

appropriate, with the individual's representative;

(b) Inform the individual in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the ineligibility determination, including the reasons for that determination, the requirements under this section, and the means by which the individual may express and seek remedy for any dissatisfaction, including the procedures for review of State unit personnel determinations in accordance with § 361.57;

(c) Provide the individual with a description of services available from a client assistance program established under 34 CFR part 370 and information on how to contact that program;

(d) Refer the individual—

(1) To other programs that are part of the One-Stop service delivery system under the Workforce Investment Act that can address the individual's training or employment-related needs; or

(2) To local extended employment providers if the ineligibility determination is based on a finding that the individual is incapable of achieving an employment outcome as defined in § 361.5(b)(16).

(e) Review within 12 months and annually thereafter if requested by the individual or, if appropriate, by the individual's representative any ineligibility determination that is based on a finding that the individual is incapable of achieving an employment outcome. This review need not be conducted in situations in which the individual has refused it, the individual is no longer present in the State, the individual's whereabouts are unknown, or the individual's medical condition is rapidly progressive or terminal.

(AUTHORITY: Sections 12(c), 102(a)(5), and 102(c) of the Act; 29 U.S.C. 709(c), 722(a)(5), and 722(c))

EFFECTIVE DATE NOTE: At 66 FR 7253, Jan. 22, 2001, § 361.43 was amended by revising paragraph (d) and the authority citation following the section, effective Oct. 1, 2001. For the convenience of the user, the superseded text is set forth as follows.

§ 361.43 Procedures for ineligibility determination.

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(d) Refer the individual to other training or employment-related programs that are part of the One-Stop service delivery system under the Workforce Investment Act; and

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(Authority: Sections 102(a)(5) and 102(c) of the Act; 29 U.S.C. 722(a)(5) and 722(c))

§ 361.44 Closure without eligibility determination.

The designated State unit may not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and the State unit has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative to encourage the applicant's participation.

(Authority: Section 12(c) of the Act; 29 U.S.C. 709(c))

§ 361.45 Development of the individualized plan for employment.

(a) *General requirements.* The State plan must assure that—

(1) An individualized plan for employment (IPE) meeting the requirements of this section and § 361.46 is developed and implemented in a timely manner for each individual determined to be eligible for vocational rehabilitation services or, if the designated State unit is operating under an order of selection in accordance with § 361.36, for each eligible individual to whom the State unit is able to provide services; and

(2) Services will be provided in accordance with the provisions of the IPE.

(b) *Purpose.*

(1) The designated State unit must conduct an assessment for determining vocational rehabilitation needs, if appropriate, for each eligible individual or, if the State is operating under an order of selection, for each eligible individual to whom the State is able to provide services. The purpose of this

assessment is to determine the employment outcome, and the nature and scope of vocational rehabilitation services to be included in the IPE.

(2) The IPE must be designed to achieve a specific employment outcome, as defined in §361.5(b)(16), that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(c) *Required information.* The State unit must provide the following information to each eligible individual or, as appropriate, the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or the individual's representative:

(1) *Options for developing an IPE.* Information on the available options for developing the IPE, including the option that an eligible individual or, as appropriate, the individual's representative may develop all or part of the IPE—

(i) Without assistance from the State unit or other entity; or

(ii) With assistance from—

(A) A qualified vocational rehabilitation counselor employed by the State unit;

(B) A qualified vocational rehabilitation counselor who is not employed by the State unit; or

(C) Resources other than those in paragraph (A) or (B) of this section.

(2) *Additional information.* Additional information to assist the eligible individual or, as appropriate, the individual's representative in developing the IPE, including—

(i) Information describing the full range of components that must be included in an IPE;

(ii) As appropriate to each eligible individual—

(A) An explanation of agency guidelines and criteria for determining an eligible individual's financial commitments under an IPE;

(B) Information on the availability of assistance in completing State unit forms required as part of the IPE; and

(C) Additional information that the eligible individual requests or the State unit determines to be necessary to the development of the IPE;

(iii) A description of the rights and remedies available to the individual, including, if appropriate, recourse to the processes described in §361.57; and

(iv) A description of the availability of a client assistance program established under 34 CFR part 370 and information on how to contact the client assistance program.

(d) *Mandatory procedures.* The designated State unit must ensure that—

(1) The IPE is a written document prepared on forms provided by the State unit;

(2) The IPE is developed and implemented in a manner that gives eligible individuals the opportunity to exercise informed choice, consistent with §361.52, in selecting—

(i) The employment outcome, including the employment setting;

(ii) The specific vocational rehabilitation services needed to achieve the employment outcome, including the settings in which services will be provided;

(iii) The entity or entities that will provide the vocational rehabilitation services; and

(iv) The methods available for procuring the services;

(3) The IPE is—

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

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

(4) A copy of the IPE and a copy of any amendments to the IPE are provided to the eligible individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, the individual's representative;

(5) The IPE is reviewed at least annually by a qualified vocational rehabilitation counselor and the eligible individual or, as appropriate, the individual's representative to assess the eligible individual's progress in achieving the identified employment outcome;

(6) The IPE is amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the

State unit or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the providers of the vocational rehabilitation services;

(7) Amendments to the IPE do not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative and by a qualified vocational rehabilitation counselor employed by the designated State unit; and

(8) An IPE for a student with a disability receiving special education services is developed—

(i) In consideration of the student's IEP; and

(ii) In accordance with the plans, policies, procedures, and terms of the interagency agreement required under §361.22.

(e) *Standards for developing the IPE.* The designated State unit must establish and implement standards for the prompt development of IPEs for the individuals identified under paragraph (a) of this section, including timelines that take into consideration the needs of the individuals.

(f) *Data for preparing the IPE.*

(1) *Preparation without comprehensive assessment.* To the extent possible, the employment outcome and the nature and scope of rehabilitation services to be included in the individual's IPE must be determined based on the data used for the assessment of eligibility and priority for services under §361.42.

(2) *Preparation based on comprehensive assessment.*

(i) If additional data are necessary to determine the employment outcome and the nature and scope of services to be included in the IPE of an eligible individual, the State unit must conduct a comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment services, of the eligible individual, in the most integrated setting possible, consistent with the informed choice of the individual in accordance with the provisions of §361.5(b)(6)(ii).

(ii) In preparing the comprehensive assessment, the State unit must use, to the maximum extent possible and appropriate and in accordance with confidentiality requirements, existing information that is current as of the date of the development of the IPE, including—

(A) Information available from other programs and providers, particularly information used by education officials and the Social Security Administration;

(B) Information provided by the individual and the individual's family; and

(C) Information obtained under the assessment for determining the individual's eligibility and vocational rehabilitation needs.

(Authority: Sections 7(2)(B), 101(a)(9), 102(b)(1), 102(b)(2), 102(c) and 103(a)(1); 29 U.S.C. 705(2)(B), 721(a)(9), 722(b)(1), 722(b)(2), 722(c) and 723(a)(1))

EFFECTIVE DATE NOTE: At 66 FR 7253, Jan. 22, 2001, §361.45 was amended by revising paragraph (b)(2), effective Oct. 1, 2001. For the convenience of the user, the superseded text is set forth as follows.

§361.45 Development of the individualized plan for employment.

* * * * *

(b) * * *

(2) The IPE must—

(i) Be designed to achieve the specific employment outcome that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and

(ii) To the maximum extent appropriate, result in employment in an integrated setting.

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§361.46 Content of the individualized plan for employment.

(a) *Mandatory components.* Regardless of the approach in §361.45(c)(1) that an eligible individual selects for purposes of developing the IPE, each IPE must include—

(1) A description of the specific employment outcome, as defined in §361.5(b)(16), that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities,