

Off. of Spec. Educ. and Rehab. Services, Education

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submit to the Secretary an annual report that contains the information described in paragraph (e)(1) of this section.

(Approved by the Office of Management and Budget under control number 1820-0500)

(Authority: Section 101(a)(15) of the Act; 29 U.S.C. 721(a)(15))

[66 FR 4382, Jan. 17, 2001, as amended at 66 FR 7253, Jan. 22, 2001]

§ 361.30 Services to American Indians.

The State plan must assure that the designated State agency provides vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides vocational rehabilitation services to other significant populations of individuals with disabilities residing in the State.

(Approved by the Office of Management and Budget under control number 1820-0500)

(Authority: Sections 101(a)(13) and 121(b)(3) of the Act; 29 U.S.C. 721(a)(13) and 741(b)(3))

[66 FR 4382, Jan. 17, 2001, as amended at 66 FR 7253, Jan. 22, 2001]

§ 361.31 Cooperative agreements with private nonprofit organizations.

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

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(Authority: Sections 101(a)(24)(B); 29 U.S.C. 721(a)(24)(B))

[66 FR 4382, Jan. 17, 2001, as amended at 66 FR 7253, Jan. 22, 2001]

§ 361.32 Use of profitmaking organizations for on-the-job training in connection with selected projects.

The State plan must assure that the designated State agency has the authority to enter into contracts with for-profit organizations for the purpose of providing, as vocational rehabilitation services, on-the-job training and related programs for individuals with disabilities under the Projects With Industry program, 34 CFR part 379, if the designated State agency has determined that for-profit agencies are bet-

ter qualified to provide needed vocational rehabilitation services than nonprofit agencies and organizations.

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(Authority: Section 101(a)(24)(A) of the Act; 29 U.S.C. 721(a)(24)(A))

[66 FR 4382, Jan. 17, 2001, as amended at 66 FR 7253, Jan. 22, 2001]

§ 361.33 [Reserved]

§ 361.34 Supported employment State plan supplement.

(a) The State plan must assure that the State has an acceptable plan under 34 CFR part 363 that provides for the use of funds under that part to supplement funds under this part for the cost of services leading to supported employment.

(b) The supported employment plan, including any needed annual revisions, must be submitted as a supplement to the State plan submitted under this part.

(Approved by the Office of Management and Budget under control number 1820-0500)

(Authority: Sections 101(a)(22) and 625(a) of the Act; 29 U.S.C. 721(a)(22) and 795(k))

[66 FR 4382, Jan. 17, 2001, as amended at 66 FR 7253, Jan. 22, 2001]

§ 361.35 Innovation and expansion activities.

(a) The State plan must assure that the State will reserve and use a portion of the funds allotted to the State under section 110 of the Act—

(1) For the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities, particularly individuals with the most significant disabilities, consistent with the findings of the comprehensive, statewide assessment of the rehabilitation needs of individuals with disabilities under § 361.29(a) and the State's goals and priorities under § 361.29(c); and

(2) To support the funding of—

(i) The State Rehabilitation Council, if the State has a Council, consistent with the resource plan identified in § 361.17(i); and

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(ii) The Statewide Independent Living Council, consistent with the plan prepared under 34 CFR 364.21(i).

(b) The State plan must—

(1) Describe how the reserved funds will be used; and

(2) Include, on an annual basis, a report describing how the reserved funds were used during the preceding year.

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(Authority: Section 101(a)(18) of the Act; 29 U.S.C. 721(a)(18))

[66 FR 4382, Jan. 17, 2001, as amended at 66 FR 7253, Jan. 22, 2001]

§ 361.36 Ability to serve all eligible individuals; order of selection for services.

(a) *General provisions.* (1) The designated State unit either must be able to provide the full range of services listed in section 103(a) of the Act and § 361.48, as appropriate, to all eligible individuals or, in the event that vocational rehabilitation services cannot be provided to all eligible individuals in the State who apply for the services, include in the State plan the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services.

(2) The ability of the designated State unit to provide the full range of vocational rehabilitation services to all eligible individuals must be supported by a determination that satisfies the requirements of paragraph (b) or (c) of this section and a determination that, on the basis of the designated State unit's projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with significant disabilities within the State, it can—

(i) Continue to provide services to all individuals currently receiving services;

(ii) Provide assessment services to all individuals expected to apply for services in the next fiscal year;

(iii) Provide services to all individuals who are expected to be determined eligible in the next fiscal year; and

(iv) Meet all program requirements.

(3) If the designated State unit is unable to provide the full range vocational rehabilitation services to all eligible individuals in the State who

apply for the services, the State plan must—

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

(ii) Provide a justification for the order of selection;

(iii) Identify service and outcome goals and the time within which the goals may be achieved for individuals in each priority category within the order, as required under § 361.29(c)(5); and

(iv) Assure that—

(A) In accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

(B) Individuals who do not meet the order of selection criteria will have access to services provided through the information and referral system established under § 361.37.

(b) *Basis for assurance that services can be provided to all eligible individuals.* (1) For a designated State unit that determined, for the current fiscal year and the preceding fiscal year, that it is able to provide the full range of services, as appropriate, to all eligible individuals, the State unit, during the current fiscal and preceding fiscal year, must have in fact—

(i) Provided assessment services to all applicants and the full range of services, as appropriate, to all eligible individuals;

(ii) Made referral forms widely available throughout the State;

(iii) Conducted outreach efforts to identify and serve individuals with disabilities who have been unserved or underserved by the vocational rehabilitation system; and

(iv) Not delayed, through waiting lists or other means, determinations of eligibility, the development of individualized plans for employment for individuals determined eligible for vocational rehabilitation services, or the provision of services for eligible individuals for whom individualized plans for employment have been developed.

(2) For a designated State unit that was unable to provide the full range of