

Secretary proposes to amend the definition of the term "transition services" to clarify that transition services must promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives identified in the transitioning student's IWRP.

In response to public commenters who sought further clarification of the term "transitioning student" in the draft regulations, the Secretary proposes to define the term to mean a student who is eligible to receive vocational rehabilitation services and is receiving "transition services" as defined in the regulations.

The Secretary proposes to define the term "transportation" on the basis of existing subregulatory guidance. In addition, the Secretary has included a note following the proposed definition that provides examples of permissible transportation expenses. One of these examples covers the short-term, travel-related expenses (i.e., food and shelter) of applicants receiving assessment services. These expenses, as discussed previously, cannot be provided under the maintenance authority. The Secretary also emphasizes that these examples are provided solely for the purposes of illustration and do not preclude DSUs from providing transportation costs in other appropriate situations.

Finally, the following nomenclature changes from the Act have been incorporated into the definitions and throughout the regulations: references to all forms of the word "handicap" have been changed to the corresponding form of the word "disability;" certain references to the word "disability" have been replaced by the word "impairment" (e.g., physical or mental impairment); and the word "client" has been removed and replaced with other appropriate terms, including "applicant," "eligible individual," "individual," or "individual with a disability."

The Secretary also notes that proposed changes to supported employment definitions included in this NPRM would also affect those definitions in 34 CFR Parts 363, 376, and 380.

Section 361.10—Submission, Approval, and Disapproval of the State Plan

Proposed § 361.10 contains certain requirements from §§ 361.2 and 361.3 of the existing regulations relating to the purpose, duration, development, submission, and approval of the State plan. Many of the other requirements in §§ 361.2 and 361.3 of the existing regulations have been relocated to other

sections of the proposed regulations because they deal with the substance and administration of the State plan. Proposed § 361.10 also incorporates the new statutory provision that authorizes the Secretary to approve the submission of a State plan for a period other than three years if it corresponds to the period required for another plan required under Federal law. Proposed paragraph (j) of this section provides the procedures for disapproval of the State plan. The procedural protections would be the same as those that are currently provided when the Secretary withholds funds.

Paragraphs (e) and (f) of § 361.2 of the existing regulations, which contain provisions regarding the designation of and transition to a new State agency or State unit, would be removed from the proposed regulations. The 1991 NPRM proposed removal of these requirements because of the paperwork burden, and they have been omitted in this NPRM for the same reason.

Section 361.11—Withholding of Funds

Proposed § 361.11 revises § 361.4 of the existing regulations to make withholding hearings under this program subject to the jurisdiction of and the procedural requirements governing the Department's Office of Administrative Law Judges in EDGAR, 34 CFR Part 81, rather than program specific hearing procedures in current §§ 361.170 through 361.186, which would be repealed. This is consistent with the changes proposed in the 1991 NPRM.

Section 361.12—Methods of Administration

This proposed section is taken from § 361.10 of the existing regulations. The proposed regulations add a clause to clarify that proper and efficient administration of the State plan includes procedures to ensure accurate data collection and financial accountability.

Section 361.13—State Agency for Administration

This proposed section consolidates information contained in §§ 361.5, 361.6, and 361.8 of the existing regulations regarding the designation of the State agency, the organizational level and status of the State unit, and the full-time director requirement.

In an effort to reduce the regulatory burden and increase State flexibility in accordance with the Department's principles for regulating, the Secretary proposes to delete the requirement in § 361.13(a)(1)(i) of the draft regulations and § 361.5(b)(1) of the current

regulations that a designated State agency that has as its major function vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities also "have the authority, subject to the supervision of the Governor, if appropriate, to define the scope of the program within the provisions of State and Federal law and to direct its administration without external administrative controls." Elimination of this non-statutory requirement, which applies currently to only one of the three sole State agency options identified in the regulations, is intended to increase State flexibility in locating and administering its vocational rehabilitation program.

Several commenters on the draft regulations requested clarification of the requirement in § 361.13(b)(1)(iii) that at least 90 percent of the State unit staff work full-time on the rehabilitation work of the organizational unit, which must be primarily concerned with vocational rehabilitation or vocational rehabilitation and other rehabilitation. This requirement means that if the organizational unit provides other rehabilitation services, in addition to vocational rehabilitation, the 90 percent staffing requirement applies to all unit staff providing rehabilitation services, not to just the vocational rehabilitation staff. "Other rehabilitation" includes, but is not limited to, other programs that provide medical, psychological, educational, or social services to individuals with disabilities. For example, a State unit with 90 percent of its staff working on independent living services, programs for the developmentally disabled, disabled children's services, services for individuals who are deaf or hearing-impaired, services for individuals who are blind or visually impaired, Social Security disability determinations, or some other type of program related to individuals with disabilities, in addition to vocational rehabilitation, would satisfy the 90 percent requirement. The Secretary also notes that Federal funds under this program may be used only to pay the salaries of the State unit staff that are working full-time or part-time on vocational rehabilitation.

In accordance with the Department's principles for regulating, the Secretary also proposes to delete the requirement in § 361.13(c) of the draft regulations and § 361.6(a) of the current regulations that the State plan describe the organizational structure of the State agency and its organizational units. The Secretary instead would rely on an assurance, required by statute, that a State agency that is required to have a vocational rehabilitation unit locate that