

**§ 1386.25 Allowable litigation costs.**

Allotments may be used to pay the otherwise allowable costs incurred by a Protection and Advocacy System in bringing lawsuits in its own right to redress incidents of abuse or neglect, discrimination and other rights violations impacting on individuals with developmental disabilities to obtain access to records and when it appears on behalf of named plaintiffs or a class of plaintiff for such purposes.

[61 FR 51159, Sept. 30, 1996]

### **Subpart C—Federal Assistance to State Developmental Disabilities Councils**

**§ 1386.30 State plan requirements.**

(a) In order to receive Federal financial assistance under this subpart, each State Developmental Disabilities Council must prepare and submit to the Secretary, and have in effect, a State Plan which meets the requirements of sections 122 and 124 of the Act (42 U.S.C. 6022 and 6024) and these regulations. Development of the State Plan and applicable annual amendments are responsibilities of the State Developmental Disabilities Council. The Council will provide opportunities for public input during the planning and development of the State Plan and will consult with the Designated State Agency to determine that the plan is not in conflict with applicable State laws and to obtain appropriate State Plan assurances.

(b) Failure to comply with State plan requirements may result in loss of Federal funds as described in section 127 of the Act (42 U.S.C. 6027).

(c) The State plan may be submitted in any format the State selects as long as the items contained in the Act are addressed. The plan must:

(1) Identify the program unit(s) within the Designated State Agency responsible for helping the Council to obtain assurances and fiscal and other support services.

(2) Identify the priority areas selected by the Council and by the State in which 65% of Federal allotment will be expended.

(3) Where applicable, describe activities in which the State's Develop-

mental Disabilities Council, Protection and Advocacy System agency, and University Affiliated Program(s) collaborate to remove barriers or address critical issues within the State and bring about broad systems changes to benefit individuals with developmental disabilities and, as appropriate, individuals with other disabilities.

(d) The State plan must be reviewed at least once every three years.

(e) (1) The State Plan may provide for funding projects to demonstrate new approaches to direct services which enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities. Direct service demonstrations must be short-term and include a strategy to locate on-going funding from other sources. For each demonstration funded, the State Plan must include an estimated period of the project's duration and a brief description of how the services will be continued without Federal developmental disabilities program funds. Council funds may not be used to fund on-going services which should be paid for by the State or other sources.

(2) The State plan may provide for funding of other projects or activities, including but not limited to, studies, evaluation, outreach, advocacy, self-advocacy, training, community supports, public education, and prevention. Where extended periods of time are needed to achieve desired results, these projects and activities need not be time-limited.

(f) The State Plan must contain assurances that:

(1) The State will comply with all applicable Federal statutes and regulations in effect during the time that the State is receiving formula grant funding;

(2) The human rights of individuals with developmental disabilities will be protected consistent with section 110 of the Act (42 U.S.C. 6009).

(3) Buildings used in connection with activities assisted under the Plan must meet all applicable provisions of Federal and State laws pertaining to accessibility, fire, health and safety standards.