000,000 for the fiscal year 1985, and $44,000,000 for the fiscal year 1986.''

1984—Subsec. (a)(1). Pub. L. 98–221, § 121(a), substituted ''fiscal year 1984, and for each of the two succeeding fiscal years'' for ''the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years''.

Subsec. (a)(2). Pub. L. 98–221, § 121(b), substituted ''for the purpose of carrying out section 762 of this title, $36,000,000 for the fiscal year 1984, $40,000,000 for the fiscal year 1985, and $44,000,000 for the fiscal year 1986'' for

''for the purpose of carrying out section 762 of this title, $50,000,000 for the fiscal year ending September 30, 1979, $75,000,000 for the fiscal year ending September 30, 1980, $90,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982''.

1978—Subsec. (a). Pub. L. 95–602 substituted provision authorizing appropriation of sums as may be necessary for the fiscal year ending Sept. 30, 1979 and the three succeeding fiscal years, for expenses of the National Institute of Handicapped Research, other than expenses for research, and for the expenses for research, $50,000,000 for the fiscal year ending Sept. 30, 1979, $75,000,000 for the fiscal year ending Sept. 30, 1980, $90,000,000 for the fiscal year ending Sept. 30, 1981, and $100,000,000 for the fiscal year ending Sept. 30, 1982 for provision authorizing appropriations for research of $25,000,000 for each of the fiscal years ending June 30, 1974 and June 30, 1975, $32,000,000 for the fiscal year ending June 30, 1976, and $30,000,000 for each of the fiscal years ending Sept. 30, 1977 and Sept. 30, 1978, with certain spending requirements for the establishment of rehabilitation engineering research centers, and for training, $27,700,000 for each of the fiscal years ending June 30, 1974 and June 30, 1975, $32,000,000 for the fiscal year ending June 30, 1976, $25,000,000 for the fiscal year ending Sept. 30, 1977, and $30,000,000 for the fiscal year ending Sept. 30, 1978.

1976—Subsec. (a)(1). Pub. L. 94–230, § 3(a), inserted provision authorizing appropriations of $30,000,000 for the fiscal year ending Sept. 30, 1977.

Pub. L. 94–230, § 11(b)(5), inserted provision authorizing appropriations of $30,000,000 for the fiscal year ending Sept. 30, 1978.

Subsec. (a)(2). Pub. L. 94–230, § 3(b), inserted provision authorizing appropriations of $25,000,000 for the fiscal year ending Sept. 30, 1977.

Pub. L. 94–230, § 11(b)(6), inserted provision authorizing appropriations of $30,000,000 for the fiscal year ending Sept. 30, 1978.

1974—Subsec. (a)(1). Pub. L. 93–516, § 103(1), (2), inserted provision authorizing appropriation of $32,000,000 for the fiscal year ending June 30, 1976, and substituted ''such fiscal years, respectively, and 25 per centum of the amounts appropriated in each succeeding fiscal year'' for ''such fiscal years, respectively,''.

Pub. L. 93–651, § 103(1), (2), amended subsec. (a)(1) in exactly the same manner as it was amended by Pub. L. 93–516.

Subsec. (a)(2). Pub. L. 93–516, § 103(3), inserted provision authorizing appropriation of $32,000,000 for the fiscal year ending June 30, 1976.

Pub. L. 93–651, § 103(3), amended subsec. (a)(2) in exactly the same manner as it was amended by Pub. L. 93–516.

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.

§ 761a. 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

(iii) related activities,

with respect to individuals with disabilities;

(B) more effectively carry out activities through the programs under section 762 of this title;

(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (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 762 of this title,

(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related 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 parents, family members, guardians, advocates, or authorized representatives of such individuals;

(3) coordinating, through the Interagency Committee established by section 761b 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 8801 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 parents, family members, guardians, advocates, or authorized representatives of the individuals described in subparagraph (C);

(5) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to family care and self care;

[1] So in original. A closing parenthesis probably should precede the semicolon.

(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, 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 Health Care Financing Administration, 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, 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 parents, family members, guardians, advocates, or authorized representatives of such individuals, 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 long-term vocational outcomes; 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 of such Act (42 U.S.C. 12206).

(c) Appointment of Director; Deputy Director; employment of technical and professional personnel; consultants

(1) The Director of the Institute shall be appointed by the Secretary, except that the person serving as the Director on October 29, 1992, may, at the pleasure of the President, continue to serve as Director. The Director shall be an individual with substantial experience in rehabilitation and in research administration. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5. The Director shall not delegate any of the Director's functions to any officer who is not directly responsible to the Director.

(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the ''Deputy Director'') who shall be appointed by the Secretary. The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration. The Deputy Director shall be compensated at the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, and shall act for the Director during the absence of the Director or the inability of the Director to perform the essential functions of the job, exercising such powers as the Director may prescribe. The Deputy Director shall serve as Director until a Director is appointed under paragraph (1).

(3) 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 deems ncessary[2] 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.

(4) The Director may obtain the services of consultants, without regard to the provisions of title 5 governing appointments in the competitive service.

(d) 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.

(e) Scientific review of research grants and programs; peer review group

(1) The Director shall, pursuant to regulations which the Secretary shall prescribe, provide for scientific review of all research grants and programs over which the Director has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field (including experts in the independent living field) competent to review research grants and programs, including knowledgeable individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. The Director shall solicit nominations for such peer review groups from the public and shall publish the names of the individuals selected. Individuals comprising each peer review group shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

(2) In providing for such scientific review, the Secretary shall provide for training of such indi-

[2] So in original. Probably should be ''necessary''.

viduals and mechanisms to receive input from individuals with disabilities, and from the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(f) 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.

(g) Report to Congress; long-range plan for rehabilitation research; review

The Director shall develop and submit to appropriate committees of the Congress a long-range plan for rehabilitation research which shall—

(1) identify any research which should be conducted respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

(2) determine the funding priorities for research activities under this section and explain the basis for such priorities, including a detailed description of any new types of research recommended under this paragraph for funding;

(3) specify appropriate goals and timetables for activities to be conducted under this section;

(4) be developed in consultation with the Rehabilitation Research Advisory Council established under section 765 of this title and after full consideration of the input of individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, organizations representing individuals with disabilities, providers of services furnished under this chapter, and researchers in the rehabilitation field;

(5) specify plans for widespread dissemination of research results in accessible formats to rehabilitation practitioners, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals;

(6) specify plans for widespread dissemination of research results that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs under this chapter;

(7)[3] be developed by the Director—

(A) in coordination with the Commissioner; and

(B) in 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 (42 U.S.C. 6000 et seq.), the Interagency Committee on Disability Research established under section 761b of this title, individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and any other persons or entities the Director considers appropriate; and

(8)[3] be revised, in the manner required by this section—

(A) at least once every 5 years; and

(B) at any time determined to be necessary by the Director.

The plan required by this subsection shall be developed by the Director in consultation with the Commissioner, 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 [42 U.S.C. 6000 et seq.], the Interagency Committee established by section 761b of this title, and any other persons or entities the Director considers appropriate. Such plan shall be reviewed at least once every three years and may be revised at any time by the Director to the extent the Director considers necessary.

(h) 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 761b of this title, regarding the design of research projects conducted by such entities and the results and applications of such research.

(i) Comprehensive and coordinated research program; interagency cooperation

(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 761b 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 761b 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.

(j) Pediatric rehabilitation research; Pacific Basin Research and Training Center; Rural Rehabilitation Center

(1) The Director shall make a grant to an institution of higher education to support a program of pediatric rehabilitation research.

[3] So in original. Pars. (7) and (8) are similar to concluding provisions.

(2) The Director shall support, either directly or by way of grant or contract, a Research and Training Center in the Pacific Basin in order to improve services to individuals with disabilities through relevant rehabilitation research and training in the Pacific Basin and to assist in the coordination of rehabilitation services provided by a broad range of agencies and entities. Such center shall—

(A) develop a sound demographic base,

(B) analyze, develop, and utilize appropriate technology,

(C) develop a culturally relevant rehabilitation manpower development program, and

(D) facilitate interagency communication and cooperation, implementing advanced information technology.

(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 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. 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.)

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, 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 provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c)(3), (4), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (g), is title I of Pub. L. 88–164, as added by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, and amended, which is classified generally to chapter 75 (§ 6000 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 6000 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 202 of Pub. L. 93–112, title II, Sept. 26, 1973, 87 Stat. 375, was classified to section 762 of this title prior to renumbering as section 204 of Pub. L. 93–112.

AMENDMENTS

1994—Subsec. (b)(4)(A)(i). Pub. L. 103–382 substituted ''section 8801 of title 20'' for ''paragraphs (8) and (21), respectively, of section 2891 of title 20)''.

Subsec. (b)(8). Pub. L. 103–218 substituted ''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,'' for ''characteristics of individuals with disabilities''.

1993—Subsec. (b)(2)(D). Pub. L. 103–73, § 109(a)(1)(A), substituted ''such individuals'' for ''the individuals''.

Subsec. (b)(4)(D). Pub. L. 103–73, § 109(a)(1)(B), substituted ''individuals described in subparagraph (C)'' for ''individuals''.

Subsec. (c)(2). Pub. L. 103–73, § 109(a)(2), which directed amendment of fourth sentence by substituting ''The'' for ''In case of any vacancy in the office of the Director, the'', was executed by substituting ''The'' for ''In the case of any vacancy in the office of the Director, the'' before ''Deputy Director shall serve'', to reflect the probable intent of Congress.

Subsec. (g)(3). Pub. L. 103–73, § 109(a)(3), struck out ''and'' at end.

Subsec. (g)(4) to (8). Pub. L. 103–73, § 102(4), made technical correction to directory language of Pub. L. 102–569, § 203(g)(5). See 1992 Amendment note below.

1992—Subsec. (a). Pub. L. 102–569, § 203(a), in first sentence, substituted ''(1) There'' for ''In order to promote and coordinate research with respect to individuals with disabilities and to more effectively carry out the programs under section 762 of this title, there'' and '', in order to—'' and subpars. (A) to (D) for the period at end, added par. (2), and struck out former second sentence which read as follows: ''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.''

Pub. L. 102–569, § 102(p)(12)(A), substituted ''individuals with disabilities'' for ''individuals with handicaps'' after ''research with respect to'' in first sentence.

Subsec. (b)(2). Pub. L. 102–569, § 203(b)(1), added par. (2) and struck out former par. (2) which read as follows: ''disseminating information acquired through research funded by the Institute to other Federal, State, tribal, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;''.

Subsec. (b)(4). Pub. L. 102–569, § 203(b)(2), added par. (4) and struck out former par. (4) which read as follows: ''disseminating educational materials to primary and secondary schools, institutions of higher education, and to public and private entities concerning how the quality of life of individuals with disabilities may be improved;''.

Pub. L. 102–569, § 102(p)(12)(A), substituted ''individuals with disabilities'' for ''individuals with handicaps'' after ''quality of life of''.

Subsec. (b)(5). Pub. L. 102–569, § 102(p)(12)(A), substituted ''individuals with disabilities'' for ''individuals with handicaps''.

Subsec. (b)(6). Pub. L. 102–569, § 203(b)(3), added par. (6) and struck out former par. (6) which read as follows: ''conducting conferences, seminars, and workshops (including in-service training programs) concerning research and engineering advances in rehabilitation pertinent to the problems of individuals with disabilities;''.

Pub. L. 102–569, § 102(p)(12)(A), substituted ''individuals with disabilities'' for ''individuals with handicaps'' after ''problems of''.

Subsec. (b)(7). Pub. L. 102–569, § 203(b)(4), substituted '', including dissemination activities;'' for ''; and''.

Subsec. (b)(8). Pub. L. 102–569, § 203(b)(5), inserted ''the Health Care Financing Administration,'' after ''Bureau of the Census,'' and ''widely'' before ''disseminating'' and substituted '', individuals with disabilities, the

parents, family members, guardians, advocates, or authorized representatives of such individuals, and others to assist in the planning, assessment, and evaluation'' for ''and others to assist in the planning and evaluation'' and a semicolon for the period at end.

Pub. L. 102–569, § 102(p)(12)(A), substituted ''individuals with disabilities'' for ''individuals with handicaps'' after ''characteristics of'' and ''services for''.

Subsec. (b)(9) to (11). Pub. L. 102–569, § 203(b)(6), added pars. (9) to (11).

Subsec. (c)(1). Pub. L. 102–569, § 203(c)(1), in first sentence, substituted ''appointed by the Secretary, except that the person serving as the Director on October 29, 1992, may, at the pleasure of the President, continue to serve as Director'' for ''appointed by the President, by and with the advice and consent of the Senate'' and struck out fourth sentence which read as follows: ''In carrying out any of the Director's functions under this section, the Director shall be guided by general policies of the National Council on Disability established in subchapter IV of this chapter.''

Pub. L. 102–569, § 102(p)(12)(B), substituted ''National Council on Disability'' for ''National Council on the Handicapped'' in fourth sentence.

Subsec. (c)(2). Pub. L. 102–569, § 203(c)(2), inserted after first sentence ''The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration.'', substituted ''the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382'' for ''the rate provided for grade GS–17 of the General Schedule under section 5332'' and ''of the Director or the inability of the Director to perform the essential functions of the job'' for ''or disability of the Director'', and struck out at end ''The position created by this paragraph shall be in addition to the number of positions placed in grade GS–17 of the General Schedule under section 5108 of title 5.''

Subsec. (d). Pub. L. 102–569, § 203(d), inserted '', including individuals with disabilities,'' after ''fellows''.

Subsec. (e). Pub. L. 102–569, § 203(e), designated existing provisions as par. (1), substituted ''rehabilitation field (including experts in the independent living field) competent to review research grants and programs, including knowledgeable individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. The Director shall solicit nominations for such peer review groups from the public and shall publish the names of the individuals selected. Individuals comprising each peer review group shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.'' for ''rehabilitation field.'', and added par. (2).

Subsec. (f). Pub. L. 102–569, § 203(f), added subsec. (f) and struck out former subsec. (f) which read as follows: ''Not less than 90 percent of the funds appropriated under paragraph (2) of section 761(a) of this title to carry out section 762 of this title shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.''

Subsec. (g). Pub. L. 102–569, § 203(g)(1), struck out ''within eighteen months after November 6, 1978,'' after ''Congress'' in introductory provisions.

Subsec. (g)(1). Pub. L. 102–569, § 203(g)(2), substituted ''full inclusion and integration into society of individuals with disabilities, especially in the area of employment;'' for ''problems encountered by individuals with disabilities in their daily activities, especially problems related to employment;''.

Pub. L. 102–569, § 102(p)(12)(A), substituted ''individuals with disabilities'' for ''individuals with handicaps'' after ''problems encountered by''.

Subsec. (g)(2), (3). Pub. L. 102–569, § 203(g)(3), (4), struck out ''and'' at end of par. (2) and substituted ''; and'' for period at end of par. (3).

Subsec. (g)(4) to (8). Pub. L. 102–569, § 203(g)(5), as amended by Pub. L. 103–73, § 102(4), added pars. (4) to (8).

Subsec. (i)(2). Pub. L. 102–569, § 203(h), substituted ''purposes of this subchapter'' for ''purposes of this section''.

Subsec. (j)(1). Pub. L. 102–569, § 203(i)(1), substituted ''to support'' for ''for the establishment of''.

Subsec. (j)(2). Pub. L. 102–569, §§ 102(p)(12)(A), 203(i)(2), substituted ''Director shall support'' for ''Director shall establish'' and ''individuals with disabilities'' for ''individuals with handicaps'' in introductory provisions.

Subsec. (j)(3). Pub. L. 102–569, § 203(i)(2), substituted ''Director shall support'' for ''Director shall establish''.

Subsec. (k). Pub. L. 102–569, § 203(j), substituted ''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.'' for ''researchers in the field of rehabilitation of individuals with disabilities.''

Pub. L. 102–569, § 102(p)(12)(A), substituted ''individuals with disabilities'' for ''individuals with handicaps'' after ''rehabilitation of''.

Subsec. (*l*). Pub. L. 102–569, § 203(k), struck out subsec. (*l*) which required submission to Congress of policy recommendations not later than one year after Oct. 21, 1986, for establishment of an agency designed to ensure production and marketing of technology and distribution of such technology to individuals with disabilities.

Pub. L. 102–569, § 102(p)(12)(A), substituted ''individuals with disabilities'' for ''individuals with handicaps'' in two places.

Subsec. (m). Pub. L. 102–569, § 203(k), struck out subsec. (m) which read as follows: ''The Director shall conduct a study of health insurance practices and policies which affect individuals with disabilities. Not later than February 1, 1990, the Director shall submit a report of the study to the appropriate committees of the Congress.''

Pub. L. 102–569, § 102(p)(12)(A), substituted ''individuals with disabilities'' for ''individuals with handicaps''.

1991—Subsec. (i)(2). Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1988—Subsec. (b)(8). Pub. L. 100–630, § 203(b)(1), substituted ''services for individuals with handicaps'' for ''services for the handicapped''.

Subsec. (c)(1). Pub. L. 100–630, § 203(b)(2)(A), (C), substituted ''the Director's'' for ''his'' in two places and ''responsible to the Director'' for ''responsible to him''.

Pub. L. 100–630, § 203(b)(2)(B), which directed amendment of par. (1) by striking ''National Council on the Handicapped'' where it appears in the third sentence and inserting ''National Council on Disability'', could not be executed because ''National Council on the Handicapped'' appeared in the fourth sentence.

Subsec. (c)(3). Pub. L. 100–630, § 203(b)(3), inserted comma after ''to such provisions''.

Subsec. (g). Pub. L. 100–630, § 203(b)(4)(A), which directed amendment of the second sentence of subsec. (g) by striking ''in the consultation'' and inserting ''in consultation'' could not be executed because the words ''in the consultation'' did not appear.

Pub. L. 100–630, § 203(b)(4)(B), (5), in concluding provisions, substituted ''National Council on Disability'' for ''National Council on the Handicapped'' and ''the Director considers necessary'' for ''necessary''.

Subsec. (i)(2). Pub. L. 100–630, § 203(b)(6), which directed amendment of par. (2) by substituting ''Office of Special Education and Rehabilitative Services'' for ''Office of Special Education and Rehabilitation Services'' could not be executed because the words ''Office of Special Education and Rehabilitation Services'' did not appear.

Subsec. (j)(2). Pub. L. 100–630, § 203(b)(7), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Director shall establish, either directly or by way of grant or contract, a Research and Training Center in the Pacific Basin in order to improve services to individuals with handicaps through relevant rehabilitation research and training in the Pacific Basin and to assist in the coordination of rehabilitation services provided by a broad range of agencies and entities.

Such Center shall (A) develop a sound demographic base, (B) analyze, develop, and utilize appropriate technology, (C) develop a culturally relevant rehabilitation manpower development program, and (D) facilitate interagency communication and cooperation, implementing advanced information technology.''

Subsec. (*l*). Pub. L. 100–630, § 203(b)(8), substituted ''Director or the Interagency Committee on Disability Research'' for ''Director or the Committee on Handicapped Research'', inserted a comma after ''Further'', and substituted ''views of the Interagency Committee on Disability Research'' for ''views of the Interagency Committee on Handicapped Research''.

1986—Pub. L. 99–506, § 302, substituted ''National Institute on Disability and Rehabilitation Research'' for ''National Institute of Handicapped Research'' in section catchline.

Subsec. (a). Pub. L. 99–506, §§ 103(d)(2)(C), 302, 1001(c)(1), substituted ''individuals with handicaps'' for ''handicapped individuals'', ''National Institute on Disability and Rehabilitation Research'' for ''National Institute of Handicapped Research'' and ''the functions of the office'' for ''his functions''.

Subsec. (b)(2). Pub. L. 99–506, § 303(a)(1), inserted ''tribal,'' after ''State,''.

Subsec. (b)(4) to (6). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (b)(8). Pub. L. 99–506, §§ 103(d)(2)(C), 303(a)(2), inserted ''the Bureau of Indian Affairs, the Indian Health Service,'' after ''Administration'' and substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (e). Pub. L. 99–506, § 1001(c)(2), substituted ''Director'' for ''he''.

Subsec. (g). Pub. L. 99–506, § 1001(c)(3), struck out ''he considers'' before ''necessary''.

Subsec. (g)(1). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (i)(1). Pub. L. 99–506, § 1001(c)(4), substituted ''appropriate actions'' for ''whatever actions he considers appropriate'' and ''as Chairperson'' for ''in his role of Chairman''.

Subsec. (j)(1). Pub. L. 99–506, § 1002(c), struck out ''at an institution of higher education'' after ''pediatric rehabilitation research''.

Subsec. (j)(2). Pub. L. 99–506, § 303(b), inserted provision that purpose of Research and Training Center is to improve services to individuals with handicaps through relevant rehabilitation research and training in the Pacific Basin and to assist in the coordination of rehabilitation services provided by a broad range of agencies and entities, and provision requiring the Center to develop a sound demographic base, analyze, develop, and utilize appropriate technology, develop a culturally relevant rehabilitation manpower development program, and facilitate interagency communication and cooperation, implementing advanced information technology.

Subsec. (j)(3). Pub. L. 99–506, § 303(c), added par. (3).

Subsecs. (k) to (m). Pub. L. 99–506, § 303(d)–(f), added subsecs. (k) to (m).

1984—Subsec. (a). Pub. L. 98–221, § 122(a), substituted ''Education'' for ''Health, Education, and Welfare'' in two places.

Subsec. (c)(1). Pub. L. 98–221, § 122(b), inserted ''The Director shall be an individual with substantial experience in rehabilitation and in research administration.''

Subsec. (g). Pub. L. 98–221, § 104(b)(1), substituted ''Secretary of Education'' for ''Commissioner of Education''.

Subsec. (i)(2). Pub. L. 98–221, § 104(a)(4), substituted ''Office of Special Education and Rehabilitative Services'' for ''Bureau of Education for the Handicapped''.

Subsec. (j). Pub. L. 98–221, § 122(c), added subsec. (j).

REFERENCES TO NATIONAL INSTITUTE OF HANDICAPPED RESEARCH AMENDED OR DEEMED TO BE REFERENCES TO NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

Section 302(b) of Pub. L. 99–506 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'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 760, 761, 765 of this title.

§ 761b. Interagency Committee

(a) Establishment; membership; meetings

(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, 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

After receiving input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the 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 related to rehabilitation of individuals with disabilities.

(c) Annual report to Congress

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.

(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.)

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–569, § 204(a), inserted ''the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services,'' after ''designees): the Director,''.

Subsec. (b). Pub. L. 102–569, §§ 102(p)(13), 204(b), substituted ''After receiving input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, the'' for ''The'' and ''individuals with disabilities'' for ''individuals with handicaps'' after ''rehabilitation of''.

Subsec. (c). Pub. L. 102–569, §§ 102(p)(13), 204(c), substituted ''shall annually'' for '', not later than eighteen months after November 6, 1978, and annually thereafter, shall'' and ''individuals with disabilities'' for ''individuals with handicaps''.

1991—Subsec. (a)(1). Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

1988—Subsec. (a)(1). Pub. L. 100–630 substituted ''Disability Research'' for ''Handicapped Research''.

1986—Subsec. (a)(1). Pub. L. 99–506, § 304, inserted ''the Director of the National Institute of Mental Health,'' after ''Institutes of Health,'' and ''the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service,'' after ''Transportation,''.

Subsecs. (b), (c). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

1984—Subsec. (a)(1). Pub. L. 98–221, which directed the substitution of ''Secretary of Education'' for ''Commissioner of Education'', could not be executed in view of the previous amendment by Pub. L. 96–88. See 1979 Amendment note below.

1979—Subsec. (a)(1). Pub. L. 96–88 substituted requirement that the Secretary of Education or his designee be a member of the Committee for requirement that the Commissioner of Education and the Commissioner of the Rehabilitation Services Administration or their designees be members.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 761a of this title.

§ 762. Research

(a) Federal grants and contracts for certain research projects and related activities

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 severe disabilities, and improve the effectiveness of services authorized under this chapter. In carrying out this section, the Director shall emphasize projects that support the implementation of subchapters I, III, VI, VII, and VIII 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. Such projects may include 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; studies and analyses of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities; studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized; studies analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities; studies, analyses, and other activities related to supported employment; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most severe disabilities, particularly individuals with disabilities, and individuals with the most severe disabilities, who are members of populations that are unserved or underserved by programs under this chapter.

(b) Research grants

(1) Specialized research and demonstration activities

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 specialized research or demonstration activities described in paragraphs (2) through (16).

(2) Rehabilitation Research and Training Centers

(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 parents, family members, guardians, advocates, or authorized representatives of the individuals.

(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;

(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 parents, family members, guardians, advocates, or authorized representatives of the individuals, 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 shall—

(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal 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) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(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) Rehabilitation Engineering Research Centers

(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, de-

signed 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 severe 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 severe 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 Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals 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 work force, 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 parents, family members, guardians, advocates, or authorized representatives of users of rehabilitation technology.

(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 Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 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 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) Spinal cord injury research

(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 parents, family members, guardians, advocates, or authorized representatives of such individuals, 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 equipment 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) End-stage renal disease research; prohibition against participation of persons eligible for services under other provisions of law

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) insure dissemination of research findings, (B) provide encouragement and support for initiatives and new approaches by individual 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) International rehabilitation research and development

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) Telecommunications systems

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 programing to meet the particular needs of individuals with disabilities.

(8) Joint projects

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) Rehabilitation of children, older individuals, and older American Indians, who are individuals with disabilities

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 work force.

(10) Attraction and retention of professionals to serve in rural areas

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 severe disabilities.

(11) Feasibility of establishing center for production and distribution of captioned video cassettes to individuals who are deaf

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 captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.

(12) Services for preschool age children who are individuals with disabilities

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 the following: (A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with severe disabilities up to the age of five, with a special emphasis on children who are individuals with severe 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) Establishment of model training centers; evaluation and development of employment potential of individuals with disabilities; programs

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 which—

(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; and

(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities.

(14) New concepts; innovative ideas; evaluation devices; special initiatives

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 per centum of the amount available under 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) Conduct of studies of rehabilitation needs of American Indian populations; service delivery systems

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) Demonstration program for orphan technological devices

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 designed to enable individuals with disabilities to achieve independence and access to gainful employment.

(c) General grant and contract requirements applicable

The provisions of section 776 of this title shall apply to assistance provided under this section, unless the context indicates to the contrary.

(d) Site visits; grant limitations

(1) In carrying out evaluations of research demonstration and related projects 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 which exceeds $299,999 unless the peer review of the grant application has included a site visit.

(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.)

REFERENCES IN TEXT

The Technology-Related Assistance for Individuals With Disabilities Act of 1988, referred to in subsec. (b)(3)(C)(i), (G)(i), is Pub. L. 100–407, Aug. 19, 1988, 102 Stat. 1044, as amended, which is classified generally to chapter 24 (§ 2201 et seq.) of this title. For complete

classification of this Act to the Code, see Short Title note set out under section 2201 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.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

PRIOR PROVISIONS

A prior section 204 of Pub. L. 93–112, title II, Sept. 26, 1973, 87 Stat. 376, was classified to section 764 of this title prior to repeal by Pub. L. 95–602.

Prior similar provisions were contained in former section 34 of this title.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73, §109(b)(1), in second sentence inserted ", including projects addressing the needs described in the State plans submitted under section 721 or 796c of this title by State agencies" before period at end and in third sentence directed striking out ", as described in the State plans submitted by the State agencies," which was executed by striking out ", as described in the State plans submitted by State agencies," after "Such projects", to reflect the probable intent of Congress.

Subsec. (b)(2)(G)(i). Pub. L. 103–73, §109(b)(2)(A), substituted "rehabilitation-related" for "rehabilitation related".

Subsec. (b)(3)(B)(iii)(I). Pub. L. 103–73, §109(b)(2)(B)(i), substituted "family-centered" for "family centered".

Subsec. (b)(3)(C)(i). Pub. L. 103–73, §109(b)(2)(B)(ii), substituted "Assistance for Individuals" for "Assistance to Individuals" and struck out comma after "representatives of the individuals".

Subsec. (b)(4)(A)(iii). Pub. L. 103–73, §109(b)(2)(C), realigned margin.

1992—Subsec. (a). Pub. L. 102–569, §205(a), in first sentence, substituted "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 severe disabilities, and improve the effectiveness of services authorized under this chapter. In carrying out this section, the Director shall emphasize projects that support the implementation of subchapters I, III, VI, VII, and VIII of this chapter" for "demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational and other rehabilitation services to individuals with disabilities, especially those with the most severe disabilities, under this chapter" and in last sentence, inserted ", as described in the State plans submitted by State agencies," and substituted "studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized" for "special problems of homebound and institutionalized individuals" and ", particularly individuals with disabilities, and individuals with the most severe disabilities, who are members of populations that are unserved or underserved by programs under this chapter." for period at end.

Pub. L. 102–569, §102(p)(14)(B), in first sentence, substituted "individuals with disabilities, especially those with the most severe disabilities" for "individuals with handicaps, especially those with the most severe handicaps" after "services to" and in last sentence, substituted "individuals with disabilities" for "individuals with handicaps" after "rehabilitation of" and after "special needs of", and "individuals with disabilities and individuals with the most severe disabilities" for "individuals with handicaps and individuals with the most severe handicaps" after "methods in the rehabilitation of".

Subsec. (b). Pub. L. 102–569, §205(b)(2), struck out introductory provisions which read as follows: "In addition to carrying out projects under subsection (a) of this section, the Director may make grants to pay part or all of the cost of the following specialized research activities:".

Subsec. (b)(1). Pub. L. 102–569, §205(b)(2), added par. (1) and struck out former par. (1) which established Rehabilitation Research and Training Centers and provided for areas of research.

Pub. L. 102–569, §102(p)(14)(B), substituted "individuals with disabilities" for "individuals with handicaps" in two places.

Subsec. (b)(2). Pub. L. 102–569, §205(b)(2), added par. (2) and struck out former par. (2) which provided for the establishment of Rehabilitation Engineering Research Centers.

Pub. L. 102–569, §102(p)(14)(B), substituted "disabilities" for "handicaps" in four places.

Subsec. (b)(3). Pub. L. 102–569, §205(b)(2), added par. (3) and struck out former par. (3) which provided for spinal cord injury research.

Subsec. (b)(4). Pub. L. 102–569, §205(b)(2), added par. (4). Former par. (4) redesignated (5).

Pub. L. 102–569, §102(p)(14)(A)(i), substituted "individuals with such disease" for "individuals suffering from such disease".

Subsec. (b)(5). Pub. L. 102–569, §205(b)(1), (3), redesignated par. (4) as (5) and substituted "Research grants may be used to conduct" for "Conduct of". Former par. (5) redesignated (6).

Pub. L. 102–569, §102(p)(14)(B), substituted "individuals with disabilities" for "individuals with handicaps" wherever appearing.

Subsec. (b)(6). Pub. L. 102–569, §205(b)(1), (3), redesignated par. (5) as (6) and substituted "Research grants may be used to conduct" for "Conduct of". Former par. (6) redesignated (7).

Pub. L. 102–569, §102(p)(14)(B), substituted "individuals with disabilities" for "individuals with handicaps".

Subsec. (b)(7). Pub. L. 102–569, §205(b)(1), (3), redesignated par. (6) as (7) and substituted "Research grants may be used to conduct" for "Conduct of". Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 102–569, §205(b)(1), (3), redesignated par. (7) as (8) and substituted "Research grants may be used to conduct" for "Conduct of". Former par. (8) redesignated (9).

Pub. L. 102–569, §102(p)(14)(A)(ii), (B), substituted "children who are individuals with disabilities" for "children with handicaps", "individuals with disabilities" for "individuals with handicaps", and "American Indians who are individuals with disabilities" for "American Indians with handicaps".

Subsec. (b)(9). Pub. L. 102–569, §205(b)(4), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "Research grants may be used to conduct a program of research related to the rehabilitation of children who are individuals with disabilities and of individuals with disabilities who are aged sixty or older, except that research concerning American Indians who are individuals with disabilities shall include those 55 and older.".

Pub. L. 102–569, §205(b)(1), (3), redesignated par. (8) as (9) and substituted "Research grants may be used to conduct" for "Conduct of". Former par. (9) redesignated (10).

Pub. L. 102–569, §102(p)(14)(B), substituted "disabilities" for "handicaps" in two places.

Subsec. (b)(10). Pub. L. 102–569, §205(b)(1), (3), redesignated par. (9) as (10) and substituted "Research grants may be used to conduct" for "Conduct of". Former par. (10) redesignated (11).

Pub. L. 102–569, §102(p)(14)(A)(iii), substituted ''individuals who are deaf'' for ''deaf individuals''.

Subsec. (b)(11). Pub. L. 102–569, §205(b)(1), (3), redesignated par. (10) as (11) and substituted ''Research grants may be used to conduct'' for ''Conduct of''. Former par. (11) redesignated (12).

Pub. L. 102–569, §102(p)(14)(A)(iv), substituted ''children who are individuals with disabilities'' for ''children with handicaps'' and ''children who are individuals with severe disabilities'' for ''children with severe handicaps'' in two places.

Subsec. (b)(12). Pub. L. 102–569, §205(b)(1), (3), (5), redesignated par. (11) as (12), substituted ''Research grants may be used to conduct'' for ''Conduct of'', and inserted ''assessment,'' after ''early intervention,''. Former par. (12) redesignated (13).

Pub. L. 102–569, §102(p)(14)(B), substituted ''individuals with disabilities'' for ''individuals with handicaps'' wherever appearing.

Subsec. (b)(13). Pub. L. 102–569, §205(b)(1), (3), (6), redesignated par. (12) as (13), in introductory provisions, substituted ''Research grants may be used to conduct'' for ''Conduct of'' and ''addressing the employment needs'' for ''developing the employment potential'', in subpar. (B), substituted ''employment needs'' for ''employment potential''. Former par. (13) redesignated (14).

Subsec. (b)(14). Pub. L. 102–569, §205(b)(1), (3), redesignated par. (13) as (14) and substituted ''Research grants may be used to conduct'' for ''Conduct of''. Former par. (14) redesignated (15).

Subsec. (b)(15). Pub. L. 102–569, §205(b)(1), (3), redesignated par. (14) as (15) and substituted ''Research grants may be used to conduct'' for ''Conduct of''. Former par. (15) redesignated (16).

Pub. L. 102–569, §102(p)(14)(B), substituted ''individuals with disabilities'' for ''individuals with handicaps''.

Subsec. (b)(16). Pub. L. 102–569, §205(b)(1), (3), redesignated par. (15) as (16) and substituted ''Research grants may be used to conduct'' for ''Conduct of''.

1988—Subsec. (b)(1). Pub. L. 100–630, §203(d)(1), substituted ''Centers'' for ''centers'' in seventh sentence.

Subsec. (b)(2)(B). Pub. L. 100–630, §203(d)(2), struck out ''to'' after ''handicaps,'' at end.

Subsec. (b)(2)(C). Pub. L. 100–630, §203(d)(3), struck out ''to'' after ''handicaps, and'' at end.

Subsec. (b)(3)(A). Pub. L. 100–630, §203(d)(4), substituted ''Centers'' for ''centers''.

Subsec. (b)(4). Pub. L. 100–630, §203(d)(5), substituted ''Conduct of a'' for ''Conduct a''.

Subsec. (b)(5). Pub. L. 100–630, §203(d)(6), which directed the substitution of ''rehabilitation of individuals'' for ''rehabilitation of the individuals'', could not be executed because the words ''rehabilitation of the individuals'' did not appear.

Subsec. (b)(8). Pub. L. 100–630, §203(d)(7), substituted ''children with handicaps'' for ''handicapped children'' and ''American Indians with handicaps'' for ''handicapped Indian Americans''.

Subsec. (b)(9). Pub. L. 100–630, §203(d)(8), substituted ''individuals with handicaps, including'' for ''handicapped and''.

Subsec. (b)(11). Pub. L. 100–630, §203(b)(9), (10), substituted ''children with handicaps'' for ''handicapped children'' in introductory provisions and substituted ''children with severe handicaps'' for ''severely handicapped children'' in two places in cl. (A).

1986—Subsec. (a). Pub. L. 99–506, §§103(d)(2)(C), 305(a), (b), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing, and inserted ''Indian tribes, and tribal organizations,''; ''recreational,'', and ''studies, analyses, and other activities related to supported employment;''.

Subsec. (b)(1). Pub. L. 99–506, §§103(d)(2)(C), 305(c)(1), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing, and substituted ''Center (and as appropriate shall include consideration of rural issues)'' for ''Center'', and inserted provisions requiring that peer review of applications for renewal of a Rehabilitation Research and Training Center grant take the applicant's past performance into account, prohibiting the host institution from collecting in excess of 15 percent in indirect cost charges, and requiring that awards under cl. (C) of this paragraph be made on a competitive basis, beginning with fiscal year 1991.

Subsec. (b)(2). Pub. L. 99–506, §305(c)(2), in cl. (A), substituted ''develop and disseminate'' for ''develop'', added cl. (B), redesignated former cl. (B) as (C), added cl. (D), and inserted provisions requiring that during fiscal year 1987, at least two such Rehabilitation Engineering Research Centers shall be established, and requiring that one demonstration grant pursuant to cl. (D) be made to an agency or organization in South Carolina and Connecticut.

Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' in cls. (A) and (B).

Subsec. (b)(3). Pub. L. 99–506, §305(c)(3), inserted provisions requiring that in the award of grants under this paragraph, the Director take into account the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

Subsec. (b)(5), (6). Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (b)(7). Pub. L. 99–506, §305(c)(4), inserted ''the National Institute of Mental Health,''.

Subsec. (b)(8). Pub. L. 99–506, §§103(d)(2)(C), 305(c)(5), substituted ''individuals with handicaps'' for ''handicapped individuals'' and inserted provision that research concerning handicapped Indian Americans shall include those 55 and older.

Subsec. (b)(9). Pub. L. 99–506, §103(h)(2), substituted ''individuals with severe handicaps'' for ''severely handicapped individuals''. See Codification note above.

Subsec. (b)(11)(B), (C). Pub. L. 99–506, §305(c)(6), inserted references to psychological services.

Subsec. (b)(12). Pub. L. 99–506, §103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (b)(13). Pub. L. 99–506, §302(b), substituted ''National Institute on Disability and Rehabilitation Research'' for ''National Institute of Handicapped Research''.

Subsec. (b)(14), (15). Pub. L. 99–506, §305(c), added pars. (14) and (15).

Subsec. (d). Pub. L. 99–506, §305(d), added subsec. (d).

1984—Subsec. (b)(1). Pub. L. 98–221, §123(a), inserted at end ''Rehabilitation Research and Training Centers shall include both comprehensive centers dealing with multiple disabilities and centers focused on particular disabilities. Grants to Centers need not be automatically terminated at the end of a project period and may be renewed on the basis of a thorough evaluation and peer review including site visits. Training of students preparing to be rehabilitation personnel through centers shall be an important priority. Grants may include faculty support for teaching of rehabilitation related courses of study for credit and other courses offered by the institutions of higher education affiliated with the Center.''

Subsec. (b)(3). Pub. L. 98–221, §123(b), substituted ''pursuant to sections 777 and 777a of this title'' for ''pursuant to section 773(b) of this title''.

Subsec. (b)(7). Pub. L. 98–221, §104(a)(5), substituted ''Department of Health and Human Services'' for ''Office of Education''.

Subsec. (b)(13). Pub. L. 98–221, §123(c), added par. (13).

1978—Subsec. (a). Pub. L. 95–602, §110, substituted ''The Director may'' for ''The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to'', ''public or private'' for ''public or nonprofit'', and ''provision of vocational and other rehabilitation services'' for ''provision of vocational rehabilitation services'' and inserted '', including basic research where related to rehabilitation techniques or services'' after ''restorative techniques'' and '', psychiatric'' after ''social''.

Subsec. (b). Pub. L. 95–602, § 111, substituted in provision preceding par. (1), ''the Director may'' for ''the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to'', inserted in par. (1), provision authorizing determination of research to be based on the particular needs of handicapped individuals in the geographic area served by the Center and specifying types of research which may be included, substituted in par. (2)(A), ''psychiatric, psychological'' for ''psychological'', and added pars. (6) to (12).

1974—Subsec. (a). Pub. L. 93–516 substituted ''studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of handicapped individuals'' for ''studies and analyses of of architectural and engineering design adapted to meet the special needs of handicapped individuals''.

Pub. L. 93–651, amended subsec. (a) in exactly the same manner as it was amended by Pub. L. 93–516.

CHANGE OF NAME

Reference to Veterans' Administration deemed to refer to Department of Veterans Affairs pursuant to section 10 of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EXECUTIVE ORDER NO. 12270

Ex. Ord. No. 12270, Jan. 15, 1981, 46 F.R. 4675, which established a President's Council on Spinal Cord Injury, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 761, 761a of this title; title 38 sections 3904, 7303.

§ 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. Transferred

CODIFICATION

Section, 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 redesignated as section 304 of Pub. L. 93–112 and transferred to section 774 of this title.

§ 764. Repealed. Pub. L. 95–602, title I, § 109(3), Nov. 6, 1978, 92 Stat. 2963

Section, 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.

§ 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 long-range plan required by section 761a(g) 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 parents, family members, guardians, advocates, or authorized representatives of the individuals. At least one-half of the members shall be individuals with disabilities or parents, family members, guardians, advocates, or authorized representatives of the individuals.

(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. 102–569, title II, § 206(a), Oct. 29, 1992, 106 Stat. 4409.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 761, 761a of this title.

SUBCHAPTER III—TRAINING AND DEMONSTRATION PROJECTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 706, 718b, 762 of this title.

PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS

§ 770. Congressional declaration of purpose

The purpose of this subchapter is to—

(1) authorize grants and contracts to—

(A) ensure that skilled personnel are available to provide rehabilitation services to in-

dividuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

(C) provide training and information to individuals with disabilities, the parents, families, guardians, advocates, and authorized representatives of the individuals, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;

(2) authorize grants for special projects and demonstrations which hold promise of expanding or otherwise improving rehabilitation services to individuals with disabilities, including individuals with spinal cord injuries, older individuals who are blind, and individuals who are deaf whose maximum vocational potential has not been reached, which experiment with new types of patterns of services or devices for the rehabilitation of individuals with disabilities (including opportunities for new careers for individuals with disabilities, and for other individuals in programs serving individuals with disabilities) and which provide vocational rehabilitation services to migratory agricultural workers who are individuals with disabilities or seasonal farmworkers who are individuals with disabilities;

(3) authorize grants and contracts to assist in the provision of vocational rehabilitation services to individuals with disabilities;

(4) authorize grants and contracts to assist in the development and improvement of community rehabilitation programs; and

(5) establish uniform grant and contract requirements for programs assisted under this subchapter and certain other provisions of this chapter.

(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.)

PRIOR PROVISIONS

A prior section 301 of Pub. L. 93–112, title III, Sept. 26, 1973, 87 Stat. 377, as amended, was classified to section 771 of this title prior to repeal by Pub. L. 102–569.

AMENDMENTS

1992—Par. (1). Pub. L. 102–569, § 301(a)(3), added par. (1). Former par. (1) redesignated (4).

Par. (2). Pub. L. 102–569, § 301(a)(1), (2), (4), redesignated par. (3) as (2), transferred it to appear after par. (1), and directed the striking of ''and'' at end which could not be executed because ''and'' did not appear. Former par. (2) redesignated (3).

Pub. L. 102–569, § 102(p)(15)(A), substituted ''disabilities'' for ''handicaps''.

Par. (3). Pub. L. 102–569, § 301(a)(1), (2), (5), redesignated par. (2) as (3), transferred it to appear after par. (2), and substituted ''rehabilitation'' for ''training''. Former par. (3) redesignated (2).

Pub. L. 102–569, § 102(p)(15)(B), substituted ''individuals with disabilities'' for ''individuals with handicaps'' wherever appearing, ''older individuals who are blind, and individuals who are deaf'' for ''older blind individuals, and deaf individuals'', ''workers who are individuals with disabilities'' for ''workers with handicaps'', and ''farmworkers who are individuals with disabilities'' for ''farmworkers with handicaps''.

Par. (4). Pub. L. 102–569, § 301(a)(1), (6), redesignated par. (1) as (4) and substituted ''development and improvement of community rehabilitation programs; and'' for ''construction and initial staffing of rehabilitation facilities and authorize such staffing as the Commissioner deems appropriate;''. Former par. (4) redesignated (5).

Par. (5). Pub. L. 102–569, § 301(a)(1), redesignated par. (4) as (5).

1988—Par. (3). Pub. L. 100–630 substituted ''migratory agricultural workers with handicaps or seasonal farmworkers with handicaps'' for ''handicapped migratory agricultural workers or seasonal farmworkers''.

1986—Pars. (2), (3). Pub. L. 99–506 substituted ''individuals with handicaps'' for ''handicapped individuals''.

1978—Par. (1). Pub. L. 95–602, § 122(c)(1)(A), inserted ''and authorize such staffing as the Commissioner deems appropriate'' after ''facilities''.

Pars. (4), (5). Pub. L. 95–602, § 122(c)(1)(B), (C), redesignated par. (5) as (4). Former par. (4), which declared as one of the purposes of this subchapter the establishment and operation of a National Center for Deaf-Blind Youths and Adults, was struck out.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 797b of this title.

§ 771. Repealed. Pub. L. 102–569, title III, § 301(b)(2), Oct. 29, 1992, 106 Stat. 4411

Section, 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.

§ 771a. Training

(a) Federal grants and contracts for personnel projects relating to training, traineeships, and related activities

(1) The Commissioner may make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities, including the provision of technical assistance, designed to assist in increasing the numbers of qualified personnel trained in providing vocational, medical, social, and psychological rehabilitation services, and other services provided under this chapter, to individuals with disabilities, including (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 severe disabilities, including needs for rehabilitation technology services, (C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services, personnel specifically trained to deliver services in client assistance programs, (D) personnel specifically trained to deliver services, through supported employment programs, to individuals with the most severe disabilities, and (E) personnel trained in performing other functions necessary to the development of such services.

(2) Grants and contracts under paragraph (1) may be expended for scholarships, with necessary stipends and allowances.

(3) In carrying out this subsection, the Commissioner shall furnish training regarding the services provided under this chapter, and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of 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., 1381 et seq.] that are related to work incentives for individuals with disabilities.

(4) The Commissioner, in carrying out this subsection, shall make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

(5) No grant shall be awarded under this section unless the applicant has submitted an application to the Commissioner in such form, and in accordance with such procedures, as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train persons 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 members of minority groups, who are available to provide rehabilitation services.

(b) Targeting of available funds to areas of personnel shortage; study period limitation; modification; scholarship requirements

(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

(B) Projects described in subsection (a) of this section may include—

(i) projects to train personnel in the areas 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 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 severe 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 assistive technology devices and assistive technology services (as defined in paragraphs (2) and (3) of section 2202 of this title).

(2)(A) Except as provided in subparagraph (B), no grant under this section may be used to provide any one course of study to an individual for a period of more than 4 years.

(B) If the grant recipient determines that an individual has a disability which seriously affects the completion of training under this section, the grant recipient may modify the limitation under subparagraph (A).

(3)(A) A recipient of a grant or contract under this section shall provide assurances 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,

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) The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon completion of training under such subparagraph.

(c) Evaluation of programs; determination of training needs for qualified personnel; development of long-term manpower plan; report on allocation of training funds

The Commissioner shall evaluate the impact of the training programs conducted under this

section, shall determine training needs for qualified personnel necessary to provide services to individuals with disabilities, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage. The Commissioner shall prepare and submit to the Congress, by September 30 of each fiscal year, a report setting forth and justifying in detail how the training funds for the fiscal year prior to such submission are allocated by professional discipline and other program areas. The report shall also contain findings on personnel shortages, how funds proposed for the succeeding fiscal year will be allocated under the President's budget proposal, and how the findings of personnel shortages justify the allocations.

(d) Grants for development of rehabilitation technician programs

In carrying out subsection (a) of this section, the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the development of rehabilitation technician programs. Such programs shall be designed to train local residents, who are recruited from a community historically unserved or underserved by programs providing vocational rehabilitation services under this chapter, to be liaisons between the community and vocational rehabilitation counselors. Entities receiving grants to carry out projects under this subsection shall coordinate the activities carried out through the projects with the activities of State vocational rehabilitation agencies to promote the employment of the individuals trained to be rehabilitation technicians. The rehabilitation technician program shall provide a mechanism through which individuals with disabilities residing in remote, isolated settings can successfully access vocational rehabilitation services.

(e) Grants for formation of consortia of public or nonprofit private entities

(1) In carrying out subsection (a) of this section, the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the formation of consortia or partnerships of public or nonprofit private entities for the purpose of providing opportunities for career advancement or competency-based training to current employees of public or nonprofit private agencies that provide services to individuals with disabilities. Such opportunities shall include certificate or degree granting programs in vocational rehabilitation services and related services.

(2) An entity that receives a grant under paragraph (1) may use the grant for purposes including—

(A) establishing a program with an institution of higher education to develop creative new programs and coursework options, or to expand existing programs, concerning the fields of vocational rehabilitation services and related services, including—

(i) providing release time for faculty and staff for curriculum development; and

(ii) paying for instructional costs and startup and other program development costs;

(B) establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, and county employees, and volunteers, who—

(i) have demonstrated a commitment to working in the fields described in clause (i); and

(ii) are enrolled in a program relating to such a field at an institution of higher education;

(C) supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in such fields; and

(D) identifying existing public or private agency and labor union personnel policies and benefit programs that may facilitate the ability of employees to take advantage of higher education opportunities, such as leave time and tuition reimbursement.

(3) In making grants for projects under paragraph (1), the Commissioner shall ensure that the projects shall be geographically distributed throughout the United States in urban and rural areas.

(4) The Commissioner shall, for the purpose of providing technical assistance to States or entities receiving grants under paragraph (1), enter into a cooperative agreement through a separate competition with an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of employees to serve individuals with disabilities through the use of consortia or partnerships established for the purpose of retraining the existing work force and providing opportunities for career enhancement.

(5) The Commissioner may conduct an evaluation of projects funded under this subsection.

(6) During the period in which an entity is receiving financial assistance under paragraph (1), the entity may not receive financial assistance under paragraph (4).

(f) Interpreters for individuals who are deaf; grants; application for grants

(1) For the purpose of training a sufficient number of interpreters to meet the communications needs of individuals who are deaf and individuals who are deaf-blind, the Secretary, through the Office of Deafness and Communicative Disorders, may award grants to any public or private nonprofit agency or organization to establish interpreter training programs or to provide financial assistance for ongoing interpreter training programs. The Secretary shall award grants for programs in such geographic areas throughout the United States as the Secretary considers appropriate to best carry out the purpose of this section. Priority shall be given to public or private nonprofit agencies or organizations with existing programs that have demonstrated their capacity for providing interpreter training services.

(2) No grant shall be awarded under paragraph (1) unless the applicant has submitted an appli-

cation to the Secretary in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—

(A) describe the manner in which an interpreter training program would be developed and operated during the five-year period following the award of any grant under this section;

(B) demonstrate the applicant's capacity or potential for providing training for interpreters for individuals who are deaf and individuals who are deaf-blind;

(C) provide assurances that any interpreter trained or retrained under such program shall meet such minimum standards of competency as the Secretary may establish for purposes of this section; and

(D) contain such other information as the Secretary may require.

(g) Technical assistance to State rehabilitation agencies and community rehabilitation programs; experts and consultants; compensation and travel expenses; in-service training of rehabilitation personnel

(1) The Commissioner is authorized to provide technical assistance to State rehabilitation agencies and community rehabilitation programs, directly or through contracts with State vocational rehabilitation agencies or nonprofit organizations.

(2) 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 which 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)(A) 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 of rehabilitation personnel, 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 1993 and 1994, to provide training regarding the amendments to this chapter made by the Rehabilitation Act Amendments of 1992.

(B) 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 October 29, 1992, 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) 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 1993 through 1997.

(i) Construction of authority; appropriation of excess funds

(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund training activities, nothing in this chapter shall be construed to prohibit the Commissioner from exercising authority under this subchapter, or making available funds appropriated to carry out this subchapter, to fund the training activities described in section 797b of this title.

(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under subchapter VIII of this chapter.

(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.)

REFERENCES IN TEXT

The Rehabilitation Act Amendments of 1992, referred to in subsecs. (a)(3) and (g)(3)(A)(iv), is Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 701 of this title.

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. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 774 of this title prior to renumbering by Pub. L. 102–569.

PRIOR PROVISIONS

A prior section 302 of Pub. L. 93–112 was renumbered section 303 and is classified to section 772 of this title.

AMENDMENTS

1995—Subsec. (c). Pub. L. 104–66 in second sentence substituted "by September 30 of each fiscal year" for

''simultaneously with the budget submission for the succeeding fiscal year for the Rehabilitation Services Administration''.

1994—Subsec. (b)(1)(B)(iv). Pub. L. 103–218 added cl. (iv).

1993—Subsec. (d). Pub. L. 103–73, § 110(a)(1), in second sentence substituted ''local residents, who are recruited from'' for ''local employees, who are recruited from or reside in'' and inserted after second sentence ''Entities receiving grants to carry out projects under this subsection shall coordinate the activities carried out through the projects with the activities of State vocational rehabilitation agencies to promote the employment of the individuals trained to be rehabilitation technicians.''

Subsec. (h). Pub. L. 103–73, § 110(a)(2), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''There are authorized to be appropriated to carry out this section, $31,000,000 for fiscal year 1987, $33,000,000 for fiscal year 1988, $35,000,000 for fiscal year 1989, $37,000,000 for fiscal year 1990, $38,517,000 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992. There are further authorized to be appropriated for each such fiscal year such additional sums as the Congress may determine to be necessary to carry out this section.''

1992—Subsec. (a). Pub. L. 102–569, § 302(a), designated existing provisions as par. (1), inserted in introductory provisions '', including the provision of technical assistance,'' after ''traineeships, and related activities'' and '', and other services provided under this chapter,'' after ''rehabilitation services'', redesignated former par. (1) as subpar. (A) and substituted ''specifically'' for ''specially'', redesignated former par. (2) as subpar. (B) and inserted before comma at end '', including needs for rehabilitation technology services'', redesignated former par. (3) as subpar. (C) and substituted ''independent living services'' for ''comprehensive services for independent living'' and struck out ''and'' at end, added par. (4) and redesignated it as subpar. (D), redesignated former par. (4) as (5) and further redesignated it as subpar. (E), struck out second and third sentences, and added pars. (2) to (5). Prior to amendment, second and third sentences read as follows: ''Recipients of grants or contracts under this section shall give due regard to the training of individuals with disabilities as part of the effort to increase the number of qualified personnel available to provide rehabilitation services. In carrying out the provisions of this subsection, the Commissioner shall, in addition to furnishing training in the services provided under this chapter to rehabilitation counselors, furnish training to such counselors in the applicability of the provisions of section 794 of this title.''

Pub. L. 102–569, § 102(p)(18)(A), substituted ''disabilities'' for ''handicaps'' wherever appearing.

Subsec. (b)(1). Pub. L. 102–569, § 302(b)(1), added par. (1) and struck out former par. (1) which read as follows: ''In making such grants or contracts, funds made available for any year shall be targeted to areas of personnel shortage which may include projects in rehabilitation engineering, rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, workshop and facility administration, prosthetics and orthodontics, specialized personnel in providing services to blind and deaf individuals, specialized personnel in providing job development and job placement services for individuals with disabilities, specialized personnel in providing employment training for supported employment, other specialized personnel for individuals with severe disabilities, recreation for individuals with disabilities, and other fields contributing to the rehabilitation of individuals with disabilities, including homebound and institutionalized individuals and individuals with disabilities with limited English-speaking ability.''

Pub. L. 102–569, § 102(p)(18)(A), substituted ''disabilities'' for ''handicaps'' wherever appearing.

Subsec. (b)(2)(B). Pub. L. 102–569, § 102(p)(18)(B), substituted ''disability'' for ''handicap''.

Subsec. (b)(3)(A). Pub. L. 102–569, § 302(b)(2), inserted '', for any academic year beginning after June 1, 1992,'' after ''who receives a scholarship'', added cl. (i), and struck out former cl. (i) which read as follows: ''within the ten-year period after completing the training for which the scholarship was awarded, maintain employment in a nonprofit rehabilitation or related agency, or in a State rehabilitation agency, on a full-time basis for a period of not less than two years for each year for which assistance was received; and''.

Subsec. (c). Pub. L. 102–569, § 102(p)(18)(A), substituted ''disabilities'' for ''handicaps''.

Subsecs. (d), (e). Pub. L. 102–569, § 302(c), added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated (f) and (g), respectively.

Subsec. (f). Pub. L. 102–569, § 302(c)(1), redesignated subsec. (d) as (f). Former subsec. (f) redesignated (h).

Subsec. (f)(1). Pub. L. 102–569, § 302(d)(1), in first sentence, substituted ''individuals who are deaf and individuals who are deaf-blind'' for ''deaf individuals'', ''Office of Deafness and Communicative Disorders'' for ''Office of Information and Resources for Individuals With Disabilities'', and ''grants'' for ''grants under this section'' and struck out second sentence which read as follows: ''Not more than twelve programs shall be established or assisted by grants under this section.''

Subsec. (f)(2). Pub. L. 102–569, § 302(d)(2), in introductory provisions substituted ''paragraph (1)'' for ''this section'', in subpar. (B) substituted ''individuals who are deaf and individuals who are deaf-blind'' for ''deaf individuals'', in subpar. (C) inserted ''and'' at end, redesignated subpar. (E) as (D), and struck out former subpar. (D) which read as follows: ''provide assurances that (i) to the extent appropriate, the applicant shall provide for the training or retraining (including short-term and in-service training) of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals, and (ii) funds for such in-service training shall be provided under this section only through funds appropriated under the Individuals with Disabilities Education Act; and''.

Subsec. (g). Pub. L. 102–569, § 302(c)(1), (e), redesignated subsec. (e) as (g), in par. (1) substituted ''community rehabilitation programs'' for ''rehabilitation facilities'', in par. (2) 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 payable for grade GS–18 of the General Schedule under section 5332'', and added par. (3).

Subsec. (h). Pub. L. 102–569, § 302(c)(1), redesignated subsec. (f) as (h).

Subsec. (i). Pub. L. 102–569, § 302(f), added subsec. (i).

1991—Subsec. (d)(2)(D). Pub. L. 102–119 substituted ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act''.

Subsec. (f). Pub. L. 102–52 substituted ''fiscal year'' for ''the fiscal year'' before ''1987'', ''1988'', ''1989'', and ''1990'', struck out ''and'' after ''1990,'', and inserted '', and such sums as may be necessary for fiscal year 1992'' after ''1991''.

1988—Subsec. (a)(3). Pub. L. 100–630, § 204(c)(1), substituted ''programs, and'' for ''program,, and''.

Subsec. (b)(1). Pub. L. 100–630, § 204(c)(2), substituted ''individuals with severe handicaps, recreation for individuals with handicaps'' for ''those individuals who meet the definition of severely handicapped, recreation for ill and individuals with handicaps''.

Subsec. (b)(3)(A). Pub. L. 100–630, § 204(c)(3), substituted ''grant or contract under'' for ''grant of contract under'' and ''utilizing funds'' for ''from funds'' in introductory provisions.

Subsec. (d)(1). Pub. L. 100–630, § 204(c)(4), substituted ''for Individuals With Disabilities'' for ''for the Handicapped''.

Subsec. (d)(2)(D). Pub. L. 100–630, § 204(c)(5), substituted ''of the Handicapped Act'' for ''for All Handicapped Children Act''.

Subsec. (f). Pub. L. 100–630, § 204(c)(6), substituted ''1991.'' for ''1991..''.

1986—Subsec. (a). Pub. L. 99–506, §§ 103(d)(2)(C), 403(a), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing, added cl. (2), redesignated former cls. (2) and (3) as (3) and (4), respectively, and, following such clauses, inserted provision requiring recipients of grants or contracts under this section to give due regard to training of individuals with handicaps as part of the effort to increase the number of qualified personnel available to provide rehabilitation services.

Subsec. (a)(2). Pub. L. 99–506, § 1002(d)(2), which directed the substitution of ''program, and'' for ''program, and'', could not be executed because the words ''program, and'' did not appear. See 1988 Amendment note above for cl. (3).

Subsec. (b). Pub. L. 99–506, § 403(c), designated existing first sentence as par. (1) and struck out existing second sentence which read as follows: ''No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.''. See par. (2).

Subsec. (b)(1). Pub. L. 99–506, § 403(b)(1)–(3), inserted ''rehabilitation engineering,'' before ''rehabilitation medicine'', ''rehabilitation dentistry,'' after ''rehabilitation psychology,'' and ''physical education, therapeutic recreation,'' after ''speech pathology and audiology,''.

Pub. L. 99–506, § 403(b)(4), which directed the insertion of ''specialized personnel in providing employment training for supported employment, other specialized personnel for those individuals who meet the definition of severely handicapped,'' after ''job placement services for handicapped individuals,'', was executed by making the insertion after ''job placement services for individuals with handicaps,'' as the probable intent of Congress because of the prior amendment by section 103(d)(2)(C) of Pub. L. 99–506.

Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (b)(2), (3). Pub. L. 99–506, § 403(c)(2), (d), added pars. (2) and (3).

Subsec. (c). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (e). Pub. L. 99–506, § 403(e)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 99–506, § 403(f), which directed the substitution of authorization of appropriations for fiscal years 1987 through 1991 for authorization of appropriations for fiscal years 1984 through 1986 in subsec. (e), was executed by making the substitution in subsec. (f), to reflect the probable intent of Congress and the intervening redesignation of former subsec. (e) as (f) by section 403(e)(1) of Pub. L. 99–506.

Pub. L. 99–506, § 403(e)(1), redesignated former subsec. (e) as (f).

1984—Subsec. (a). Pub. L. 98–221, § 133(a), (b)(1), inserted ''qualified'' before ''personnel trained in providing vocational'', inserted ''(1)'' after ''services to handicapped individuals, including'', inserted a comma and cl. (2) after ''and job placement services'', inserted ''(3)'' before ''personnel trained in performing'', and inserted provision requiring that the Commissioner furnish training to rehabilitation counselors in the applicability of the provisions of section 794 of this title.

Subsec. (b). Pub. L. 98–221, § 133(c), substituted ''shall be targeted to areas of personnel shortage which may'' for ''will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to''.

Subsec. (c). Pub. L. 98–221, § 133(b)(2), (d), substituted ''needs for qualified personnel'' for ''needs for personnel'' and inserted provision requiring the Commissioner to prepare and submit to the Congress, simultaneously with the budget submission for the succeeding fiscal year for the Rehabilitation Services Administration, a report setting forth and justifying in detail how the training funds for the fiscal year prior to such submission are allocated by professional discipline and other program areas, with the report also to contain findings on personnel shortages, how funds proposed for the succeeding fiscal year will be allocated under the President's budget proposal, and how the findings of personnel shortages justify the allocations.

Subsec. (e). Pub. L. 98–221, § 133(e), substituted ''(e)'' for ''(d)'' as designation for subsection authorizing appropriations, thereby correcting a typographical error in Pub. L. 95–602 which had added two subsecs. (d), and in subsec. (e) as so redesignated, substituted ''There are authorized to be appropriated to carry out this section, $22,000,000 for the fiscal year 1984, $27,000,000 for the fiscal year 1985, and $31,000,000 for the fiscal year 1986'' for ''There are authorized to be appropriated to carry out this section $34,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, $45,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982''.

1978—Subsec. (a). Pub. L. 95–602, § 114(1), substituted ''The Commissioner may'' for ''The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to'', ''vocational, medical, social, and psychological rehabilitation services'' for ''vocational services'', and ''individuals, including personnel specially trained in providing employment assistance to handicapped individuals through job development and job placement services, and personnel trained in performing'' for ''individuals and in performing''.

Subsec. (b). Pub. L. 95–602, § 114(2), inserted '', rehabilitation psychiatry'' after ''social work'' and ''specialized personnel in providing job development and job placement services for handicapped individuals,'' after ''blind and deaf individuals,''.

Subsecs. (c), (d). Pub. L. 95–602, § 114(3), added subsec. (c) and two subsecs. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 797b of this title.

§ 772. Vocational rehabilitation services for individuals with disabilities

(a) Authorization of appropriations

For the purpose of making grants and entering into contracts under this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997.

(b) Grants; authority of Commissioner; individual allowances: factors and limitations; conditions

(1) The Commissioner is authorized to make grants to States and public or nonprofit organizations and agencies to pay up to 90 per centum of the cost of projects for providing vocational rehabilitation services or employment support services to individuals with disabilities, especially those with the most severe disabilities, in public or nonprofit community rehabilitation programs.

(2)(A) For purposes of this section, vocational rehabilitation services shall include—

(i) training with a view toward career advancement;

(ii) training (including on-the-job training) in occupational skills; and

(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

(I) are related to training described in clause (i) or (ii); and

(II) are required by the individual to engage in such training.

(B) Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section. Such allowances may not be paid to any individual for any period in excess of two years. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of vocational rehabilitation services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Commissioner, as will promote such individual's capacity to engage in competitive employment.

(3) The Commissioner may make a grant for a project pursuant to this subsection only if the Commissioner determines that (A) the purpose of such project is to prepare individuals with disabilities, especially those with the most severe disabilities, for competitive employment, or to place or retain such individual in competitive employment, including supported employment; (B) the individuals to receive vocational rehabilitation services under such project will include only those who have been determined to be in need of such vocational rehabilitation services by the State agency or agencies designated as provided in section 721(a)(1) of this title of the State in which the community rehabilitation program is located; (C) the full range of vocational rehabilitation services will be made available to each such individual, to the extent of that individual's need for such services; and (D) the project, including the participating community rehabilitation program and the vocational rehabilitation services provided, meets such other requirements as the Commissioner may prescribe in regulations for carrying out the purposes of this subsection.

(c) Grants to public or nonprofit agencies

The Commissioner is also authorized to make grants, upon applications approved by the designated State agency, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs.

(d) Operation grants; buildings' use prohibition

(1) The Commissioner is authorized to make grants to public or nonprofit community rehabilitation programs, or to an organization or combination of such programs, to pay the Federal share of the cost of projects to analyze, improve, and increase their professional services to individuals with disabilities, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

(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.)

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

PRIOR PROVISIONS

A prior section 303 of Pub. L. 93–112 was renumbered section 304 and is classified to section 773 of this title.

Prior similar provisions were contained in former section 41b of this title.

AMENDMENTS

1992—Pub. L. 102–569, §§ 102(p)(16)(A), 303(d), substituted "rehabilitation" for "training" and "disabilities" for "handicaps" in section catchline.

Subsec. (a). Pub. L. 102–569, § 303(a), substituted "1993 through 1997" for "1987, 1988, 1989, 1990, 1991, and 1992".

Subsec. (b)(1). Pub. L. 102–569, §§ 102(p)(16)(B), 303(b)(1), substituted "rehabilitation services or employment support services" for "training services", "community rehabilitation programs" for "rehabilitation facilities", and "disabilities" for "handicaps" in two places.

Subsec. (b)(2)(A). Pub. L. 102–569, § 303(b)(2)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: "Vocational training services for purposes of this subsection shall include training with a view toward career advancement; training in occupational skills; related services, including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts; and payment of weekly allowances to individuals receiving such training and related services."

Subsec. (b)(2)(B). Pub. L. 102–569, § 303(b)(2)(B), inserted first sentence "Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.", in second sentence, substituted a period for ", and such allowances for any week shall not exceed $30 plus $10 for each of the individual's dependents, or $70, whichever is less.", and in last sentence, substituted "vocational rehabilitation services" for "training services" and "competitive employment" for "gainful and suitable employment".

Subsec. (b)(3)(A). Pub. L. 102–569, §§ 102(p)(16)(B), 303(b)(3)(A), substituted "competitive employment, or to place or retain such individual in competitive employment" for "gainful and suitable employment" and "disabilities" for "handicaps" in two places.

Subsec. (b)(3)(B). Pub. L. 102–569, § 303(b)(3)(B), struck out "suitable for and" after "determined to be" and substituted "vocational rehabilitation" for "training" in two places and "community rehabilitation program" for "rehabilitation facility".

Subsec. (b)(3)(C). Pub. L. 102–569, § 303(b)(3)(C), substituted "vocational rehabilitation" for "training".

Subsec. (b)(3)(D). Pub. L. 102–569, § 303(b)(3)(D), substituted "community rehabilitation program and the vocational rehabilitation" for "rehabilitation facility and the training".

Subsec. (c). Pub. L. 102–569, § 303(c)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 102–569, § 102(p)(16)(B), substituted ''individuals with disabilities'' for ''individuals with handicaps'' in par. (1).

Subsec. (d). Pub. L. 102–569, § 303(c)(1), redesignated subsec. (c) as (d).

Subsec. (d)(1). Pub. L. 102–569, § 303(c)(3), substituted ''community rehabilitation programs'' for ''rehabilitation facilities'' and ''such programs'' for ''such facilities''.

1991—Subsec. (a). Pub. L. 102–52 substituted ''1990, 1991, and 1992'' for ''1990, and 1991''.

1988—Subsec. (b)(3)(D). Pub. L. 100–630 substituted ''meets'' for ''meet''.

1986—Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' in section catchline.

Subsec. (a). Pub. L. 99–506, § 402(a), substituted ''of the fiscal years 1987, 1988, 1989, 1990, and 1991'' for ''fiscal year ending before October 1, 1986''.

Subsec. (b)(1). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (b)(3). Pub. L. 99–506, § 1001(d)(1)(A), substituted ''only if the Commissioner determines'' for ''only on his determination''.

Subsec. (b)(3)(A). Pub. L. 99–506, §§ 103(d)(2)(C), 402(b), substituted ''individuals with handicaps'' for ''handicapped individuals'' and inserted reference to supported employment.

Subsec. (b)(3)(C). Pub. L. 99–506, § 1001(d)(1)(B), substituted ''of that individual's need'' for ''of his need''.

Subsec. (b)(3)(D). Pub. L. 99–506, § 1001(d)(1)(C), substituted ''as the Commissioner may prescribe'' for ''as he may prescribe''.

Subsec. (c)(1). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

1984—Subsec. (a). Pub. L. 98–221 substituted ''October 1, 1986'' for ''October 1, 1982''.

1978—Subsec. (a). Pub. L. 95–602, § 112(b), substituted ''entering into contracts'' for ''contracts'' and ''each fiscal year ending before October 1, 1982'' for ''the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978''.

Subsecs. (b), (c). Pub. L. 95–602, § 122(c)(3), substituted ''Commissioner'' for ''Secretary''.

1976—Subsec. (a). Pub. L. 94–230, § 5, extended authorization of appropriation for fiscal year ending Sept. 30, 1977.

Pub. L. 94–230, § 11(b)(8), extended authorization of appropriations for fiscal year ending Sept. 30, 1978.

1974—Subsec. (a). Pub. L. 93–516 extended authorization of appropriation for fiscal year ending June 30, 1976.

Pub. L. 93–651 amended subsec. (a) in exactly the same manner as it was amended by Pub. L. 93–516.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 776 of this title.

§ 773. Loan guarantees for community rehabilitation programs

(a) Purpose

It is the purpose of this section to assist and encourage the provision of needed community rehabilitation programs for individuals with disabilities primarily served by State rehabilitation programs.

(b) Loans to nonprofit entities by non-Federal lenders and Federal Financing Bank; construction; equipment

The Commissioner may, under special circumstances and in accordance with this section and subject to section 776 of this title, guarantee the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for the construction of facilities for community rehabilitation programs, including equipment used in their operation.

(c) Payment by Commissioner for reduction of effective interest rate

In the case of a guarantee of any loan to a nonprofit private entity under this section, the Commissioner shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by 2 percent per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan which is guaranteed under this section shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(d) Limitation on amount of principal of outstanding loans

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed $100,000,000.

(e) Terms and conditions

(1) The Commissioner may not approve a loan guarantee for a project under this section unless the Commissioner determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this section.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Commissioner for good cause waives such right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this section (including terms and conditions imposed under paragraph (1)) may be modified by the Commissioner to the extent considered consistent with the interests of the United States.

(C) Any loan guarantee made by the Commissioner under this section shall be incontestable (i) in the hands of an applicant on whose behalf

such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or a successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or a successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this section shall be subject to such further terms and conditions as the Commissioner considers necessary to assure that the purposes of this section will be achieved.

(f) Establishment in Treasury of loan guarantee fund; authorization of appropriations; insufficient funds; issuance of notes and other obligations to Secretary of the Treasury; interest rate and redemption

(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the ''fund'') which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

(A) to enable the Commissioner to discharge the responsibilities under loan guarantees issued under this section; and

(B) for payment of interest under subsection (c) of this section on loans guaranteed under this section.

There are authorized to be appropriated such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Commissioner in connection with loan guarantees under this section and other property or assets derived by the Commissioner from operations respecting such loan guarantees, including any money derived from the sale of assets.

(2)(A) If at any time the sums in the fund are insufficient to enable the Commissioner—

(i) to make payments of interest under subsection (c) of this section; or

(ii) to otherwise comply with guarantees under this section of loans to nonprofit private entities;

the Commissioner is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury.

(B) Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations.

(C) The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph, and for that purpose the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by the Secretary under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transaction of the United States.

(D) Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from the fund.

(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.)

CODIFICATION

In subsec. (f)(2)(C), ''chapter 31 of title 31'' and ''that chapter'' substituted for ''the Second Liberty Bond Act'' and ''that Act'', respectively, 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

A prior section 304 of Pub. L. 93–112 was renumbered section 302 and is classified to section 771a of this title.

Another prior section 304 of Pub. L. 93–112, title III, 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.

AMENDMENTS

1992—Pub. L. 102–569, § 304(1), substituted ''community rehabilitation programs'' for ''rehabilitation facilities'' in section catchline.

Subsec. (a). Pub. L. 102–569, §§ 102(p)(17), 304(2), substituted ''community rehabilitation'' for ''facilities for'' and ''disabilities'' for ''handicaps''.

Subsec. (b). Pub. L. 102–569, § 304(3), inserted ''under special circumstances and'' after ''may,'' and substituted ''facilities for community rehabilitation programs'' for ''rehabilitation facilities''.

1986—Subsec. (a). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (e)(1). Pub. L. 99–506, § 1001(d)(2)(A), substituted ''unless the Commissioner determines'' for ''unless he determines''.

Subsec. (e)(2)(B). Pub. L. 99–506, § 1001(d)(2)(B), substituted ''to the extent considered'' for ''to the extent he considers''.

Subsec. (e)(2)(C)(ii). Pub. L. 99–506, § 1001(d)(2)(C), substituted ''(or a successor in interest)'' for ''(or his successor in interest)'' in two places.

Subsec. (f)(1). Pub. L. 99–506, § 1001(d)(2)(E), substituted ''derived by the Commissioner from operations'' for ''derived by him from his operations'' in concluding provisions.

Subsec. (f)(1)(A). Pub. L. 99–506, § 1001(d)(2)(D), substituted ''to enable the Commissioner to discharge the responsibilities under loan guarantees issued under this section'' for ''to enable him to discharge his responsibilities under loan guarantees issued by him under this section''.

Subsec. (f)(2)(A). Pub. L. 99–506, § 1001(d)(2)(F), substituted ''the Commissioner is authorized'' for ''he is authorized'' in concluding provisions.

Subsec. (f)(2)(C). Pub. L. 99–506, § 1001(d)(2)(G), substituted ''and for that purpose may use'' for ''and for that purpose he may use'' and ''acquired by the Secretary'' for ''acquired by him''.

1978—Pub. L. 95–602 substituted provisions guaranteeing the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for construction of rehabilitation facilities but restricting the total amount of principal of loans outstanding at any one time to an amount not to exceed $100,000,000 for provisions authorizing the Secretary to insure mortgages for rehabilitation facilities and establishing a Rehabilitation Facilities Insurance Fund.

§ 774. Transferred

CODIFICATION

Section, 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.

§ 775. Comprehensive rehabilitation centers

(a) Establishment and operation; grants to designated State units; information and technical assistance to local governmental units and public and private nonprofit entities

(1) In order to provide a focal point in communities for the development and delivery of services designed primarily for individuals with disabilities, the Commissioner may make grants to any designated State unit to establish and operate comprehensive rehabilitation centers. The centers shall be established in order to provide a broad range of services to individuals with disabilities, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as to provide facilities for recreational activities.

(2) To the maximum extent practicable, such centers shall provide, upon request, to local governmental units and other public and private nonprofit entities located in the area such information and technical assistance (including support personnel such as interpreters for individuals who are deaf) as may be necessary to assist those entities in complying with this chapter, particularly the requirements of section 794 of this title.

(b) Application for grant; approval by Commissioner

No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsections (c) and (d) of this section; and

(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

(c) Grants or contracts by designated State unit; operation of facilities by designated State unit; personnel and equipment

(1) The designated State unit may—

(A) in accordance with subsection (c) of this section make grants to units of general purpose local government or to other public or nonprofit private agencies or organizations and may make contracts with any agency or organization to pay not to exceed 80 percent of the cost of—

(i) leasing facilities to serve as comprehensive rehabilitation centers;

(ii) expanding, remodeling, or altering facilities to the extent necessary to adapt them to serve as comprehensive rehabilitation centers;

(iii) operating such centers; or

(iv) carrying out any combination of the activities specified in this subparagraph; and

(B) directly carry out the activities described in subparagraph (A), except that not more than 80 percent of the costs of providing any comprehensive rehabilitation center may be provided from funds under this section.

(2) Funds made available to any designated State unit under this section for the purpose of assisting in the operation of a comprehensive rehabilitation center may be used to compensate professional and technical personnel required to operate the center and to deliver services in the center, and to provide equipment for the center.

(d) Application requirements for approval of grant or contract by designated State unit; use of funds by designated State unit

(1) The designated State unit may approve a grant or enter into a contract under subsection (c) of this section only if the application for such grant or contract meets the requirements specified in paragraphs (1), (2), (4), and (5) of section 776(b) of this title and if the application contains assurances that any center assisted by such grant or contract shall be in reasonably close proximity to the majority of individuals eligible to use the comprehensive rehabilitation center.

(2) Any designated State unit which directly provides for comprehensive rehabilitation centers under subsection (c)(1)(B) of this section shall use funds under this section in the same manner as any other grant recipient is required to use such funds.

(e) Failure of owner or facility to continue to qualify; recovery by United States; determination of amount

If within 20 years after the completion of any construction project for which funds have been paid under this section—

(1) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

(2) the facility ceases to be used for the purposes for which it was leased or constructed (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the grant recipient or other owner of the facility an amount which bears the same ratio to the value of the facility (or so much thereof as constituted an approved project or projects)

at the time the United States seeks recovery as the amount of such Federal funds bore to the cost of renovating the facility under subsection (c)(1)(A)(ii) of this section. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(f) Nonapplicability of general contract and grant requirements; exceptions

The requirements of section 776 of this title shall not apply to funds allotted under this section, except that subsections (g) and (h) of such section shall be applicable with respect to such funds.

(g) 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 1993 through 1997.

(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.)

PRIOR PROVISIONS

A prior section 305 of Pub. L. 93–112, title III, Sept. 26, 1973, 87 Stat. 383, as amended by 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, 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 formerly classified to this section and redesignated section 313 of Pub. L. 93–112 by section 109(1) of Pub. L. 95–602. Section 313 of Pub. L. 93–112, as amended generally by section 116(2) of Pub. L. 95–602, was classified to section 777c of this title and subsequently repealed by Pub. L. 98–221.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–569, § 102(p)(19)(A), substituted ''disabilities'' for ''handicaps'' in two places.

Subsec. (a)(2). Pub. L. 102–569, § 102(p)(19)(B), substituted ''individuals who are deaf'' for ''the deaf''.

Subsec. (d)(1). Pub. L. 102–569, § 305(1), substituted ''center'' for ''facility'' after ''any''.

Subsec. (g). Pub. L. 102–569, § 305(2), substituted ''1993 through 1997'' for ''1987, 1988, 1989, 1990, 1991, and 1992''.

1991—Subsec. (g). Pub. L. 102–52 substituted ''1990, 1991, and 1992'' for ''1990, and 1991''.

1988—Subsec. (a)(1). Pub. L. 100–630 substituted ''primarily for individuals with handicaps'' for ''primarily for handicapped persons''.

1986—Subsec. (a)(1). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (c)(2), (3). Pub. L. 99–506, § 1002(d)(3), redesignated par. (3) as (2). No par. (2) had been enacted.

Subsec. (g). Pub. L. 99–506, § 404, in amending section generally, substituted authorization of appropriations for fiscal years 1987 through 1991 for authorization of appropriations for fiscal years 1984 through 1986.

1984—Subsec. (g). Pub. L. 98–221 substituted ''for each of the fiscal years 1984, 1985, and 1986'' for ''the fiscal year ending September 30, 1979, and for the three succeeding fiscal years''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 776 of this title.

§ 776. General grant and contract requirements

(a) Applicability of provisions; compliance with provisions, exceptions

The provisions of this section shall apply to all projects approved and assisted under this subchapter, except as otherwise provided in section 775(f) of this title. The Commissioner shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this subchapter, except projects authorized under section 772 of this title.

(b) Construction project requirements; assurances; use of funds for intended purposes; report to Congress; plans and specifications; labor standards

To be approved, an application for assistance for a construction project, or for a project which involves construction, under this subchapter must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or nonprofit facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use for its intended purpose;

(2) provide that Federal funds provided to any agency or organization under this subchapter will be used only for the purposes for which provided and in accordance with the applicable provisions of this section and the section under which such funds are provided;

(3) provide that the agency or organization receiving Federal funds under this subchapter will make an annual report to the Commissioner, which the Commissioner shall submit to the Secretary for inclusion (in summarized form) in the annual report submitted to the Congress under section 712 of this title;

(4) be accompanied or supplemented by plans and specifications which have been approved by the Board established by section 792 of this title, in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply with regulations prescribed by the Commissioner relating to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (P.L. 90–480) [42 U.S.C. 4151 et seq.]), and with regulations of the Secretary of Labor relating to occupational health and safety standards for facilities for community rehabilitation programs; and

(5) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in

the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of title 40.

(c) Reservation of grant funds; additional payments

Upon approval of any application for a grant or contract for a project under this subchapter, the Commissioner shall reserve, from any appropriation available therefore, the amount of such grant or contract determined under this subchapter. In case an amendment to an approved application is approved, or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(d) Recovery of Federal share upon cessation of public or nonprofit character of facilities

If, within twenty years after completion of any construction project for which funds have been paid under this subchapter, the facility shall cease to be a public or nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(e) Payments; adjustments for overpayments or underpayments; advances; reimbursement; installments; conditions

Payment of assistance or reservation of funds made pursuant to this subchapter may be made (after necessary adjustment 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.

(f) Workshops; residential accommodations

A project for construction of a facility for a community rehabilitation program which is primarily a workshop may, where approved by the Commissioner as necessary to the effective operation of the facility, include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of individuals with disabilities.

(g) Sectarian activities; funds prohibition

No funds provided under this subchapter may be used to assist in the construction of any facility which is or will be used for religious worship or any sectarian activity.

(h) Execution of direct services to individuals with disabilities

When, in any State, funds provided under this subchapter will be used for providing direct services to individuals with disabilities or for developing or improving community rehabilitation programs which will provide such services, such services must be carried out in a manner not inconsistent with the State plan approved pursuant to section 721 of this title.

(i) State agency commentary on grant or contract

Prior to making any grant or entering into any contract under this subchapter, the Commissioner shall afford reasonable opportunity to the appropriate State agency or agencies designated pursuant to section 721 of this title to comment on such grant or contract.

(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.)

REFERENCES IN TEXT

The Architectural Barriers Act of 1968, referred to in subsec. (b)(4), 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 Davis-Bacon Act, as amended, referred to in subsec. (b)(5), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(5), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

PRIOR PROVISIONS

Prior similar provisions were contained in former sections 34, 41a, 41b, 42–1, and 42a of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, § 306(1), made technical amendment to reference to section 772 of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(4). Pub. L. 102–569, § 306(2), substituted ''facilities for community rehabilitation programs'' for ''rehabilitation facilities''.

Subsec. (f). Pub. L. 102–569, §§ 102(p)(20), 306(3), substituted ''facility for a community rehabilitation program'' for ''rehabilitation facility'' and ''disabilities'' for ''handicaps''.

Subsec. (h). Pub. L. 102–569, §§ 102(p)(20), 306(4), substituted ''disabilities'' for ''handicaps'' and ''developing or improving community rehabilitation programs'' for ''establishing facilities''.

1988—Subsec. (b)(4). Pub. L. 100–630, § 204(e)(1), substituted ''relating'' for ''related'' after ''Commissioner''.

Subsec. (b)(5). Pub. L. 100–630, § 204(e)(2), inserted ''the'' before ''Davis-Bacon Act''.

Subsec. (h). Pub. L. 100–630, § 204(e)(3), inserted comma after ''When''.

1986—Subsec. (a). Pub. L. 99–506, § 1002(d)(4), substituted ''775(f)'' for ''775(g)''.

Subsecs. (f), (h). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

1978—Subsec. (a). Pub. L. 95–602, §§ 115(b), 122(c)(4), inserted '', except as otherwise provided in section 775(g) of this title'' after ''assisted under this subchapter'' and substituted ''Commissioner'' for ''Secretary''.

Subsec. (b)(3). Pub. L. 95–602, § 122(c)(5), substituted provision directing that the annual report of agencies and organizations receiving Federal funds be made to the Commissioner who will then submit it to the Secretary for provision directing that the annual report be made to the Secretary.

Subsec. (b)(4). Pub. L. 95–602, § 122(c)(6), substituted ''prescribed by the Commissioner'' for ''prescribed by the Secretary''.

Subsecs. (c), (e), (f), (i). Pub. L. 95–602, § 122(c)(4), substituted ''Commissioner'' for ''Secretary'' wherever appearing.

1974—Subsec. (b). Pub. L. 93–516, in provisions preceding par. (1), substituted ''a construction project, or for a project which involves construction, under'' for ''a construction project under'', and in par. (4), substituted ''plans and specifications which have been approved by the Board established by section 792 of this title, in which'' for ''plans and specifications in which''.

Pub. L. 93–651 amended subsec. (b) in exactly the same manner as it was amended by Pub. L. 93–516.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 721, 762, 773, 775, 777a, 777b, 777f, 797b of this title.

PART B—SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES

§ 777. Authorization of appropriations

For the purpose of carrying out this part (other than sections 777a(c), 777a(d), 777b, and 777f of this title), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1993 through 1997.

(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.)

AMENDMENTS

1993—Pub. L. 103–73 substituted ''sections 777a(c), 777a(d),'' for ''sections 777a(d), 777a(e),''.

1992—Pub. L. 102–569 struck out subsec. designation ''(a)'', substituted ''777b, and 777f'' for ''and 777f'' and ''such sums as may be necessary for each of fiscal years 1993 through 1997'' for ''$15,860,000 for fiscal year 1987, $16,790,000 for fiscal year 1988, $17,800,000 for fiscal year 1989, $18,900,000 for fiscal year 1990, $19,675,000 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992.'', and struck out subsec. (b) which read as follows: ''Of the amounts appropriated for any fiscal year under subsection (a) of this section, 5 percent of such amount shall be available in such fiscal year only for the purpose of making grants under section 777b of this title. There is further authorized to be appropriated for each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under section 777b of this title, an amount of $5,000,000 for each such fiscal year.''

1991—Subsec. (a). Pub. L. 102–52 struck out ''and'' after ''1990,'' and inserted '', and such sums as may be necessary for fiscal year 1992'' after ''1991''.

1988—Subsec. (a). Pub. L. 100–630 substituted ''(other than sections 777a(d), 777a(e), and 777f of this title)'' for identical language.

1986—Subsec. (a). Pub. L. 99–506, § 405(1), substituted ''(other than sections 777a(d), 777a(e), and 777f of this title)'' for ''(other than section 777f of this title)''.

Pub. L. 99–506, § 405(2), which directed the substitution of ''$15,860,000 for fiscal year 1987, $16,790,000 for fiscal year 1988, $17,800,000 for fiscal year 1989, $18,900,000 for fiscal year 1990, and $19,675,000 for fiscal year 1991'' for ''$12,900,000 for the fiscal year 1984, $13,600,000 for the fiscal year 1985, and $14,300,000 for the fiscal year 1986'' was executed by substituting the new phrase for ''$12,900,000 for fiscal year 1984, $13,600,000 for fiscal year 1985, and $14,300,000 for fiscal year 1986'' as the probable intent of Congress.

1984—Subsec. (a). Pub. L. 98–221, § 135, substituted ''777f'' for ''777c'' and ''$12,900,000 for fiscal year 1984, $13,600,000 for fiscal year 1985, and $14,300,000 for fiscal year 1986'' for ''such sums as may be necessary for each fiscal year ending prior to October 1, 1982'', which amendment was executed by making such substitution for ''such sums as may be necessary for each fiscal year ending before October 1, 1982'' as the probable intent of Congress.

Pub. L. 98–221, § 208(b), which directed the striking out of ''(other than section 777c of this title),'', could not be executed in view of previous amendment by section 135 of Pub. L. 98–221. See above.

§ 777a. Special demonstration programs

(a) Grants to States and to public and nonprofit agencies and organizations

Subject to the provisions of section 776 of this title, the Commissioner may make grants to States and to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations (including related research and evaluation) for—

(1) establishing programs for providing vocational rehabilitation services, which hold promise of expanding or otherwise improving rehabilitation services to individuals with disabilities (especially those with the most severe disabilities), including individuals who are members of populations that are unserved or underserved by the programs under this chapter, individuals who are blind, and individuals who are deaf;

(2) applying new types or patterns of services or devices for individuals with disabilities (including programs for providing individuals with disabilities, or other individuals in programs servicing individuals with disabilities, with opportunities for new careers and career advancement);

(3) operating programs to demonstrate methods of making recreational activities fully accessible to individuals with disabilities; and

(4) operating programs to meet the special needs of isolated populations of individuals with disabilities, particularly among American Indians residing on or outside of reservations.

(b) Job training for youths who are individuals with disabilities; preparation for entry into labor force

(1) The Commissioner may make grants to public and nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations including research and evaluation for youths who are individuals with disabilities to provide job training and prepare them for entry into the labor force. Such projects shall be designed to demonstrate cooperative efforts between local educational agencies, business and industry, vocational rehabilitation programs, and organizations representing labor and organizations responsible for promoting or assisting in local economic development.

(2) Services under this subsection may include—

(A) jobs search assistance;

(B) on-the-job training;

(C) job development including worksite modification and use of advanced learning technology for skills training;

(D) dissemination of information on program activities to business and industry; and

(E) followup services for individuals placed in employment.

(3) The Commissioner shall assure that projects shall be coordinated with other projects assisted under section 1425 of title 20.

(c) Supported employment programs; grants; reports to Congress; authorization of appropriations

(1)(A) The Commissioner may make grants to public and nonprofit community rehabilitation programs, designated State units, and other public and private agencies and organizations for the cost of developing special projects and demonstrations providing supported employment, including continuation of determinations of the effectiveness of natural supports or other alternatives to providing extended employment services.

(B) Not less than one such grant shall be nationwide in scope. The grant shall (i) identify community-based models that can be replicated, (ii) identify impediments to the development of supported employment programs (including funding and cost considerations), and (iii) develop a mechanism to explore the use of existing community rehabilitation programs as well as other community-based programs.

(C) Not less than two such grants shall serve individuals who either are low-functioning and deaf or low-functioning and hard-of-hearing.

(2)(A) The Commissioner may make grants to public agencies and nonprofit private organizations for the cost of providing technical assistance to States in implementing part C of subchapter VI of this chapter.

(B) Not less than one such grant shall be nationwide in scope. Each eligible applicant must have experience in training and provision of supported employment services.

(3) There are authorized to be appropriated to carry out the provisions of this subsection such sums as may be necessary for each of fiscal years 1993 through 1997.

(d) Transitional planning services for youth who are individuals with severe disabilities; collection and dissemination of data; grants; existing program in New England; applications; authorization of appropriations

(1) The Commissioner, subject to the provisions of section 776 of this title, shall make grants in accordance with the provisions of this subsection for the purpose of developing, expanding, and disseminating model statewide transitional planning services for youths who are individuals with severe disabilities. In order to facilitate similar model transitional programs, each grantee under this subsection shall—

(A) collect data documenting the effectiveness of the project, including data on the outcome of the individuals served; and

(B) disseminate the information to other States.

(2) No grant may be made under this subsection unless an application is submitted to the Commissioner at such time, in such form, and in accordance with such procedures as the Commissioner may require.

(3)(A) A second grant authorized by this subsection shall be made to a public agency in a predominantly rural western State.

(B) Each application for a grant submitted pursuant to subparagraph (A) of this paragraph shall describe model transitional planning services for both youths who are individuals with severe disabilities and other youths with disabilities designed to develop procedures, strategies, and techniques which may be replicated successfully in other rural States.

(4) There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997.

(e) Educational and vocational rehabilitation demonstration projects regarding low-functioning

(1) The Commissioner may make grants to public or private institutions to pay for the cost of developing special projects and demonstration projects to address the general education, counseling, vocational training, work transition, supported employment, job placement, followup, and community outreach needs of individuals who are either low-functioning and deaf or low-functioning and hard-of-hearing. Such projects shall provide educational and vocational rehabilitation services that are not otherwise available in the region involved and shall maximize the potential of such individuals, including individuals who are deaf and have additional severe disabilities.

(2) The Commissioner shall monitor the activities of the recipients of grants under this subsection to ensure that the recipients carry out the projects in accordance with paragraph (1), that the recipients coordinate the projects as described in paragraph (3), and that information about innovative methods of service delivery developed by such projects is disseminated.

(3) The Commissioner shall prepare and submit an annual report to Congress that includes an assessment of the manner in which the recipients carrying out the projects coordinate the projects with projects carried out by other pub-

lic or nonprofit agencies serving individuals who are deaf, to expand or improve services for such individuals.

(f) Construction of authority; appropriation of excess funds

(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund special demonstration programs, projects, and activities, nothing in this chapter shall be construed to prohibit the Commissioner from exercising authority under this subchapter, or making available funds appropriated to carry out this subchapter, to fund programs, projects, and activities described in section 797a of this title.

(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under subchapter VIII of this chapter.

(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.)

AMENDMENTS

1995—Subsec. (c)(3), (4). Pub. L. 104–66 redesignated par. (4) as (3) and struck out former par. (3) which read as follows:

''(3)(A) On June 1 of each year, the Commissioner shall submit a report to the Congress on activities assisted under paragraph (1) for the preceding fiscal year which includes—

''(i) a list of the grants awarded under this subsection;

''(ii) the number of individuals with severe disabilities served by each grant recipient, the average cost to provide support services to each such individual, and the average wage paid to each such individual; and

''(iii) the recommendations of the projects under paragraph (1)(B).

''(B) Each such report shall also include activities assisted under paragraph (2) for the preceding fiscal year, including (i) a list of the grants awarded under paragraph (2), (ii) the nature of technical assistance activities undertaken, and (iii) recommended areas where additional technical assistance is necessary.''

1993—Subsec. (a)(1). Pub. L. 103–73, § 110(c)(1), substituted semicolon for comma at end.

Subsec. (c)(1)(B). Pub. L. 103–73, § 110(c)(2), inserted ''and'' before ''(iii)''.

1992—Subsec. (a). Pub. L. 102–569, § 308(a), in par. (1) struck out ''and, where appropriate, constructing facilities'' after ''establishing programs'' and substituted ''individuals who are members of populations that are unserved or underserved by the programs under this chapter, individuals who are blind, and individuals who are deaf,'' for ''blind or deaf individuals, irrespective of age or vocational potential, who can benefit from comprehensive services;'', in par. (2) substituted ''new careers and career advancement);'' for ''new careers);'', in par. (3) struck out ''and, where appropriate, renovating and constructing facilities'' after ''operating programs'', and struck out concluding provisions which read as follows: ''The Director of the National Institute on Disability and Rehabilitation Research may make grants to States and to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations for spinal cord injuries.''

Pub. L. 102–569, § 102(p)(21)(A), substituted ''disabilities'' for ''handicaps'' wherever appearing in pars. (1) to (4).

Subsec. (b). Pub. L. 102–569, § 308(b), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to qualifications for any project or demonstration assisted by a grant which provides services to individuals with spinal cord injuries.

Subsec. (c). Pub. L. 102–569, § 308(c)(3), in par. (4) substituted ''such sums as may be necessary for each of fiscal years 1993 through 1997'' for ''$9,000,000 for fiscal year 1987, $9,520,000 for fiscal year 1988, $10,000,000 for fiscal year 1989, $10,690,000 for fiscal year 1990, $11,128,000 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992''.

Pub. L. 102–569, § 308(c)(2), substituted ''June 1 of each year'' for ''June 1, 1988, and on each subsequent June 1'' in introductory provisions of par. (3)(A).

Pub. L. 102–569, § 308(c)(1), in par. (1), substituted ''community rehabilitation programs'' for ''rehabilitation facilities'' and inserted before period '', including continuation of determinations of the effectiveness of natural supports or other alternatives to providing extended employment services'' in subpar. (A), struck out ''and'' before ''(iii)'' and substituted ''community rehabilitation programs'' for ''community-based rehabilitation facilities'' in subpar. (B), and added subpar. (C).

Pub. L. 102–569, § 308(b), redesignated subsec. (d) as (c). Former subsec. (d) redesignated (e).

Pub. L. 102–569, § 102(p)(21)(B), substituted ''youths who are individuals with disabilities'' for ''youths with handicaps'' in par. (1).

Subsec. (d). Pub. L. 102–569, § 308(d)(2), (4), redesignated par. (5) as (4) and substituted ''such sums as may be necessary for each of the fiscal years 1993 through 1997'' for ''$450,000 for fiscal year 1987, $475,830 for fiscal year 1988, $504,427 for fiscal year 1989, $535,550 for fiscal year 1990, $557,000 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992 to carry out the provisions of this subsection''.

Pub. L. 102–569, § 308(d)(3), in par. (3)(A) struck out cl. (i) designation and cl. (ii) which read as follows: ''A third grant authorized by this subsection shall be made to a public agency or nonprofit private organization in a predominantly rural southwestern State.''

Pub. L. 102–569, § 308(d)(1), (2), redesignated par. (4) as (3) and struck out former par. (3) which authorized one grant to be made to a public agency in a predominantly urban State in New England for an existing model statewide transitional planning services program.

Pub. L. 102–569, § 308(b), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Pub. L. 102–569, § 102(p)(21)(C), substituted ''disabilities'' for ''handicaps'' in par. (3)(A)(ii).

Subsec. (e). Pub. L. 102–569, § 308(e), added subsec. (e). Former subsec. (e) redesignated (d).

Pub. L. 102–569, § 102(p)(21)(D)(ii), substituted ''youths who are individuals with severe disabilities and other youths with disabilities'' for ''youths with severe handicaps and youths with mild handicaps'' in par. (4)(B).

Pub. L. 102–569, § 102(p)(21)(D)(i), substituted ''who are individuals with severe disabilities'' for ''with severe handicaps'' in par. (1).

Subsec. (f). Pub. L. 102–569, § 308(f), added subsec. (f).

1991—Subsec. (c)(3). Pub. L. 102–119 substituted reference to the Individuals with Disabilities Education

Act for reference to the Education of the Handicapped Act in the original, which for purposes of codification was translated as section 1425 of title 20, thus requiring no change in text.

Subsec. (d)(4). Pub. L. 102–52, § 4(e)(2)(A), substituted ''fiscal year'' for ''the fiscal year'' before ''1987'', ''1988'', ''1989'', ''1990'', and ''1991'', struck out ''and'' after ''1990,'', and inserted '', and such sums as may be necessary for fiscal year 1992'' after ''1991''.

Subsec. (e)(5). Pub. L. 102–52, § 4(e)(2)(B), struck out ''and'' after ''1990,'' and inserted '', and such sums as may be necessary for fiscal year 1992'' after ''1991''.

1988—Subsec. (c)(1). Pub. L. 100–630, § 204(g)(1), substituted ''youths with handicaps'' for ''handicapped youths''.

Subsec. (e)(1). Pub. L. 100–630, § 204(g)(2), substituted ''youths with severe handicaps'' for ''severely handicapped youths'' in introductory provisions.

Subsec. (e)(3)(B)(ii). Pub. L. 100–630, § 204(g)(3), which directed the substitution of ''families, will'' for ''families.'' was executed by making the substitution for ''families,'' as the probable intent of Congress.

Subsec. (e)(3)(B)(iv). Pub. L. 100–630, § 204(g)(4), substituted ''individual with handicaps'' for ''handicapped individual'' and ''agency designated'' for ''agency designed''.

Subsec. (e)(4)(B). Pub. L. 100–630, § 204(g)(5), substituted ''both youths with severe handicaps and youths with mild handicaps'' for ''both severely and mildly handicapped youth''.

1986—Subsec. (a). Pub. L. 99–506, § 302(b), substituted ''National Institute on Disability and Rehabilitation Research'' for ''National Institute of Handicapped Research'' in concluding provisions.

Subsec. (a)(1) to (3). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (a)(4). Pub. L. 99–506, § 406(a), added par. (4).

Subsec. (b). Pub. L. 99–506, § 302(b), substituted ''National Institute on Disability and Rehabilitation Research'' for ''National Institute of Handicapped Research'' in concluding provisions.

Subsecs. (d), (e). Pub. L. 99–506, § 406(b), added subsecs. (d) and (e).

1984—Subsec. (a). Pub. L. 98–221, § 136(a), struck out ''individuals with spinal cord injuries and'' after ''including'' in par. (1) and inserted after par. (3) a provision authorizing the Director of the National Institute of Handicapped Research to make grants to States and to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations for spinal cord injuries.

Subsec. (b). Pub. L. 98–221, § 136(b), inserted provision directing the Director of the National Institute of Handicapped Research to coordinate with the Commissioner each grant made under this subsection.

Subsec. (c). Pub. L. 98–221, § 136(c), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 777, 795*l* of this title.

§ 777b. Migratory workers; maintenance payments; coordination with other programs

(a) Grants to designated State agencies

The Commissioner, subject to the provisions of section 776 of this title, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 721 of this title, to nonprofit agencies working in collaboration with such State agency, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to individuals with disabilities, as determined in accordance with rules prescribed by the Secretary of Labor, who are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not such family members are individuals with disabilities) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other individuals with disabilities in the State under this chapter. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services 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 migratory agricultural workers, seasonal farmworkers, or their families. This section shall be administered in coordination with other programs serving migrant agricultural workers 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 311 of the Economic Opportunity Act of 1964 [42 U.S.C. 2861], the Migrant Health Act [42 U.S.C. 254b], and the Farm Labor Contractor Registration Act of 1963 [7 U.S.C. 2041 et seq.].

(b) Authorization of appropriations

There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section.

(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.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. 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.

Section 311 of the Economic Opportunity Act of 1964 [42 U.S.C. 2861], referred to in subsec. (a), was repealed by Pub. L. 95–568, § 8(a)(2), Nov. 2, 1978, 92 Stat. 2428.

The Migrant Health Act, referred to in subsec. (a), means section 329, formerly section 310, of act July 1, 1944, ch. 373, as added by Pub. L. 87–692, Sept. 25, 1962, 76 Stat. 592, as amended, which is classified to section 254b of Title 42, The Public Health and Welfare.

The Farm Labor Contractor Registration Act of 1963, referred to in subsec. (a), is Pub. L. 88–582, Sept. 7, 1964, 78 Stat. 920, as amended, which was classified generally to chapter 52 (§ 2041 et seq.) of Title 7, Agriculture, and was repealed by Pub. L. 97–470, title V, § 523, Jan. 14, 1983, 96 Stat. 2600. See section 1801 et seq. of this title.

AMENDMENTS

1992—Pub. L. 102–569 designated existing provisions as subsec. (a), inserted ''to nonprofit agencies working in collaboration with such State agency,'' after ''section 721 of this title,'', substituted ''disabilities'' for ''handicaps'' wherever appearing, and added subsec. (b).

1988—Pub. L. 100–630 substituted ''such family members are individuals with handicaps)'' for ''handicapped)''.

1986—Pub. L. 99–506 substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 777 of this title.

§ 777c. Repealed. Pub. L. 98–221, title II, § 203(a), Feb. 22, 1984, 98 Stat. 33

Section, 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. See chapter 21 (§ 1901 et seq.) of this title.

A 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 and amended Pub. L. 95–602, title I, §§ 109(1), 116(2), Nov. 6, 1978, 92 Stat. 2962, 2974, 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.

§ 777d. Reader services for individuals who are blind

(a) Grants

The Commissioner may award grants to States or to private nonprofit agencies or organizations of national scope (as so determined by the Commissioner) to—

(1) provide reading services to individuals who are blind and who are not otherwise eligible for such services through other State or Federal programs; and

(2) expand the quality and scope of reading services available to individuals who are blind, and to assure to the maximum extent possible that the reading services provided under this chapter will meet the reading needs of such individuals attending institutions providing elementary, secondary, or post-secondary education, and will be adequate to assist such individuals to obtain and continue in employment.

Any State which receives a grant under this section shall administer the reading services for which such grant is awarded through the designated State unit of the State.

(b) Application

No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.

(c) "Reading services" defined

For purposes of this section, the term ''reading services'' means—

(1) the employment of persons who, by reading aloud, can afford individuals who are blind ready access to printed information;

(2) the transcription of printed information into braille or sound recordings if such transcription is performed pursuant to individual requests from individuals who are blind for such services;

(3) the storage and distribution of braille materials and sound recordings;

(4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of braille materials and sound recordings;

(5) the purchase, storage, and distribution of equipment to individuals who are blind to provide them with individual access to printed materials by mechanical or electronic means; and

(6) radio reading services for individuals who are blind.

(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.)

AMENDMENTS

1992—Pub. L. 102–569, § 102(p)(23)(A), amended section catchline.

Subsec. (a)(1). Pub. L. 102–569, § 102(p)(23)(B), substituted ''individuals who are blind and'' for ''blind persons''.

Subsec. (a)(2). Pub. L. 102–569, § 102(p)(23)(C), substituted ''available to individuals who are blind'' for ''available to blind persons'', ''needs of such individuals'' for ''needs of blind persons'', and ''to assist such individuals'' for ''to assist blind persons''.

Subsec. (c). Pub. L. 102–569, § 102(p)(23)(D), substituted ''individuals who are blind'' for ''blind persons'' in pars. (1), (2), (5), and (6).

1988—Subsec. (a)(2). Pub. L. 100–630 substituted ''needs'' for ''need''.

§ 777e. Interpreter services for individuals who are deaf

(a) Grants

The Commissioner may make grants to designated State units to establish within each State a program of interpreter services (including interpreter referral services) which shall be made available to individuals who are deaf and to any public agency or private nonprofit organization involved in the delivery of assistance or services to individuals who are deaf.

(b) Application

No grant may be made under this section unless an application therefor is submitted to the Commissioner in such form, at such times, and in accordance with such procedures as the Commissioner may require. Such application shall—

(1) provide assurances that the program to be conducted under this section will be operated in areas within the State which are specifically selected to provide convenient locations for the provision of services to the maximum feasible number of individuals who are deaf;

(2) include a plan which describes, in sufficient detail, the manner in which interpreter referral services will be coordinated with the information and referral programs required under section 721(a)(22) of this title;

(3) provide assurances that the program will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of primarily hearing-impaired individuals (or private nonprofit organizations which have the

primary purpose of providing assistance or services to hearing-impaired individuals) for the operation of such programs;

(4) provide that any interpreter participating in the program shall be required to meet minimum standards established by the Commissioner; and

(5) contain such other information as the Secretary may require.

(c) Services provided by designated State unit; purchase or rental of equipment

Any designated State unit receiving funds under this section may provide interpreter services, without cost, for a period of not to exceed one year to any public agency or private nonprofit organization which provides assistance to individuals who are deaf. At the end of such period, agencies or organizations receiving such services through referrals shall reimburse the designated State unit for the costs of such services. Funds may also be used for the purchase or rental of equipment necessary to provide assistance or services to individuals who are deaf.

(d) Restrictions on use of funds

Funds provided to any designated State unit for any program under this section shall not be used for any administrative or related costs, nor shall such funds be used for assistance to individuals who are deaf and who are receiving rehabilitation services under any other provision of this chapter.

(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.)

AMENDMENTS

1992—Pub. L. 102–569, § 102(p)(24)(A), amended section catchline.

Subsec. (a). Pub. L. 102–569, § 102(p)(24)(B), substituted ''individuals who are deaf'' for ''deaf individuals'' in two places.

Subsec. (b)(1). Pub. L. 102–569, § 102(p)(24)(C), substituted ''to the maximum feasible number of individuals who are deaf'' for ''to the maximum number of deaf individuals feasible''.

Subsec. (c). Pub. L. 102–569, § 102(p)(24)(D), substituted ''individuals who are deaf'' for ''deaf individuals'' in two places.

Subsec. (d). Pub. L. 102–569, § 102(p)(24)(E), substituted ''individuals who are deaf and'' for ''deaf individuals''.

§ 777f. Special recreational programs

(a)(1) The Commissioner, subject to the provisions of section 776 of this title, shall make grants to States, public agencies, and nonprofit private organizations for paying the Federal share of the cost of initiation 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. The programs authorized to be assisted under this section may include, but are not limited to, vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4–H activities, music, dancing, handicrafts, art, and homemaking. Whenever possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities. Programs and activities 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) Each such grant shall be made for a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.

(3) No grant may be made under this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made.

(4) 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 will be made generally available; and

(B) the means by which the service program will be continued after Federal assistance ends.

(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

(6) The Commissioner shall, not later than 180 days after October 29, 1992, develop means to objectively evaluate, and encourage the replication of, activities assisted by this section.

(7) The Commissioner shall require each recipient of a grant under this section to annually prepare and submit a report on the results of the activities assisted by the grant. The Commissioner shall not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated such a report from the recipient regarding the current year.

(8) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of programs funded by this section.

(9) The Federal share of the costs of the recreation programs shall be 100 percent for the first year of the grant, 75 percent for the second year, and 50 percent for the third year.

(b) There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997.

(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.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–73 substituted ''individuals with disabilities'' for ''handicapped individuals'' in first sentence.

1992—Subsec. (a)(1). Pub. L. 102–569, § 310(a)(1), in first sentence, substituted ''the Federal share of the cost'' for ''part or all of the cost'' and inserted ''employment,'' before ''mobility,'' and in second sentence, inserted ''vocational skills development,'' before ''leisure education,''.

Pub. L. 102–569, § 102(p)(25), substituted ''individuals with disabilities'' for ''individuals with handicaps'' after ''and integration of'' and ''peers who are not individuals with disabilities'' for ''peers without handicaps''.

Subsec. (a)(2). Pub. L. 102–569, § 310(a)(2), substituted ''a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations'' for ''a minimum of a three-year period''.

Subsec. (a)(3). Pub. L. 102–569, § 310(a)(3), substituted ''to be made.'' for ''to be made, and that with respect to children the activities for which the grant is to be made will be conducted before or after school.''

Subsec. (a)(4) to (9). Pub. L. 102–569, § 310(a)(4), added pars. (4) to (9).

Subsec. (b). Pub. L. 102–569, § 310(b), substituted ''such sums as may be necessary for each of the fiscal years 1993 through 1997'' for ''$2,330,000 for fiscal year 1987, $2,470,000 for fiscal year 1988, $2,620,000 for fiscal year 1989, $2,780,000 for fiscal year 1990, $2,894,000 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992 to carry out this section''.

1991—Subsec. (b). Pub. L. 102–52 struck out ''and'' after ''1990,'' and inserted '', and such sums as may be necessary for fiscal year 1992'' after ''1991''.

1988—Pub. L. 100–630, § 204(j)(1), inserted section catchline.

Subsec. (a)(1). Pub. L. 100–630, § 204(j)(2), substituted ''peers without handicaps'' for ''nonhandicapped peers''.

1986—Subsec. (a). Pub. L. 99–506, § 407, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Commissioner, subject to the provisions of section 776 of this title, shall make grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide individuals with handicaps with recreational activities to aid in the mobility and socialization of such individuals. The activities authorized to be assisted under this section may include, but are not limited to, scouting and camping, 4-H activities, sports, music, dancing, handicrafts, art, and homemaking. No grant may be made under the provisions of this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted after school.''

Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (b). Pub. L. 99–506, § 407, in amending subsec. (b) generally, substituted provisions authorizing appropriations for fiscal years 1987 through 1991 for provisions authorizing appropriations for fiscal years 1984 through 1986.

1984—Pub. L. 98–221 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 777 of this title.

SUBCHAPTER IV—NATIONAL COUNCIL ON DISABILITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 702, 706, 718b, 761a of this title.

§ 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 or 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, or parents or guardians of 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 specified 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 Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. Members may serve after the expiration of their terms until their successors have taken office.

(B) As used in this paragraph:

(i) The term ''full term'' means a term of 3 years.

(ii) The term ''date of initial service'' means, with respect to a member, the date on which the member is sworn in.

(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. 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.)

PRIOR PROVISIONS

A 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.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–569, § 401(a)(1), designated first sentence as subpar. (A), added subpars. (B) and (C), in last sentence substituted ''A majority of the members of the National Council'' for ''At least five members of the National Council'', and inserted at end ''The members of the National Council shall be broadly representative of minority and other individuals and groups.''

Pub. L. 102–569, § 102(p)(26), substituted ''disabilities'' for ''handicaps'' wherever appearing.

Subsec. (a)(2). Pub. L. 102–569, § 401(a)(2), added par. (2) and struck out former par. (2) which read as follows: ''The purpose of the National Council is to promote the full integration, independence, and productivity of individuals with disabilities in the community, schools, the workplace and all other aspects of American life.''

Pub. L. 102–569, § 102(p)(26), substituted ''disabilities'' for ''handicaps''.

Subsec. (b)(1), (2). Pub. L. 102–569, § 401(b), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) Members of the National Council shall be appointed to serve for terms of three years, except that of the members first appointed—

''(A) five shall serve for terms of one year,

''(B) five shall serve for terms of two years, and

''(C) five shall serve for terms of three years,

as designated by the President at the time of appointment.

''(2) Members may be reappointed and may serve after the expiration of their terms until their successors have taken office.''

1988—Pub. L. 100–630, § 205(b)(1), substituted ''on Disability'' for ''on the Handicapped'' in section catchline.

Subsec. (a)(1). Pub. L. 100–630, § 205(b)(2), substituted ''on Disability'' for ''on the Handicapped'', ''concerned with individuals with handicaps'' for ''concerned with the handicapped'', and ''services to individuals with handicaps'' for ''services to the handicapped''.

Subsec. (a)(2). Pub. L. 100–630, § 205(b)(3), substituted ''individuals with handicaps'' for ''handicapped individuals''.

1986—Subsec. (a)(1). Pub. L. 99–506, § 501(1), designated existing provisions as par. (1).

Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (a)(2). Pub. L. 99–506, § 501(2), added par. (2).

Subsec. (b)(3). Pub. L. 99–506, § 1001(e)(1), substituted ''such member's predecessor'' for ''his predecessor''.

Subsec. (c). Pub. L. 99–506, § 1001(e)(2), substituted ''Chairperson'' for ''Chairman'' in two places.

1984—Subsec. (a). Pub. L. 98–221 substituted ''within the Federal Government'' for ''with the Department of Health, Education, and Welfare''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 781 of this title.

§ 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 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) 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 [42 U.S.C. 6000 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, 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 which the 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)(1) Not later than October 31, 1993, 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 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.

(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.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (a)(5)(A), is title I of Pub. L. 88–164, as added by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, and amended, which is classified generally to chapter 75 (§ 6000 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 6000 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. 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, Sept. 26, 1973, 87 Stat. 386, related to program and project evaluation, prior to repeal by Pub. L. 95–602, § 117.

AMENDMENTS

1995—Subsec. (a)(9) to (11). Pub. L. 104–66 redesignated pars. (10) and (11) as (9) and (10), respectively, and struck out former par. (9) which read as follows: ''not later than March 31 of each year, prepare and submit to the Congress and the President a report containing a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8);''.

1992—Subsec. (a)(1). Pub. L. 102–569, § 402(a)(1), added par. (1) and struck out former par. (1) which read as follows: ''establish general policies for, and review the op-

eration of, the National Institute on Disability and Rehabilitation Research;''.

Subsec. (a)(4). Pub. L. 102–569, § 402(a)(3), added par. (4). Former par. (4) redesignated (5).

Pub. L. 102–569, § 102(p)(27)(A), struck out ''individuals with handicaps and'' after ''concerning'' in subpar. (A), after ''assist such'' in subpar. (B), and after ''needs of'' in concluding provisions.

Subsec. (a)(5). Pub. L. 102–569, § 402(a)(2), (4), redesignated par. (4) as (5), in subpar. (A) substituted ''policies, programs, practices, and procedures'' for ''all policies, programs, and activities'', in subpar. (B) substituted ''statutes and regulations'' for ''statutes'', and in concluding provisions substituted ''practices, procedures, statutes, and regulations'' for ''activities, and statutes''. Former par. (5) redesignated (6).

Pub. L. 102–569, § 102(p)(27)(B), substituted ''disabilities'' for ''handicaps''.

Subsec. (a)(6). Pub. L. 102–569, § 402(a)(2), (5), redesignated par. (5) as (6) and substituted ''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;'' for ''and activities provide incentives or disincentives to the establishment of community-based services for individuals with disabilities, promote the full integration of such individuals in the community, in schools, and in the workplace, and contribute to the independence and dignity of such individuals;''. Former par. (6) redesignated (8).

Pub. L. 102–569, § 102(p)(27)(B), substituted ''disabilities'' for ''handicaps'' in two places.

Subsec. (a)(7). Pub. L. 102–569, § 402(a)(2), (6), added par. (7). Former par. (7) redesignated (9).

Pub. L. 102–569, § 102(p)(27)(B), substituted ''disabilities'' for ''handicaps''.

Subsec. (a)(8). Pub. L. 102–569, § 402(a)(2), (7), redesignated par. (6) as (8) and amended it generally. Prior to amendment, par. (6) read as follows: ''make recommendations to the President, the Congress, the Secretary, and the Director of the National Institute on Disability and Rehabilitation Research respecting ways to improve research concerning individuals with disabilities, the administration of services for individuals with disabilities, and the methods of collecting and disseminating the findings of such research, and make recommendations for facilitating the implementation of programs based upon such findings;''. Former par. (8) redesignated (10).

Subsec. (a)(9). Pub. L. 102–569, § 402(a)(2), (8), redesignated par. (7) as (9) and amended it generally. Prior to amendment, par. (7) read as follows: ''submit not later than March 31 of each year (beginning in 1980) an annual report to the Congress, and the President, containing (A) a statement of the current status of research concerning individuals with disabilities in the United States, (B) a review of the activities of the Rehabilitation Services Administration and the National Institute on Disability and Rehabilitation Research, and (C) such recommendations respecting the items described in clauses (A) and (B) as the National Council considers appropriate; and''.

Subsec. (a)(10). Pub. L. 102–569, § 402(a)(2), (9), redesignated par. (8) as (10) and substituted ''; and'' for period at end.

Subsec. (a)(11). Pub. L. 102–569, § 402(a)(10), added par. (11).

Subsec. (b). Pub. L. 102–569, § 402(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) Not later than January 30, 1988, and annually thereafter, the National Council shall issue a report to the President and the Congress on the progress that has been made in implementing the recommendations contained in the Council's January 30, 1986, report Toward Independence.

''(2) The reports issued pursuant to paragraph (1) shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, and education, and shall include appropriate information on the current status and trends in the status of individuals with disabilities.''

1988—Subsec. (a)(4). Pub. L. 100–630, § 205(c)(1)–(3), in subpar. (A), substituted ''individuals with handicaps'' for ''handicapped individuals'' and ''individuals with disabilities'' for ''persons with disabilities'', in subpar. (B), substituted ''assist'' for ''assisted'', ''individuals with handicaps'' for ''handicapped individuals'', and ''individuals with disabilities'' for ''persons with disabilities'', and in concluding provisions, substituted ''individuals with handicaps'' for ''handicapped individuals'' and ''individuals with disabilities'' for ''persons with disabilities''.

Subsec. (a)(5). Pub. L. 100–630, § 205(c)(1), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (a)(7)(A). Pub. L. 100–630, § 205(c)(4), substituted ''individuals with handicaps'' for ''the handicapped''.

Subsec. (a)(8). Pub. L. 100–630, § 205(c)(5), inserted comma after ''recommendations''.

Subsec. (b)(1). Pub. L. 100–630, § 205(c)(6), substituted ''recommendations'' for ''recommendation''.

1986—Subsec. (a)(1), (3). Pub. L. 99–506, § 302(b), substituted ''National Institute on Disability and Rehabilitation Research'' for ''National Institute of Handicapped Research''.

Subsec. (a)(4). Pub. L. 99–506, § 502(a)(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''review and evaluate on a continuing basis all policies, programs, and activities concerning individuals with handicaps and persons with developmental 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 [42 U.S.C. 6000 et seq.], in order to assess the effectiveness of such policies, programs, and activities in meeting the needs of individuals with handicaps;''.

Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' in two places.

Subsec. (a)(5). Pub. L. 99–506, § 502(a)(2)(B), added par. (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 99–506, §§ 103(d)(2)(C), 302(b), 502(a)(2)(A), redesignated former par. (5) as (6), and substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing, and ''National Institute on Disability and Rehabilitation Research'' for ''National Institute of Handicapped Research''. Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 99–506, §§ 302(b), 502(a)(2)(A), redesignated former par. (6) as (7) and in cl. (B) substituted ''National Institute on Disability and Rehabilitation Research'' for ''National Institute of Handicapped Research''. Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 99–506, § 502(a)(2)(A), (3), redesignated former par. (7) as (8) and inserted ''legislative proposals'' after ''recommendations''.

Subsec. (b). Pub. L. 99–506, § 502(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The National Council shall—

''(1) review all statutes pertaining to Federal programs which assist individuals with handicaps;

''(2) make a priority listing of such programs based on the number of individuals with handicaps such programs assist and the Federal costs of such programs;

''(3) assess the extent to which such programs provide incentives or disincentives to the establishment of community-based services for individuals with handicaps, promote the full integration of such individuals in the community, in schools, and in the workplace, and contribute to the independence and dignity of such individuals;

''(4) recommend to the President and the Congress legislative proposals for increasing incentives and eliminating disincentives in Federal programs based on the assessment made pursuant to clause (3); and

''(5) prepare and submit a final report to the President and to the Congress not later than February 1, 1986, on the review, assessment, and recommendations required by this subsection.''

Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' in pars. (1) to (3).

1984—Pub. L. 98–221 designated existing provisions as subsec. (a); in subsec. (a) as so designated, amended par. (3) generally, inserting ''the President, the Congress,'' after ''advise'' and substituting ''Department of Education'' for ''Department of Health, Education, and Welfare'', amended par. (5) by inserting ''the President, the Congress,'' before ''the Secretary'', by striking out ''the Commissioner,'' after ''the Secretary,'', and by striking out ''and'' at the end, amended par. (6) by striking out ''the Secretary,'' after ''report to'' and by substituting ''; and'' for the period at end, and added par. (7); and added subsec. (b).

§ 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. 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.)

PRIOR PROVISIONS

A 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.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569 substituted ''rate of pay for level 4 of the Senior Executive Service Schedule under section 5382'' for ''rate of basic pay payable for grade GS–18 of the General Schedule under section 5332''.

1988—Subsec. (a). Pub. L. 100–630 substituted ''travel time'' for ''traveltime''.

§ 783. National Council staff

(a) Executive Director; technical and professional employees

(1) The National Council may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, 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 not to exceed eight 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; transfer of funds

(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, 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.

(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, § 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.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, 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, 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.

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–73 substituted ''eight'' for ''seven''.

1992—Subsec. (a)(1). Pub. L. 102–569, § 102(p)(28), substituted ''individuals with disabilities'' for ''individuals with handicaps''.

Subsec. (b)(1). Pub. L. 102–569, § 404, substituted ''rate of pay for level 4 of the Senior Executive Service Schedule under section 5382'' for ''annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332''.

1988—Subsec. (b)(2)(B). Pub. L. 100–630 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''accept, in the name of the Council, 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''.

1986—Subsec. (a)(1). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (b)(4). Pub. L. 99–506, § 503, struck out par. (4) which provided that from the amount available to the Office of Special Education and Rehabilitative Services, Department of Education, $500,000 in fiscal year 1984 was to be transferred and made available to the National Council.

1984—Subsec. (a). Pub. L. 98–221, § 143(a)–(c), designated existing provisions as par. (1), substituted ''an Executive Director'' for ''up to seven technical and professional employees'' and inserted provision requiring that the Executive Director be appointed from among individuals experienced in the planning or operation of programs for handicapped individuals, and added par. (2).

Subsec. (b). Pub. L. 98–221, § 143(d), designated existing provisions as par. (1) and added pars. (2) to (4).

§ 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. 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.)

PRIOR PROVISIONS

A 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.

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–569 added subsec. (e).

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 1993 through 1997.

(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.)

PRIOR PROVISIONS

A 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.

AMENDMENTS

1992—Pub. L. 102–569 substituted ''1993 through 1997'' for ''1987, 1988, 1989, 1990, 1991, and 1992''.

1991—Pub. L. 102–52 substituted ''1990, 1991, and 1992'' for ''1990, and 1991''.

1986—Pub. L. 99–506 inserted provision limiting authorization of appropriations under this subchapter to each of the fiscal years 1987 through 1991.

§§ 786, 787. Repealed. 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

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 702, 706, 718b, 720, 743, 762, 784 of this title; title 20 sections 1221, 1415; title 38 section 3116; title 42 section 12201.

§ 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 Secretary 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 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 Rate Commission) in the executive branch 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, or instrumentality. 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 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 written rehabilitation program 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, 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. 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.)

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, 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 similar provisions were set out in section 38 of this title.

AMENDMENTS

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)(1)–(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, ''Employment of People With Disabilities'' for ''Employment of the Handicapped'' in second sentence which was executed to third sentence as the probable intent of Congress, 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 two 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''.

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, 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.

EX. ORD. NO. 12640. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

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, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and in order to provide for the carrying out of the provisions of the Joint Resolution approved July 11, 1949, ch. 302, 63 Stat. 409, as amended, and the provisions of the Rehabilitation Act of 1973, P.L. 93–112, Section 501(a)–(f), as amended [29 U.S.C. 791(a)–(f)], it is ordered as follows:

SECTION 1. *Establishment and Composition of the President's Committee.* (a) There is hereby established the President's Committee on Employment of People with Disabilities (hereinafter referred to as the Committee or as the President's Committee).

(b) The Committee shall be composed of a Chairman and not more than six Vice Chairs, who shall be appointed by and serve at the pleasure of the President, and of so many other members as may be appointed thereto from time to time by the Chairman of the President's Committee from among persons (including representatives of organizations) who can contribute to the achievement of the objectives of the Committee. Members appointed by the Chairman shall be appointed for a term of 3 years and may be reappointed. The Chairman of the President's Committee may at any time terminate the service of any member of the President's Committee, except any member appointed by the President.

(c) The Chairman of the President's Committee, upon the advice of the Executive Committee (hereinafter provided for), may designate as, or invite to be, associate members of the President's Committee any heads of Federal departments or agencies that have responsibility for training and rehabilitation services or advocate activities touching the field of interest of the Committee or that are leading employers of individuals with disabilities.

(d) Representatives of business, industry, labor, private organizations, public agencies, other concerned organizations, and individuals with disabilities who are not members may be invited to attend meetings of the Committee.

SEC. 2. *Functions of the Committee.* The President's Committee shall provide advice and information as to the development of maximum employment opportunities for people who are physically disabled, mentally retarded, and mentally ill. To this end the Committee shall advise the President as to information that can be used by employers, labor unions, and national and international organizations, suggest programs for public education, and suggest methods of enlisting cooperation among organizations and agencies, Federal, State, and local officials, Governors' and local Committees on Employment of People with Disabilities, professional organizations, organized labor, and appropriate international organizations. In carrying out these functions vested in it by the Rehabilitation Act, as amended [29 U.S.C. 701 et seq.], the Committee shall be guided by the general policies of the National Council on the Handicapped and shall work closely with the Department of Labor, the Department of Education, the Department of Health and Human Services, the Veterans' Administration, State employment security agencies, and State vocational rehabilitation agencies.

SEC. 3. *Executive Committee.* (a) There is hereby established the Executive Committee of the President's Committee on Employment of People with Disabilities. The Executive Committee shall be composed of the Chairman of the President's Committee, who shall also be the Chairman of the Executive Committee, the Vice Chair of the President's Committee, and so many additional members as will provide an Executive Committee of not less than 15 and not more than 30 members. The said additional members shall be appointed for a term of 3 years by the Chairman of the President's Committee from among the members of the President's Committee or otherwise. The Chairman of the President's Committee may at any time terminate the service of any member of the Executive Committee.

(b) The Executive Committee shall advise and assist the Chairman of the President's Committee in the conduct of the business of the President's Committee and, as authorized by the President's Committee or the

Chairman thereof (with due regard for the responsibilities of other Federal agencies), shall study the problems of people with disabilities in obtaining and retaining suitable employment, invite authorities in the various professional, technical, and other pertinent fields to advise it in the exploration of those problems, and review plans and projects for advocating the employment of people with disabilities.

SEC. 4. *Advisory Council*. There is hereby established the Advisory Council on Employment of People with Disabilities, which shall advise the President's Committee with respect to the responsibilities of the Committee. The Council shall be composed of the Chairman of the President's Committee, who shall also be the Chairman of the Council, and of the following-named officers, or their respective alternates: Secretary of State, Secretary of the Treasury; Secretary of Defense; The Attorney General; Secretary of the Interior; Secretary of Agriculture; Secretary of Commerce; Secretary of Labor; Secretary of Health and Human Services; Secretary of Housing and Urban Development; Secretary of Transportation; Secretary of Education; Chairman, Equal Employment Opportunity Commission; Administrator of General Services; Director, Office of Personnel Management; Director, United States Information Agency; Administrator of Veterans' Affairs; and the Postmaster General.

SEC. 5. *Administrative and Incidental Matters*. (a) The President's Committee, the Executive Committee, and the Advisory Council shall each meet on call of the Chairman of the President's Committee at a time and place designated by the Chairman. In the case of the President's Committee and the Executive Committee, the Chairman shall call at least one meeting and two meetings, respectively, to be held during each calendar year.

(b) In the absence of designation by the President, the Chairman of the President's Committee may from time to time designate a Vice Chair of the President's Committee to be one or more of the following-named in the absence of the Chairman: Acting Chairman of the President's Committee, Acting Chairman of the Executive Committee, and Acting Chairman of the Advisory Council. The Chairman of the President's Committee shall from time to time assign other duties to the Vice Chairs thereof.

(c) The Chairman of the President's Committee shall on behalf of the President direct the President's Committee and its functions.

(d) The Chairman may from time to time prescribe such necessary rules, procedures, and policies relating to the President's Committee, the Executive Committee, and the Advisory Council, and to their affairs, as are not inconsistent with law or with the provisions of this Order.

(e) The Vice Chairs shall advise and counsel the Committee and shall represent the Committee on appropriate occasions.

(f) All members (including the Chairman and Vice Chairs) of the President's Committee, the Executive Committee, and the Advisory Council shall serve without compensation. The Chairman and the Vice Chairs of the President's Committee may receive transportation and per diem allowances as authorized by law for persons serving without compensation. Persons with disabilities serving as Chairman or Vice Chairs may be compensated for attendant expenses, consistent with government procedures and practices.

(g) Employees of the President's Committee shall be appointed, subject to law, and shall be directed by the Chairman of the Committee. To such extent as may be mutually arranged by the Chairman of the Committee and the Secretary of Labor, employees of the Committee shall be subject to the administrative rules, regulations, and procedures of the Department of Labor.

(h) The Department of Labor is requested to make available to the President's Committee necessary office space and to furnish the Committee, under such arrangements respecting financing as may be appropriate, necessary equipment, supplies, and services. The estimates of appropriations for the operations of the Committee shall be included within the framework of the appropriations structure of the Department of Labor, in such manner as the Director of the Office of Management and Budget may prescribe. The Chairman of the Committee, in cooperation with the Assistant Secretary for Administration and Management of the Department of Labor, shall be responsible for the preparation and justification of the estimates of appropriations for the Committee.

SEC. 6. *Reporting*. The President's Committee shall report annually to the President, who may apprise the Congress, and other interested organizations and individuals on the progress and problems of maximizing employment opportunities for people with disabilities.

SEC. 7. *Prior Orders; Transition*. (a) To the extent that this Order is inconsistent with any provision of any prior order, or with any provisions of any regulation or other measure or disposition, heretofore issued, made, or taken by the President or by any other officer of the Executive branch of the Government, this Order shall control. Executive Order No. 11480 of September 9, 1969, as amended, is hereby superseded.

(b) Without further action by the President or the Chairman of the Committee, all members, employees, records, property, funds, and pending business of the President's Committee on Employment of the Handicapped provided for in Executive Order No. 11480 of September 9, 1969, as amended, shall on the date of this Order become members, employees, records, property, funds, and pending business of the Committee established by this Order.

(c) The tenure of persons as members of the Committee in pursuance of the provisions of Section 7(b) of this Order, (i), in the case of persons appointed to the predecessor Committee by the President, shall be at the pleasure of the President, and (ii), in the case of other members, shall be for periods equal to their respective unexpired terms under Executive Order No. 11480, as amended, but shall also be subject to the provisions of the last sentence of Section 1(b) of this Order.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 794a of this title; title 2 sections 1202, 1311; title 3 sections 411, 421; title 5 sections 2302, 3102, 7702; title 22 sections 3905, 4131; title 38 section 4214; title 42 section 1981a.

§ 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 Transportation 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[1] 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[2] 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 guidelines 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 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;

(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 Serv-

[1] So in original. Probably should not be capitalized.
[2] So in original. Probably should be ''Access Board''.

ices, 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); and

(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities.

(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) 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 (e) of this section, the provisions of subchapter II of chapter 5, and chapter 7, of title 5 shall apply to procedures under this section, 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.

(e) 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.

(f) 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,[3] 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.

(g) Reports to Congress; reports on transportation barriers and housing needs

(1) The Access Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Access Board, and the reports and recommendations described in paragraphs (8) and (9) of such subsection.

(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(h) Grants and contracts to aid Access Board in carrying out its functions; acceptance of gifts, devises, and bequests of property; report to Congress on accessibility of federally funded buildings; joint transmittal

(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 (5) and (7) 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.[3] 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) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act entitled ''An Act to ensure that certain buildings financed with Federal funds are so designated 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. 4157(b)] transmit that report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

(i) 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 1993 through 1997.

(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, § 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.)

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), (7) and (d)(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 Wel-

[3] So in original. Probably should not be capitalized.

fare. 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), 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. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

CODIFICATION

For history of Pub. L. 93–651, which enacted amendments identical to Pub. L. 93–516, see Codification note set out under section 701 of this title.

AMENDMENTS

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.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 776, 794b of this title; title 42 sections 4157, 12185; title 49 section 40103.

§ 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 con-

tractor 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, 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, as amended, 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. 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''.

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''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 721, 796c, 796f–4 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 706(8) 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 postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 8801 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, 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.)

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, 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.

AMENDMENTS

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''.

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 721, 771a, 775, 794a, 1577, 2211, 2618 of this title; title 5 section 3102; title 12 section 1715z–1a; title 16 sections 410aaa–41, 410aaa–52; title 20 sections 1231e, 1232e, 2321, 2328, 2468e, 8066, 8507; title 25 section 2005; title 42 sections 290cc–33, 300w–7, 300x–57, 708, 1437*l*, 1437v, 1437w, 1437aaa–1, 1437aaa–2, 1760, 1769h, 2000d–7, 3608, 5057, 5309, 6727, 8625, 9849, 9906, 10406, 11386, 11394, 12134, 12142, 12143, 12144, 12146, 12147, 12148, 12162, 12635, 12832, 12872, 12873, 12892, 12893, 12899b, 12899c, 13603; title 49 section 5310.

§ 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 1311; title 3 section 411; title 22 section 3905; title 42 sections 1981a, 10406, 12133.

§ 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 this paragraph shall reflect its consideration of the cost studies carried out by States under section 792(c)(1) of this title.

(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 paragraph until a study demonstrating the need for such assistance has been conducted and submitted under section 792(h)(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.)

AMENDMENTS

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2215, 2231 of this title.

§ 794d. Electronic and information technology accessibility guidelines

(a) Guidelines

The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce information and data, and have access to information and data, comparable to the information and data, and access, respectively, of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

(b) Compliance

Each Federal agency shall comply with the guidelines established under 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.)

AMENDMENTS

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''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2213 of this title.

§ 794e. Protection and advocacy of individual rights

(a) 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—

(1) 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

(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 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 paragraphs (1) and (2) of subsection (a) of this section.

(c) Appropriations of $5,500,000 or more

(1) 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.

(2) Allotments

For any such fiscal year, after the reservation required by paragraph (1) has 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 such individuals.

(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 one-third of one 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 section for any fiscal year that is less than $100,000 or one-third of one 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, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau 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, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(5) Adjustment for inflation

For any fiscal year, beginning in fiscal year 1994, 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 by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 720(c)(1) of this title, the Commissioner shall increase the minimum allotment under paragraphs (3)(B) and (4)(B) by such percentage change in the Consumer Price Index For All Urban Consumers.

(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 part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 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 who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) or client assistance programs under section 732 of this title;

(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State;

(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, their 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 (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (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;

(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; and

(8) not use allotments provided under this section in a manner inconsistent with section 14404 of title 42.

(g) Carryover and direct payment

(1) Direct payment

Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State involved under this section, unless the State provides otherwise.

(2) Carryover

Any amount paid to a State for a fiscal year that remains unobligated at the end of such year shall remain available to such State 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) Ineligibility for additional funds

Notwithstanding subsection (n) of this section, a protection and advocacy system that—

(1) received funds for fiscal year 1992, under section 796g[1] of this title, as in effect on the day before October 29, 1992, to carry out a project; and

(2) receives a continuation award for such project for fiscal year 1993,

shall not be eligible to receive additional funds under this section for fiscal year 1993.

(j) 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.

(k) 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.

***(l)* Report**

The Commissioner shall annually prepare and submit to the Committee on Education and

[1] See References in Text note below.

Labor 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.

(m) 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 1993, 1994, 1995, 1996, and 1997.

(n) Eligibility for assistance

As used in this section, the term ''eligible system'' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f) of this section.

(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.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsecs. (a)(2), (f)(2), (3), (5)(B), and (n), is title I of Pub. L. 88–164, as added by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, and amended, which is classified generally to chapter 75 (§ 6000 et seq.) of Title 42, The Public Health and Welfare. Part C of the Act is classified generally to subchapter III (§ 6041 et seq.) of chapter 75 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of Title 42 and Tables.

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in subsecs. (a)(2) and (f)(3), (5)(B), is Pub. L. 99–319, May 23, 1986, 100 Stat. 478, as amended, which is classified generally to chapter 114 (§ 10801 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of Title 42 and Tables.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (c)(4)(B), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

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 796g of this title, referred to in subsec. (i)(1), was repealed by Pub. L. 102–569, title VII, § 701(1), Oct. 29, 1992, 106 Stat. 4443.

AMENDMENTS

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 Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee

on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 718, 718b, 2202, 2212 of this title.

SUBCHAPTER VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 706, 718b, 762, 2231 of this title.

PART A—COMMUNITY SERVICE EMPLOYMENT PILOT PROGRAMS FOR INDIVIDUALS WITH DISABILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 702 of this title.

§ 795. Pilot programs

(a) Establishment

In order to promote useful opportunities in community service activities for individuals with disabilities who have poor employment prospects, the Secretary of Labor (hereinafter in this part referred to as the ''Secretary'') is authorized to establish a community service employment pilot program for individuals with disabilities. For purposes of this part, the term ''eligible individuals'' means persons who are individuals with disabilities (as defined in section 706(8)(A) of this title) and who are referred to programs under this part by designated State units.

(b) Agreements; factors determining eligibility for cost payments; rate of pay; certificate of exemption by Department of Labor

(1) The Secretary may enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to carry out the pilot program referred to in subsection (a) of this section. Such agreements may include provisions consistent with subsection (c) of this section for the payment of the costs of projects developed by such organizations and agencies in cooperation with the Secretary. No payment shall be made by the Secretary toward the cost of any such project unless the Secretary determines that:

(A) Such project will provide employment only for eligible individuals, except that if eligible individuals are not available to serve as technical, administrative, or supervisory personnel for a project then such personnel may be recruited from among other individuals.

(B) Such project will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities.

(C) Such project will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under section 501(c)(3) of title 26, except for projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

(D) Such project will contribute to the general welfare of the community in which eligible individuals are employed under such project.

(E) Such project (i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in any displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

(F) Such project will not employ any eligible individual to perform work which is the same or substantially the same as that performed by any other person who is on layoff from employment with the agency or organization sponsoring such project.

(G) Such project will utilize methods of recruitment and selection (including the listing of job vacancies with the State agency units designated under section 721(a)(2)(A) of this title to administer vocational rehabilitation services under this chapter) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project.

(H) Such project will provide for (i) such training as may be necessary to make the most effective use of the skills and talents of individuals who are participating in the project, and (ii) during the period of such training, a reasonable subsistence allowance for such individuals and the payment of any other reasonable expenses related to such training.

(I) Such project will provide safe and healthy working conditions for any eligible individual employed under such project and will pay any such individual at a rate of pay not lower than the rate of pay described in paragraph (2).

(J) Such project will be established or administered with the advice of (i) persons competent in the field of service in which employment is being provided, and (ii) persons who are knowledgeable with regard to the needs of individuals with disabilities.

(K) Such project will pay any reasonable costs for work-related expenses, transportation, and personal assistance services incurred by eligible individuals employed under

such project in accordance with regulations prescribed by the Secretary.

(L) Such project will provide appropriate placement services for employees under the project to assist them in locating unsubsidized employment when the Federal assistance for the project terminates.

(2) The rate of pay referred to in subparagraph (I) of paragraph (1) is the highest of the following:

(A) the[1] prevailing rate of pay for persons employed in similar occupations by the same employer.

(B) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.] if such employee were not exempt from such Act under section 13 thereof [29 U.S.C. 213].

(C) The State or local minimum wage for the most nearly comparable covered employment.

The Department of Labor shall not issue any certificate of exemption under section 14(c) of the Fair Labor Standards Act of 1938 [29 U.S.C. 214(c)] with respect to any person employed in a project under this section.

(c) Cost payments; non-Federal share

(1) The Secretary may pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b) of this section. Notwithstanding the preceding sentence, the Secretary may pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

(2) The non-Federal share of any project under this part may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(d) Method of payments

Payments under this part may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

(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.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in subsec. (b)(2), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see section 201 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, §§ 102(p)(36), 601(a), substituted ''disabilities'' for ''handicaps'' wherever appearing and ''706(8)(A)'' for ''706(8)''.

Subsec. (b)(1)(J). Pub. L. 102–569, § 102(p)(36), substituted ''disabilities'' for ''handicaps''.

Subsec. (b)(1)(K). Pub. L. 102–569, § 601(b), substituted ''personal assistance services'' for ''attendant care''.

1986—Subsec. (a). Pub. L. 99–506, §§ 103(d)(2)(C), 1002(f), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing and ''section 706(8) of this title'' for ''section 706(7) of this title''.

Subsec. (b)(1)(J). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

SHORT TITLE

For short title of this subchapter as the ''Employment Opportunities for Handicapped Individuals Act'', see section 601 of Pub. L. 93–112 set out as a note under section 701 of this title.

COMMUNITY SERVICES ADMINISTRATION

The Community Services Administration, which was established by section 601 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), was terminated when the Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97–35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in the Department of Health and Human Services by section 676 of Pub. L. 97–35, which is classified to 42 U.S.C. 9905.

§ 795a. Administration

(a) Consultation with designated State unit

In order to effectively carry out the provisions of this part, the Secretary shall, through the Commissioner of the Rehalibitation[1] Services Administration, consult with any designated State unit with regard to—

(1) the localities in which community service projects of the type authorized by this part are most needed;

(2) the employment situations and types of skills possessed by eligible individuals in such localities; and

(3) potential projects suitable for funding in such localities.

(b) Coordination with other programs

The Secretary shall coordinate the pilot program established under this part with the Job Training Partnership Act [29 U.S.C. 1501 et seq.] and the Community Services Block Grant Act [42 U.S.C. 9901 et seq.].

(c) Use of services, equipment, personnel, and facilities of other agencies

In carrying out this part, the Secretary may, with the consent of any other Federal, State, or local agency, use the services, equipment, personnel, and facilities of such agency with or without providing such agency with reimbursement and may use the services, equipment, and facilities of any other public or private entity on a similar basis.

(d) Promulgation of regulations; publication in Federal Register

Within one hundred and eighty days after the effective date of this part, the Secretary shall issue and publish in the Federal Register such regulations as may be necessary to carry out this part.

[1] So in original. Probably should be capitalized.

[1] So in original. Probably should be ''Rehabilitation''.

(e) Delegation of functions

The Secretary shall not delegate any function of the Secretary under this part to any other department or agency of the Federal Government.

(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.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Community Services Block Grant Act, referred to in subsec. (b), is subtitle B (§§ 671–683) of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 511, as amended, which is classified generally to chapter 106 (§ 9901 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 9901 of Title 42 and Tables.

The effective date of this part, referred to in subsec. (d), probably means the date of enactment of this part, which was Nov. 6, 1978.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–630 amended subsec. (b) by striking ''programs authorized under'' in the first sentence and all that follows through the period at the end and inserting ''the Job Training Partnership Act and the Community Services Block Grant Act.''. The provisions struck out read as follows: ''programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Job Training Partnership Act, the Community Services Act of 1974, and the Emergency Employment Act of 1971. Appropriations under this part may not be used to carry out any program under the Acts referred to in the preceding sentence.''

1984—Subsec. (b). Pub. L. 98–221 substituted ''Job Training Partnership Act'' for ''Comprehensive Employment and Training Act of 1973''.

§ 795b. Employment

(a) Participants not considered Federal employees

Eligible individuals who are employed in any project funded under this part shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5.

(b) Workmen's compensation coverage

No contract shall be entered into under this part with a contractor who is, or whose employees are, under State law, exempted from operation of any State workmen's compensation law generally applicable to employees, unless the contractor shall undertake to provide for persons to be employed under such contract, through insurance by a recognized carrier or by self-insurance authorized by State law, workmen's compensation coverage equal to that provided by law for covered employment.

(c) Wages, allowances, etc., as income and benefits for purposes of other programs

No part of the wages, allowances, or reimbursement for transportation and personal assistance services costs made available to an eligible individual employed in any project funded under this part shall be treated as income or benefits for the purpose of any other program or provision of State or Federal law, unless the Secretary makes a case by case determination that disallowance of such income or benefits is inequitable or does not carry out the purposes of this subchapter.

(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.)

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–569 substituted ''personal assistance services'' for ''attendant care''.

§ 795c. Interagency cooperation

(a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Rehabilitation Services Administration before establishing rules or general policy in the administration of this part.

(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health and Human Services, and the heads of other Federal agencies carrying out related programs, in order to achieve maximum coordination between such programs and the program established under this part. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this part and in identifying individuals eligible for employment in projects assisted under this part.

(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.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–221 substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare''.

COMMUNITY SERVICES ADMINISTRATION

The Community Services Administration, which was established by section 601 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), was terminated when the Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97–35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in the Department of Health and Human Services by section 676 of Pub. L. 97–35, which is classified to 42 U.S.C. 9905.

§ 795d. Award of grants or contracts

(a) Preference; equitable distribution among States; determination of allotment; underserved States; Indian tribes

(1) Preference in awarding grants or contracts under this part shall be given to organizations of proven ability in providing employment services to individuals with disabilities under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an

equitable distribution of activities under such grants and contracts among the States, taking into account the needs of underserved States and the needs of Indian tribes.

(2) The Secretary shall allot for projects within each State the sums appropriated for any fiscal year under section 795f of this title so that each State will receive an amount which bears the same ratio to such sums as the population of the State bears to the population of all the States.

(b) Reallotment

The amount allotted for projects within any State under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) of this section for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) of this section for such year.

(c) Apportionment among areas within each State

The amount apportioned for projects within each State under subsection (a) of this section shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State (including individuals residing on Indian reservations).

(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.)

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–569 substituted ''individuals with disabilities'' for ''individuals with handicaps''.

1986—Subsec. (a)(1). Pub. L. 99–506, §§ 103(d)(2)(C), 701(a), substituted ''individuals with handicaps'' for ''handicapped individuals'' and inserted requirement that the Secretary take into account the needs of Indian tribes.

Subsec. (c)(2). Pub. L. 99–506, § 701(b), inserted provision relating to individuals residing on Indian reservations.

§ 795e. Definitions

For purposes of this part—

(1) the term ''community service'' means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe; and

(2) the term ''pilot program'' means the community service employment program for individuals with disabilities established under this part.

(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.)

AMENDMENTS

1992—Pub. L. 102–569 inserted ''and'' at end of par. (1), substituted ''disabilities'' for ''handicaps'' and a period for ''; and'' in par. (2), and struck out par. (3) which read as follows: ''the term 'attendant care' means interpreter services for the deaf, reader services for the blind, and services provided to assist mentally retarded individuals to perform duties of employment.''

1986—Par. (2). Pub. L. 99–506 substituted ''individuals with handicaps'' for ''handicapped individuals''.

§ 795f. 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 the fiscal years 1993 through 1997.

(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.)

AMENDMENTS

1992—Pub. L. 102–569 substituted ''1993 through 1997'' for ''1987, 1988, 1989, 1990, 1991, and 1992''.

1991—Pub. L. 102–52 substituted ''1990, 1991, and 1992'' for ''1990, and 1991''.

1986—Pub. L. 99–506 substituted ''1987, 1988, 1989, 1990, and 1991'' for ''1984, 1985, and 1986''.

1984—Pub. L. 98–221 substituted ''There are authorized to be appropriated to carry out the provisions of this part such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986'' for ''There are authorized to be appropriated to carry out the purposes of this part $35,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $75,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 795d of this title.

PART B—PROJECTS WITH INDUSTRY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 721 of this title.

§ 795g. 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 Secretaries of Labor and Commerce 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, which shall—

(i) be comprised of—

(I) representatives of private industry, business concerns, and organized labor; and

(II) individuals with disabilities and their representatives;

(ii) identify job and career availability within the community;

(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 for individuals with disabilities;

(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment and career advancement in the competitive market;

(C) provide job placement and career advancement services;

(D) to the extent appropriate, provide for—

(i) the development and modification of jobs and careers to accommodate the special needs of such individuals;

(ii) the distribution of rehabilitation technology to such individuals; and

(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

(E) 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) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 706(8)(A) of this title or an individual with a severe disability under section 706(15)(A) of this title. In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this chapter. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

(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 their 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 information on—

(A) the numbers and types of individuals with disabilities served;

(B) the types of services provided;

(C) the sources of funding;

(D) the percentage of resources committed to each type of service provided;

(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

(F) the extent of capacity building activities, including collaboration with business and industry and other organizations, agencies, and institutions;

(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

(H) the number of project participants who were terminated from project placements and the duration of such placements.

(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 recipi-

ent 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 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; approval of standards by National Council on Disability

(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 paragraphs (2) and (3).

(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.

(3) No standards may be established under this subsection unless the standards are approved by the National Council on Disability. The Council shall approve the standards within ninety days after receiving the standards. If the Secretary of Education has not received notification of approval or disapproval from the Council within ninety days, the standards shall be deemed approved. A Council decision on such standards shall occur at a regularly scheduled meeting of the Council, and shall be the result of a simple majority of those present at the meeting.

(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; on-site 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 on-site 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 712 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 on-site 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, § 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.)

REFERENCES IN TEXT

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.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, § 611(a), amended subsec. (a) generally, substituting present provisions for provisions outlining purpose of subchapter and providing for agreements to establish jointly financed projects to expand job opportunities, training services, and supportive services for individuals with handicaps, as well as an evaluation plan documenting assistance to such individuals.

Subsec. (b). Pub. L. 102–569, § 611(b), amended subsec. (b) generally, substituting present provisions for provisions directing that no payment be made to an employer unless agreement provided assurances regarding minimum wage payment, right of Commissioner to review any termination of employment, equal terms of employment with other employees, and compliance with evaluation procedures.

Subsec. (d). Pub. L. 102–569, § 611(c), added pars. (1) and (2), redesignated par. (4) as (3), and struck out former pars. (1) to (3) which in par. (1) required development of standards of evaluation to assist recipients of assistance under this subchapter to review and evaluate operation of their projects, in par. (2) required comprehensive evaluation of the Projects With Industry Program along with submission of report to Congress, and in par. (3) provided that in developing standards of evaluation, Commissioner should obtain and consider recommendations from various public and private organizations and entities.

Subsecs. (e) to (h). Pub. L. 102–569, § 611(d), amended subsecs. (e) to (h) generally, substituting present provisions for provisions which: in subsec. (e), provided for effective period of financial assistance agreements and annual review; in subsec. (f), provided for indicators for compliance with evaluation standards, annual reports, on-site compliance reviews, and analysis included in reports to Congress; in subsec. (g), provided for technical assistance to entities conducting or planning Projects With Industry; and in subsec. (h), provided for advance availability of funds for certain grantees, compliance with evaluation standards, unserved geographic areas, competitive basis for awarding grants, and continuation of assistance.

Subsec. (i). Pub. L. 102–569, § 611(e), struck out subsec. (i) which established priority in the approving of applications for assistance to unserved or underserved areas.

1988—Subsec. (a)(1). Pub. L. 100–630, § 207(b)(1), substituted ''individuals'' for ''people'' after ''qualify''.

Subsec. (a)(2)(D)(iii). Pub. L. 100–630, § 207(b)(2), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (b)(1), (3). Pub. L. 100–630, § 207(b)(3), (4), substituted ''assurance'' for ''assurances''.

Subsec. (d). Pub. L. 100–630, § 207(b)(5)–(7), substituted ''subsection (a)(4)'' for ''section (a)(3)'' in pars. (1) and (2) and ''on Disability'' for ''on the Handicapped'' in par. (4).

1986—Subsec. (a)(1). Pub. L. 99–506, § 703(a)(1)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (a)(2)(A) to (C). Pub. L. 99–506, § 703(a)(1)(A), (2), redesignated former par. (1) as (2), amended subpars. (A) to (C) generally, and redesignated former par. (2) as (3). Prior to amendment, subpars. (A) to (C) read as follows:

''(A) shall provide individuals with handicaps with training and employment in a realistic work setting in order to prepare them for employment in the competitive market;

''(B) shall provide individuals with handicaps with such supportive services as may be required to permit them to continue to engage in the employment for which they have received training under this section; and

''(C) shall, to the extent appropriate, expand job opportunities for individuals with handicaps by providing for (i) the development and modification of jobs to accommodate the special needs of such individuals, (ii) the distribution of special aids, appliances, or adapted equipment to such individuals, (iii) the establishment of appropriate job placement services, and (iv) the modification of any facilities or equipment of the employer which are to be used primarily by individuals with handicaps.''

Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals'' wherever appearing.

Subsec. (a)(2)(D), (E). Pub. L. 99–506, § 703(a)(2), added subpars. (D) and (E).

Subsec. (a)(3). Pub. L. 99–506, §§ 103(d)(2)(C), 703(a)(1)(A), redesignated former par. (2) as (3) and substituted ''individuals with handicaps'' for ''handicapped individuals''. Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 99–506, §§ 103(d)(2)(C), 703(a)(1)(A), (3), redesignated former par. (3) as (4) and substituted ''each project year'' for ''each year of a funding cycle'' in introductory provisions, and ''individuals with handicaps'' for ''handicapped individuals'' in subpars. (A) and (E).

Subsec. (b)(1). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (b)(2). Pub. L. 99–506, § 103(d)(2)(B), substituted ''individual with handicaps'' for ''handicapped individual''.

Subsec. (b)(3). Pub. L. 99–506, § 103(d)(2)(B), (C), substituted ''individual with handicaps'' for ''handicapped individual'' and ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (b)(4). Pub. L. 99–506, § 703(b)(A)–(C), added par. (4) set out first.

Pub. L. 99–506, § 703(b)(1)–(3), added par. (4) set out second.

Subsec. (d)(1). Pub. L. 99–506, § 703(c), inserted provision that such standards shall be revised as necessary, subject to par. (4) of this subsection.

Subsec. (d)(3). Pub. L. 99–506, § 103(d)(2)(C), substituted ''individuals with handicaps'' for ''handicapped individuals''.

Subsec. (e). Pub. L. 99–506, § 703(c), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The parties to each agreement receiving assistance under this section in the fiscal year in which the Rehabilitation Amendments of 1984 is enacted shall continue to receive assistance through September 30, 1986, unless the Commissioner determines that there is a substantial failure to comply with the agreement.''

Subsec. (f). Pub. L. 99–506, § 703(d)(1), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''The Commissioner shall to the extent practicable assure an equitable distribution of payments made under this section among the States.''

Subsecs. (g) to (i). Pub. L. 99–506, § 703(d), added subsecs. (g) to (i).

1984—Subsec. (a). Pub. L. 98–221, § 162(a), (b), inserted '', designated State units'' after ''employers'' in provisions preceding subpar. (A) in par. (1) and added par. (3).

Subsecs. (d) to (f). Pub. L. 98–221, §§ 162(c), 163, added subsecs. (d) to (f).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 703(a)(4) of Pub. L. 99–506 provided that: ''The amendment made by paragraph (2), adding clause (E) to section 621(a)(2) of the Act [29 U.S.C. 795g(a)(2)(E)], shall take effect one year after the date of enactment of this Act [Oct. 21, 1986].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 797a of this title.

§ 795h. Transferred

CODIFICATION

Section, 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 opportunities 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.

§ 795i. 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 1993 through 1997.

(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.)

PRIOR PROVISIONS

A prior section 622 of Pub. L. 93–112 was renumbered section 641 and classified to section 795r of this title.

AMENDMENTS

1992—Pub. L. 102–569, § 613(a)(2), substituted ''this part, such sums as may be necessary for each of fiscal years 1993 through 1997'' for ''section 795g of this title, $16,070,000 for fiscal year 1987, $17,010,000 for fiscal year 1988, $18,030,000 for fiscal year 1989, $19,149,000 for fiscal year 1990, $19,925,000 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992, and for section 795h of this title such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, 1991, and 1992''.

1991—Pub. L. 102–52 inserted ''and such sums as may be necessary for fiscal year 1992'' after ''1991,'' and '', and 1992'' before the period and struck out ''and'' after ''1990,'' in two places.

1988—Pub. L. 100–630 inserted comma after ''fiscal year 1991'' and substituted ''1989, 1990, and'' for ''1989, 1990 and''.

1986—Pub. L. 99–506 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated such sums as may be necessary to carry out the provisions for section 795g of this title, $13,000,000 for fiscal year 1984, $14,400,000 for fiscal year 1985, and $15,200,000 for fiscal year 1986; and for section 795h of this title, such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986.''

1984—Pub. L. 98–221 substituted ''for section 795g of this title, $13,000,000 for fiscal year 1984, $14,400,000 for fiscal year 1985, and $15,200,000 for fiscal year 1986; and for section 795h of this title, such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986'' for ''of this part for each fiscal year beginning before October 1, 1982''.

PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 718, 721, 728, 740, 741, 777a, 796 of this title.

§ 795j. 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 severe disabilities who require supported employment services to enter or retain competitive employment.

(Pub. L. 93–112, title VI, § 631, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4439.)

PRIOR PROVISIONS

A 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 this part, prior to repeal by Pub. L. 102–569, § 621(a).

§ 795k. 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 one-third of one 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 one-third of one 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, the Republic of Palau, 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, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(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, § 632, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4439.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (a)(2)(B), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A 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 this part, prior to repeal by Pub. L. 102–569, § 621(a). See section 795m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 795n of this title.

§ 795*l*. 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, subchapter I of this chapter, or subsection (b) or (c) of section 777a of this title 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, § 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.)

PRIOR PROVISIONS

A 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). See section 795k of this title.

AMENDMENTS

1993—Pub. L. 103–73 substituted ''subsection (b) or (c)'' for ''subsection (c) or (f)''.

§ 795m. 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 the most severe disabilities; and

(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 722(b)(1)(A) of this title, including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual.

(Pub. L. 93–112, title VI, § 634, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4440.)

PRIOR PROVISIONS

A 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 this part, prior to repeal by Pub. L. 102–569, § 621(a). See section 795n of this title.

§ 795n. 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 agency that the State designated under section 721(a)(1) of this title 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)(5) of this title, with respect to the rehabilitation and career needs of individuals with severe disabilities and the need for supported employment services, including needs related to coordination and use of information within the State relating to section 1418(b)(1)(C) of title 20;

(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 795k 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) that the comprehensive assessments of individuals with severe disabilities conducted under section 722(b)(1)(A) of this title and funded under subchapter I of this chapter will include consideration of supported employment as an appropriate rehabilitation objective;

(C) an individualized written rehabilitation program, 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 written rehabilitation program 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 written rehabilitation program;

(E) services provided under an individualized written rehabilitation program 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 onsite; 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, interests, concerns, abilities, and capabilities of individuals with the most severe 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, § 635, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4440.)

PRIOR PROVISIONS

A 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 this part, prior to repeal by Pub. L. 102–569, § 621(a). See section 795*l* of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 795*o* of this title.

§ 795*o*. Restriction

Each State agency designated under section 795n(b)(1) of this title shall collect the client information required by section 712 of this title separately for supported employment clients under this part and for supported employment clients under subchapter I of this chapter.

(Pub. L. 93–112, title VI, § 636, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4442.)

PRIOR PROVISIONS

A 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, contained provisions similar to this section, prior to repeal by Pub. L. 102–569, § 621(a).

§ 795p. 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, § 637, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4442.)

PRIOR PROVISIONS

A 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).

§ 795q. 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 1993 through 1997.

(Pub. L. 93–112, title VI, § 638, as added Pub. L. 102–569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4442.)

PRIOR PROVISIONS

A 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 this part for fiscal years 1987 to 1992, prior to repeal by Pub. L. 102–569, § 621(a).

PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

§ 795r. Business opportunities for individuals with disabilities; promulgation of regulations; authorization of appropriations

(a) The Commissioner, in consultation with the Secretary of Labor and the Secretary of Commerce, may make grants to, or enter into contracts with, individuals with disabilities to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after November 6, 1978, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by designated State units, of individuals eligible to participate in any program under this section.

(b) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the 1993 through 1997 fiscal years.

(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.)

CODIFICATION

Section was formerly classified to section 795h of this title prior to renumbering by Pub. L. 102–569.

AMENDMENTS

1992—Pub. L. 102–569 substituted ''disabilities'' for ''handicaps'' in section catchline and in text, designated existing provisions as subsec. (a), and added subsec. (b).

1988—Pub. L. 100–630 substituted ''Secretary of Labor and the Secretary of Commerce'' for ''Secretaries of Labor and Commerce''.

1986—Pub. L. 99–506 substituted ''individuals with handicaps'' for ''handicapped individuals''.

SUBCHAPTER VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 706, 718b, 728, 743, 762, 2231 of this title.

PART A—INDIVIDUALS WITH SEVERE 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 C 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. 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.)

PRIOR PROVISIONS

A 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).

AMENDMENTS

1993—Par. (3). Pub. L. 103–73 substituted ''other Federal law'' for ''other Federal programs''.

EFFECTIVE DATE

Section 702 of title VII of Pub. L. 102–569 provided that:

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title [enacting this subchapter and repealing former subchapter VII of this chapter] and the amendments made by this title shall take effect on the date of enactment of this Act [Oct. 29, 1992].

''(b) CENTERS FOR INDEPENDENT LIVING.—The provisions of part C of chapter 1 of title VII of the Rehabilitation Act of 1973 [29 U.S.C. 796f et seq.] (as added by section 701 of this Act), shall not apply with respect to fiscal year 1992 for programs receiving assistance under part B of such chapter [probably means part B of title VII, which was classified to 29 U.S.C. 796e], as in effect on the day before the date of enactment of this Act. The provisions of such part B shall continue to apply for such programs with respect to fiscal year 1992.

''(c) STATE PLAN.—The Secretary of Education shall implement the provisions of section 704 of the Rehabilitation Act of 1973 [29 U.S.C. 796c] (as amended by section 701 of this Act), as soon as is practicable after the date of enactment of this Act, 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.''

§ 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 an entity, that the entity vests power and authority in individuals with disabilities.

(Pub. L. 93–112, title VII, § 702, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4443.)

PRIOR PROVISIONS

A 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). See section 796b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 796f–3, 2211 of this title.

§ 796b. Eligibility for receipt of services

Services may be provided under this part to any individual with a severe disability, as defined in section 706(15)(B) of this title.

(Pub. L. 93–112, title VII, § 703, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4444.)

PRIOR PROVISIONS

A 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). See section 796e of this title.

§ 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 severe 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. 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.)

PRIOR PROVISIONS

A 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). See section 796e–1 of this title.

AMENDMENTS

1993—Subsec. (c)(2). Pub. L. 103–73 substituted ''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'' for ''programs under subparts 2 and 3''.

EFFECTIVE DATE

Secretary of Education to implement provisions of this section as soon as is practicable after Oct. 29, 1992,

consistent with effective and efficient administration of this chapter, but not later than Oct. 1, 1993, see section 702(c) of Pub. L. 102–569, set out as a note under section 796 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 762, 796d, 796d–1, 796f–1, 796f–2, 796f–4, 796k of this title.

§ 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 the appropriate entity within the State responsible for making appointments, within 90 days after October 29, 1992. 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; and

(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.

(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;

(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 706(8)(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 706(8)(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 Governor

In States in which the Governor does not have veto power pursuant to State law, the Governor 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) 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

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.

(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 Advisory Council established under section 725 of this title 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 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 to carry out the functions of the Council under this section, with funds made available under this part and part C of subchapter I of this chapter 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.

(g) Use of existing Councils

To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after October 29, 1992, such State shall establish a Council that complies in full with this section.

(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.)

PRIOR PROVISIONS

A 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). See section 796c of this title.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73, § 114(c)(1), substituted ''a State agency'' for ''another State agency''.

Subsec. (b)(4). Pub. L. 103–73, § 114(c)(2)(A), added par. (4) and struck out heading and text of former par. (4). Text read as follows: ''The Council shall be composed of members—

''(A) who provide statewide representation;

''(B) who represent a broad range of individuals with disabilities;

''(C) who are knowledgeable about centers for independent living and independent living services; and

''(D) a majority of whom are persons who are—

''(i) individuals with disabilities described in section 706(8)(B) of this title; and

''(ii) not employed by any State agency or center for independent living.''

Subsec. (b)(5)(A). Pub. L. 103–73, § 114(c)(2)(B)(i), substituted ''voting membership'' for ''membership''.

Subsec. (b)(5)(B). Pub. L. 103–73, § 114(c)(2)(B)(ii), substituted ''voting member'' for ''member'' in two places.

Subsec. (c)(1). Pub. L. 103–73, § 114(c)(3), substituted ''sign'' for ''submit'' and ''unit'' for ''agency''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 721, 725, 742, 743, 796, 796c, 796e–2, 2212 of this title.

§ 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) On-site compliance reviews

(1) Reviews

The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent 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 se-

lect such centers and such State units for review on a random basis. 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.

(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 712 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 on-site 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. 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.)

PRIOR PROVISIONS

A 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). See section 796d of this title.

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 103–73 in first sentence substituted ''section 796f–1 of this title'' for ''subpart 3'', in second sentence inserted ''and such State units'' after ''select such centers'', and inserted after second sentence: ''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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 796e, 796e–1, 796f of this title.

SUBPART 2—INDEPENDENT LIVING SERVICES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 718, 796c, 796f–1, 796f–2 of this title.

§ 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 one-third of one 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 one-third of one 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, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau 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 one-eighth of one percent of the amounts made available for purposes of this subpart for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(3) Adjustment for inflation

For any fiscal year, beginning in fiscal year 1994, 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 by a percentage

greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 720(c)(1) of this title, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by such percentage change in the Consumer Price Index For All Urban Consumers.

(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. 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.)

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.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (a)(2)(B), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A 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). See section 796f et seq. of this title.

AMENDMENTS

1993—Subsec. (a)(2)(A). Pub. L. 103–73, § 114(e)(1)(A)(i), substituted ''paragraph (1)(C)'' for ''this subsection''.

Subsec. (a)(2)(B). Pub. L. 103–73, § 114(e)(1)(A)(ii), substituted ''allotted under paragraph (1)(A)'' for ''allotted''.

Subsec. (a)(3). Pub. L. 103–73, § 114(e)(1)(B), added par. (3) and struck out heading and text of former par. (3). Text read as follows: ''For purposes of determining the minimum amount of an allotment under paragraph (1)(C), the amount $275,000 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. (b). Pub. L. 103–73, § 114(e)(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''Subject to subsection (a)(1)(B) of this section, amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B) of this section, or in accordance with subsection (a)(1)(C) of this section as increased under subsection (a)(3) of this section, or to provide allotments under subsection (a)(2)(B) of this section, shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1) of this section, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $275,000 or one-third of one percent of the sums made available for purposes of this subpart for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3) of this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 796e–1 of this title.

§ 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. 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.)

AMENDMENTS

1993—Subsec. (b)(3). Pub. L. 103–73 struck out heading and text of par. (3). Text read as follows: ''For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of

such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.''

§ 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 severe 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. 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.)

AMENDMENTS

1993—Par. (3). Pub. L. 103–73 inserted ''that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 796f–4 of this title'' after ''living''.

§ 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 1993, 1994, 1995, 1996, and 1997.

(Pub. L. 93–112, title VII, § 714, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4452.)

SUBPART 3—CENTERS FOR INDEPENDENT LIVING

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 718, 796c, 796d–1 of this title.

§ 796f. Program authorization

(a) In general

From the funds appropriated for fiscal year 1994 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 who 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),,[1] 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 one-third of one 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 one-third of one percent of such sums shall be increased to the greater of the two 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 one-third of one 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 one-third of one percent of such sums shall be increased to the greater of the two 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 two 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, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau 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 one-eighth of one percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(3) Adjustment for inflation

For any fiscal year, beginning in fiscal year 1994, 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 by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 720(c)(1) of this title, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by such percentage change in the Consumer Price Index For All Urban Consumers.

(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.

(e) Transition rules

(1) Reservation

(A) Fiscal year 1993

For fiscal year 1993, the Commissioner shall first reserve from the funds appropriated to carry out this subpart, not less than 1.8 percent, and not more than 2 percent, of such funds for training, technical assistance, and transition assistance, to centers for independent living.

(B) Training and technical assistance

From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

[1] So in original.

(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this subpart.

(C) Review

To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

(D) Prohibition on combined funds

An entity that receives funds under this paragraph shall comply with subsection (b)(5) of this section with respect to the funds.

(2) In general

(A) Grants

After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this subpart, the Secretary is authorized to make grants to eligible agencies described in subparagraph (B) to operate centers for independent living.

(B) Agencies

(i) Fiscal year 1992 recipients

Entities that received funding directly or through subgrants or contracts under part B of this subchapter, as in effect on the day before October 29, 1992, in fiscal year 1992 shall receive assistance under this subpart for fiscal year 1993 if the entities submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993, such entities will be private nonprofit agencies that meet the standards described in section 796f–4(b) of this title, and that contain the assurances described in section 796f–4(c) of this title. In determining whether a center meets the standards described in section 796f–4(b) of this title, the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

(ii) Other agencies

Private nonprofit agencies that did not receive assistance under part B of this subchapter, as in effect on the day before October 29, 1992, in fiscal year 1992 may receive assistance under this subpart for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 796f–1(d)(2)(B) of this title.

(iii) Funding method

In making awards under this subsection, the Secretary shall distribute funds in accordance with paragraphs (1), (2), and (4) of subsection (c) of this section, and subsection (d) of this section.

(C) Priority

The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B of this subchapter, as in effect on the day before October 29, 1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

(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.)

REFERENCES IN TEXT

Part B of this subchapter, as in effect on the day before October 29, 1992, referred to in subsecs. (c)(1)(B), (C) and (e)(2)(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.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (c)(2)(B), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A 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).

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–73, § 114(h)(1), inserted ''to eligible agencies, centers for independent living, and Statewide Independent Living Councils'' after ''assistance'' and substituted ''of the funds appropriated to carry out this subpart for the fiscal year involved'' for ''of such funds''.

Subsec. (c)(1)(A). Pub. L. 103–73, § 114(h)(2)(A), substituted ''After'' for ''Except as provided in subparagraphs (B) and (C) and after'' and inserted '', and except as provided in subparagraphs (B) and (C),'' after ''made''.

Subsec. (c)(2). Pub. L. 103–73, § 114(h)(2)(B), substituted ''paragraph (1)(C)'' for ''this subsection'' in subpar. (A) and ''allotted under paragraph (1)(A)'' for ''allotted'' in subpar. (B).

Subsec. (c)(4). Pub. L. 103–73, § 114(h)(2)(C), added par. (4).

Subsec. (e)(1)(A). Pub. L. 103–73, § 114(h)(3)(A), struck out '', whichever is greater,'' after ''of such funds''.

Subsec. (e)(2)(B)(i). Pub. L. 103–73, § 114(h)(3)(B)(i), in first sentence substituted ''Entities'' for ''Private nonprofit agencies'', ''if the entities submit'' for ''if the agencies submit'', and ''entities will be private non-

profit agencies that meet the standards described in section 796f–4(b) of this title, and'' for ''agencies will meet the standards described in section 796f–4(b) of this title and''.

Subsec. (e)(2)(B)(iii). Pub. L. 103–73, § 114(h)(3)(B)(ii), added cl. (iii).

EFFECTIVE DATE

Provisions of this subpart not applicable with respect to fiscal year 1992 for programs receiving assistance under former part B (former section 796e of this title), as in effect on the day before Oct. 29, 1992, and provisions of former part B to continue to apply for such programs with respect to fiscal year 1992, see section 702(b) of Pub. L. 102–569, set out as a note under section 796 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 796f–1, 796f–2, 796f–3 of this title.

§ 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, 1993, 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 severe 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 (or part A of this subchapter as in effect on the day before October 29, 1992) for a fiscal year for the general operation of the center 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. 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.)

REFERENCES IN TEXT

Part A of this subchapter, as in effect on the day before October 29, 1992, referred to in subsec. (d)(3), 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.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–73, § 114(i)(1), substituted ''has been awarded a grant under this subpart by'' for ''is receiving funds under this subpart on''.

Subsec. (d)(1). Pub. L. 103–73, § 114(i)(2), inserted ''proposing to serve such region'' after ''qualified applicant''.

Subsecs. (f), (g). Pub. L. 103–73, § 114(i)(3), (4), added subsec. (f) and redesignated former subsec. (f) as (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 796d–1, 796f, 796f–2, 796f–3 of this title.

§ 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

Beginning on October 1, 1993, 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 independent 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, in-

cluding 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, 1993, 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 severe 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 (or part A of this subchapter as in effect on the day before October 29, 1992) for a fiscal year for the general operation of the center 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) On-site 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 on-site 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. 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.)

REFERENCES IN TEXT

Part A of this subchapter, as in effect on the day before October 29, 1992, referred to in subsec. (d)(3), 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.

AMENDMENTS

1993—Subsec. (a)(1)(A)(iii). Pub. L. 103–73, § 114(j)(1)(A), inserted before period at end ‘‘, 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’’.

Subsec. (a)(3). Pub. L. 103–73, § 114(j)(1)(B), inserted ‘‘eligible agencies in’’ before ‘‘the State in accordance’’.

Subsec. (c). Pub. L. 103–73, § 114(j)(2), substituted ‘‘has been awarded a grant under this subpart by’’ for ‘‘is receiving funds under this subpart on’’.

Subsec. (f). Pub. L. 103–73, § 114(j)(4), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 103–73, § 114(j)(5), substituted ‘‘subsection (i)’’ for ‘‘subsection (h)’’ in two places in par. (2)(B).

Pub. L. 103–73, § 114(j)(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 103–73, § 114(j)(6), inserted first sentence and struck out former first sentence which read as follows: ‘‘The director of the designated State unit shall conduct on-site compliance review of centers for independent living.’’

Pub. L. 103–73, § 114(j)(3), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 103–73, § 114(j)(3), redesignated subsec. (h) as (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 796c, 796d–1, 796f–1, 796f–3 of this title.

§ 796f–3. Centers operated by State agencies

(a) Fiscal year 1993

(1) In general

Notwithstanding section 796a(1) of this title, if—

(A) no nonprofit private agency—

(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

(ii) obtains approval of the application under section 796f–1 or 796f–2 of this title; and

(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B of this subchapter, as in effect on the day before October 29, 1992,

the State may apply to the Commissioner for assistance under section 796f(e)(2) of this title for the conduct, administration, and evaluation of such a center.

(2) Compliance

A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this subpart, other than the requirement that the center be a private nonprofit agency.

(b) Fiscal year 1994 and succeeding fiscal years

A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section 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 determines that funds remain available to provide such assistance.

(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.)

REFERENCES IN TEXT

Part B of this subchapter, as in effect on the day before October 29, 1992, referred to in subsec. (a)(1)(B), 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.

AMENDMENTS

1993—Subsec. (b)(1)(A). Pub. L. 103–73 substituted ''the fiscal year'' for ''fiscal year 1993''.

§ 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 severe 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 severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities, including individuals with severe 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 severe disabilities.

(3) Independent living goals

The center shall facilitate the development and achievement of independent living goals selected by individuals with severe 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 severe 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 specified in section 706(30)(B) of this title.

(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 severe 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 severe 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 severe 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 decision-making positions, of the applicant are individuals with disabilities;

(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

(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 severe disabilities receiving services through the center;

(C) the types of services provided through the center and the number of individuals with severe 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 severe 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 severe 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 severe 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. 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.)

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103–73 in second sentence inserted ''severe'' before ''disabilities who are members of'' and substituted ''under this subchapter'' for ''under this chapter'' and in third sentence inserted ''shall be determined by the center, and'' before ''shall not be based''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 796c, 796d–1, 796e–2, 796f, 796f–1, 796f–2 of this title.

§ 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. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4464.)

§ 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 1993, 1994, 1995, 1996, and 1997.

(Pub. L. 93–112, title VII, § 727, as added Pub. L. 102–569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4464.)

PRIOR PROVISIONS

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 for parts A to D of former subchapter VII of this chapter.

PART B—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 718 of this title.

§ 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 severe 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. 102–569, title VII, § 703(a), Oct. 29, 1992, 106 Stat. 4464.)

§ 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)(1)(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, as defined in section 706(30) of this title.

(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 designated State unit 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 designated State unit 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 severe 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 designated State unit 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 one-third of one 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, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(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 in-

volved 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. 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.)

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.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (j)(2)(B), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–73, § 114(m)(1), substituted ''agency'' for ''unit'' in heading.

Subsec. (b). Pub. L. 103–73, § 114(m)(2), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''Beginning with fiscal year 1994, 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 under subsection (a) of this section shall be discretionary grants made on a competitive basis to States.''

Subsec. (j)(1)(A). Pub. L. 103–73, § 114(m)(3)(A), substituted ''or'' for ''and'' at end.

Subsec. (j)(2)(A)(i). Pub. L. 103–73, § 114(m)(3)(B), substituted ''or'' for ''and'' at end.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 718 of this title.

§ 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 1993 through 1997.

(Pub. L. 93–112, title VII, § 753, as added Pub. L. 102–569, title VII, § 703(a), Oct. 29, 1992, 106 Stat. 4468.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 796k of this title.

SUBCHAPTER VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 706, 718b, 762, 771a, 777a of this title.

§ 797. Authorization of appropriations

(a) Demonstration projects

There are authorized to be appropriated to carry out section 797a of this title, such sums as may be necessary for each of the fiscal years 1993 through 1997.

(b) Training initiatives

There are authorized to be appropriated to carry out section 797b of this title, such sums as may be necessary for each of the fiscal years 1993 through 1997.

(Pub. L. 93–112, title VIII, § 801, as added Pub. L. 102–569, title VIII, § 801(a), Oct. 29, 1992, 106 Stat. 4469.)

§ 797a. Demonstration activities

(a) Transportation services grants

(1) Grants

The Commissioner shall make grants to States and to public or nonprofit agencies and organizations for the purpose of providing transportation services to individuals with disabilities who—

(A)(i) are employed or seeking employment; or

(ii) are receiving vocational rehabilitation services from public or private organizations; and

(B) reside in geographic areas in which fixed route public transportation or comparable paratransit service is not available.

(2) Use of grant

The Commissioner may make a grant under this subsection only if the applicant involved agrees that transportation services under this subsection will be provided on a regular and continuing basis between—

(A) the home of the individual; and

(B) the place of employment of the individual, the place where the individual is seeking employment, or the place where the individual is receiving vocational rehabilitation services.

(3) Charges

The Commissioner may make a grant under paragraph (1) only if the applicant involved agrees that, in providing transportation services under this subsection—

(A) a charge for the transportation will be imposed on each employed eligible individual who uses the transportation; and

(B) the amount of the charge for an instance of use of the transportation for the distance involved will be in a fair and reasonable amount that is consistent with fees for comparable services in comparable geographic areas.

(4) Report

The Commissioner may make a grant under this subsection only if the applicant involved agrees to prepare and submit to the Commissioner, not later than December 31 of the fiscal year following the fiscal year for which the grant is made, a report containing—

(A) a description of the goals of the program carried out with the grant;

(B) a description of the activities and services provided under the program;

(C) a description of the number of eligible individuals served under the program;

(D) a description of methods used to ensure that the program serves the eligible individuals most in need of the transportation services provided under the program; and

(E) such additional information as the Commissioner may require.

(5) Construction

Nothing in this subsection may be construed as limiting the rights or responsibilities of any individual under any other provision of this chapter, under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], or under any other provision of law.

(b) Projects to achieve high quality placements

(1) Special projects and demonstrations

The Commissioner shall make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations related to vocational rehabilitation outcomes. Such projects and demonstrations may include activities providing alternatives to case closure practice and identifying and implementing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with the most severe disabilities.

(2) Certain requirements

Each recipient of such a grant shall—

(A) identify, develop, and test exemplary models that can be replicated; and

(B) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.

(c) Early intervention demonstration programs

(1) Grants

The Commissioner shall make grants to public or nonprofit agencies and organizations to carry out demonstration programs designed to demonstrate the utility of early intervention in furnishing vocational evaluation, training, and counseling services to working adults recently determined to have chronic and progressive diseases that may be severely disabling, such as multiple sclerosis.

(2) Grant activities

In carrying out a demonstration program under paragraph (1), an eligible entity shall conduct a program intended to demonstrate the effectiveness of such early intervention in improving the job retention of the working adults or in facilitating the entry of the working adults to new careers and employment. The demonstration program shall test a number of alternative service systems, including an employer assistance program, a system involving early intervention by State vocational rehabilitation agencies, and a private nonprofit agency joint venture with an employer or State vocational rehabilitation agency.

(d) Transition demonstration projects

(1) Grants

The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

(2) Application

To be eligible to receive a grant under this subsection, 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.

(3) Evaluation

An agency or organization that receives a grant under this subsection shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

(e) Barriers to successful rehabilitation outcomes for minorities

The Commissioner may award grants to public or nonprofit agencies and organizations—

(1) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with disabilities from minority backgrounds, and develop and evaluate policy, research, and training strategies for overcoming the barriers;

(2) to conduct a study to examine the factors that have created significant underrepresentation of individuals from minority backgrounds in the rehabilitation professions, including such underrepresentation among researchers, and develop and evaluate policy, research, and training strategies for overcoming the underrepresentation; and

(3) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with neurological or other related disorders, and examine how the hidden or episodic nature of the disability affects eligibility and the provision of services.

(f) Studies, special projects, and demonstration projects to study management and service delivery

(1) Grants

The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this chapter.

(2) Application

To be eligible to receive a grant under this subsection, 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.

(g) 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 applicant 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 applicant 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 the—

(A) diversity of strategies used to increase client choice, including selection among qualified service providers;

(B) geographic distribution of projects; and

(C) 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 shall 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 subsection 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 706(8)(A) of this title, who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.

(h) National Commission on Rehabilitation Services

(1) Establishment

(A) In general

Subject to the availability of appropriations, there is hereby established a National Commission on Rehabilitation Services (referred to in this section as the ''National Commission'') for the purpose of studying the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this chapter, and submitting to the President and to Congress recommendations that will further the successful employment outcomes, independence, and integration of individuals with disabilities into the workplace and community.

(B) Composition

(i) Qualifications

The National Commission shall consist of 15 members who are recognized by knowledge, experience, and education as experts in the field of rehabilitation. At least a majority of the members of the National Commission shall be individuals with disabilities representing a cross-section of individuals with different types of disabilities.

(ii) Appointment

Members of the National Commission shall be appointed as follows:

(I) Presidential appointees

Five members shall be appointed by the President, or, if the President delegates the authority to make the appointment, by the Secretary of Education.

(II) Senate appointees

Five members shall be appointed by the president pro tempore of the Senate, with the advice and approval of the Majority Leader and Minority Leader of the Senate.

(III) House of Representatives appointees

Five members shall be appointed by the Speaker of the House of Representatives with the advice and approval of the Majority Leader and Minority Leader of the House of Representatives.

(C) Term

Members shall be appointed for the life of the National Commission.

(D) Vacancies

Any vacancy in the National Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(E) Chairperson

The National Commission shall select a Chairperson from among its members.

(F) Meetings

The National Commission shall meet at the call of the Chairperson, but not less often than four times each year.

(G) Quorum

Ten members of the National Commission shall constitute a quorum.

(H) Committees

The Chairperson, upon approval by the National Commission, may establish such committees as the Chairperson determines to be necessary to fulfill the duties of the National Commission.

(2) Duties

(A) Studies and analyses

The National Commission shall conduct studies and analyses with respect to—

(i) the effectiveness of vocational rehabilitation and independent living services in enhancing the employment outcomes of individuals with disabilities;

(ii) the adequacy of research and training activities in fostering innovative approaches that further the employment of individuals with disabilities;

(iii) the capacity of supported employment and independent living services in promoting the integration of individuals with disabilities into the workplace and community;

(iv) methods for enhancing access to services authorized under this chapter by minorities who are individuals with disabilities and individuals with disabilities who are members of populations that have traditionally been unserved or underserved by programs under this chapter that provide such vocational rehabilitation services and independent living services;

(v) means for enhancing interagency coordination among Federal and State agencies to promote the maximization of employment-related programs, services, and benefits on behalf of individuals with disabilities; and

(vi) such other issues as the National Commission may identify as relevant to promoting the employment, independence, and integration of individuals with disabilities.

(B) Policy analyses

The National Commission shall conduct policy analyses to—

(i) develop options for improving fiscal equity in the allotment of grants under section 730 of this title;

(ii) provide guidance on implementing the order of selection described in section 721(a)(5)(A) of this title; and

(iii) address the shortage of rehabilitation professionals.

(C) Reports

(i) Interim report

Not later than January 30, 1995, the National Commission shall prepare and issue a comprehensive interim report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results of the studies and analyses described in subparagraphs (A) and (B) and specific recommendations for amendments to this chapter needed to promote the provision of comprehensive vocational rehabilitation and independent living services on behalf of individuals with disabilities.

(ii) Final report

Not later than January 30, 1997, the National Commission shall prepare and issue a comprehensive final report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results and recommendations described in clause (i).

(3) Powers

(A) Hearings

The National Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the National Commission determines to be necessary to carry out its functions.

(B) Information

(i) Federal entities

The National Commission may secure directly from any Federal department or agency such information (including statistics) as the National Commission considers necessary to carry out the functions of the National Commission. Upon request of the Chairperson of the National Commission, the head of such department or agency shall furnish such information to the National Commission.

(ii) Other entities

The National Commission may secure, directly or by contract or other means, such additional information as the National Commission determines to be necessary from universities, research institutions, foundations, State and local agencies, and other public or private agencies.

(C) Consultation

The National Commission is authorized to consult with—

(i) any organization representing individuals with disabilities;

(ii) public or private service providers;

(iii) Federal, State, and local agencies;

(iv) individual experts;

(v) institutions of higher education involved in the preparation of vocational rehabilitation services personnel; and

(vi) such other entities and persons as will aid the National Commission in carrying out its duties.

(4) Compensation and travel expenses

(A) Compensation

Each member of the National Commission 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 National Commission. Members of the National Commission 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.

(B) Travel expenses

Each member of the National Commission 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.

(5) Staff

(A) Appointment

(i) Staff director

The Chairperson of the National Commission may, without regard to provisions of title 5, governing appointments in the competitive service, appoint and terminate a staff director of the National Commission. The employment of the staff director shall be subject to confirmation by the National Commission. The staff director shall be appointed from among individuals who are experienced in the planning, administration, or operation of vocational rehabilitation and independent living services or programs.

(ii) Additional personnel

The staff director of the National Commission may, without regard to provisions of title 5 governing appointments in the competitive service, appoint and terminate such additional personnel as may be necessary, but not more than ten full-time equivalent positions, to enable the National Commission to carry out its duties.

(B) Compensation

The Chairperson of the National Commission may fix the compensation of the staff director, and the staff director may fix the compensation of the additional personnel, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that the rate of pay for the staff director and other personnel may not exceed the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5.

(6) Cooperation

The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the National Commission in carrying out its duties. The National Commission may utilize the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement, upon the consent of the heads of such agencies.

(7) Detail of Government employees

Any Federal Government employee may be detailed to the National Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(8) Termination

The National Commission shall terminate not later than 90 days following the submission of the final report as described in paragraph (2)(C)(ii).

(i) Model personal assistance services systems

The Commissioner may award grants to public or nonprofit agencies and organizations to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.

(j) Demonstration projects to upgrade worker skills

(1) Grants

Consistent with the purposes of section 795g of this title, the Commissioner may make grants to partnerships or consortia that include private business concerns or industries to pay for the Federal share of developing and carrying out model demonstration projects for workers with disabilities who need new or upgraded skills to adapt to emerging technologies, work methods, and markets and to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

(2) Period

Grants made under this subsection shall be for 3-year periods.

(3) Application

Any partnership or consortia desiring to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

(A) information identifying at least one member of the partnership or consortium that is a private business concern or industry; and

(B) assurances that—

(i) each member of the eligible partnership or consortium will pay a portion of

the non-Federal share of the cost of developing and carrying out the project;

(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of section 795g(a)(2) of this title;

(iii) the partnership or consortium will disseminate information on the model program conducted;

(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

(v) the partnership or consortium will prepare and submit an evaluation report containing data specified by the Commissioner at the end of each project year; and

(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

(4) "Workers with disabilities" defined

For the purposes of this subsection, the term ''workers with disabilities'' shall mean individuals with disabilities who are working in competitive employment and who need new or upgraded skills to improve their employment and career advancement opportunities.

(k) Model systems regarding severe disabilities

The Commissioner may award grants to public or nonprofit agencies and organizations to establish model systems of comprehensive service delivery to individuals with severe disabilities, other than spinal cord injuries, requiring a multidisciplinary system of providing vocational and other rehabilitation services, where the Commissioner determines that the development of such systems is needed.

(Pub. L. 93–112, title VIII, § 802, as added Pub. L. 102–569, title VIII, § 801(a), Oct. 29, 1992, 106 Stat. 4469.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(5), 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 provisions of title 5 governing appointments in the competitive service, referred to in subsec. (h)(5)(A), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 777a, 797 of this title.

§ 797b. Training activities

(a) Distance learning through telecommunications

(1) Grants

The Commissioner shall award at least three grants to eligible institutions of higher education, to support the formation of regional partnerships with other public or private entities for the purpose of developing and implementing in-service training programs, including certificate or degree granting programs concerning vocational rehabilitation services and related services, for vocational rehabilitation professionals through the use of telecommunications.

(2) Applications

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 detailed explanation of how the applicant will utilize interactive audio, video, and computer technologies between distant locations to provide in-service training programs to the region;

(B) a description of how the applicant intends to utilize and build upon existing telecommunications networks within the region to be served;

(C) a copy of all agreements governing the division of functions within the partnership, including an assurance that all States within the region will be served;

(D) a copy of a binding commitment entered into between the partnership and each entity that is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, that stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area to be served within a reasonable time and at a charge that is in accordance with State law;

(E) a description of the curriculum to be provided, frequency of providing service, and sites of service;

(F) a description of the need to purchase or lease—

(i) computer hardware and software;

(ii) audio and video equipment;

(iii) telecommunications terminal equipment; or

(iv) interactive video equipment;

(G) an assurance that the partnership will use not less than 75 percent of the amount of the grant for instructional curriculum development and programming; and

(H) a description of the means by which the project will be evaluated.

(3) Award of grants

In awarding grants under paragraph (1), the Commissioner shall take into consideration the sparsity of State populations in the region to be served.

(4) Definitions

For the purposes of this subsection:

(A) Eligible entity

The term ''eligible entity'' means any institution of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel.

(B) Interactive video equipment

The term ''interactive video equipment'' means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

(C) Region

The term ''region'' means one of the ten regions served by the Rehabilitation Services Administration.

(D) Rehabilitation professionals

The term ''rehabilitation professionals'' means personnel described in section 770(a)(1)[1] of this title.

(b) Braille training projects

(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; and

(B) in-service or pre-service training in the use of Braille and methods of teaching Braille to youth and adults who are blind.

(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.

(c) Parent information and training programs

(1) Grants

The Commissioner is authorized to make grants through a separate competition 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 and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals, 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 to—

(A) better understand vocational rehabilitation and independent living programs and services;

(B) provide followup support for transition and employment programs;

(C) communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

(D) provide support in the development of the individualized written rehabilitation program;

(E) provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

(F) 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 shall—

(A) be distributed geographically to the greatest extent possible throughout all States; and

(B) 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, a private nonprofit organization shall—

(A) 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 to—

(i) coordinate and work closely with parent training and information centers established under section 1431 of title 20; and

(ii) effectively conduct the training and information activities authorized under this subsection;

(B)(i) 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

[1] So in original. Probably should be section ''771a(a)(1)''.

(ii)(I) have a membership that represents the interests of individuals with disabilities; and

(II) 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) serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(5) Consultation

Each private nonprofit 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 under section 1431 of title 20.

(7) Review

(A) Quarterly review

The board of directors or special governing committee of a nonprofit private 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 nonprofit private organization during the preceding fiscal year.

(d) Training regarding impartial hearing officers

The Commissioner may award grants to public or nonprofit agencies and organizations to provide training designed to provide impartial hearing officers with the skills necessary to fairly decide appeals under this chapter.

(e) Recruitment and retention of urban personnel

The Commissioner may award grants to public or nonprofit agencies and organizations to develop and demonstrate innovative methods to attract and retain professionals to serve in urban areas in the rehabilitation of individuals with disabilities, including individuals with severe disabilities.

(f) Certain requirements

The requirements of subsections (a) (except the first sentence), (b), and (c), of section 771a of this title, and paragraphs (1) and (2) of subsection (g) of such section, shall apply with respect to grants made available under this section, other than subsection (c) of this section. The requirements of section 776 of this title shall apply with respect to grants made available under this section.

(Pub. L. 93–112, title VIII, § 803, as added Pub. L. 102–569, title VIII, § 801(a), Oct. 29, 1992, 106 Stat. 4478.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 771a, 797 of this title.

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

Section 184(a) of Pub. L. 97–300 provided that the repeal of these sections is effective Oct. 13, 1982.