

to individuals from minority backgrounds and the need for rehabilitation programs to better reflect the culturally diverse population of the United States.

Finally, in response to public comment on the draft regulations, the Secretary proposes to amend the annual reporting requirements of the Council by requiring the Council to submit to the Governor, or other appropriate State entity, and to the Secretary an annual report of the status of the State's vocational rehabilitation programs within 90, rather than 60, days from the end of the fiscal year and by requiring that the report be available through appropriate modes of communication.

*Section 361.18—Comprehensive System of Personnel Development*

This proposed new section incorporates the new statutory requirements in sections 101(a)(7) and 101(a)(35) of the Act. The requirements in section 101(a)(7) of the Act are virtually identical to requirements for a comprehensive system of personnel development under the Individuals with Disabilities Education Act (IDEA). For this reason, this section of the proposed regulations closely tracks the regulations implementing the IDEA requirements (34 CFR 300.380 through 300.383), with modifications to better reflect the context of the State Vocational Rehabilitation Services Program.

Some commenters on the draft regulations questioned the basis for requiring the involvement of the State Rehabilitation Advisory Council in the development of personnel standards. The Act requires that the Council generally advise the State unit in connection with the carrying out of its programmatic responsibilities. In addition, the State agency is required to consult, and seek advice from, the Council on issues affecting the development of the State plan. Because an effective system of personnel development is an essential part of the State plan and a critical element to the success of the State Vocational Rehabilitation Services Program, the Secretary considers it necessary for the Council to participate in the development of State personnel standards.

Paragraph (a) of this section requires that the State plan include, on an annual basis, a description of a system for collecting and analyzing personnel data. Several commenters on the draft regulations expressed concern about the amount of data that must be provided to the Secretary under this provision. In response, the Secretary emphasizes that,

although annual data collection and analysis requirements are statutorily imposed, the proposed regulations require only that the State plan include a description of the system used to collect the data on personnel needs and personnel development and do not require the State to submit the actual data to the Secretary.

In response to public comment on the draft regulations, the Secretary proposes to broaden the definition of the term "highest requirements in the State applicable to that profession or discipline," as used in the development and maintenance of personnel standards by the State, to mean the highest entry-level academic degree or equivalent experience needed to meet any national- or State-recognized certification, licensing, registration, or other comparable requirements that apply to a profession or discipline. The purpose of this change is to recognize that some States base their personnel standards, in part, on relevant work experience by substituting equivalent work experience for certain academic credentials. State standards of this type would meet this definition. This change, however, would not allow work experience to substitute for academic requirements if the existing State standard is based only on academic credentials.

The Secretary also believes that permitting States to base highest personnel standards in the State on equivalent experience, as well as on academic degrees, stresses the significance of relevant work experience and will diversify further the pool from which qualified personnel can be selected.

Several commenters on the draft regulations suggested areas of training in addition to rehabilitation technology that should be required in the regulations as part of the State's program of staff development. The Secretary believes that the specific training areas for staff development adopted by a State unit must be based on the particular needs of that State unit. The Secretary recognizes, however, that staff development may include, but is not limited to, training with respect to the requirements of the Americans with Disabilities Act, IDEA, and Social Security incentive programs, training to facilitate informed choice under this program, and training to improve the provision of services to culturally diverse populations. A provision to this effect has been added to the proposed regulations.

In response to public comment on the draft regulations, the Secretary proposes to change the reference in paragraph (e) of this section from "special

communication needs personnel" to "personnel to address individual communication needs" and has clarified this provision by requiring the State unit to describe in the State plan how it includes among its personnel, or obtains the services of, individuals able to communicate in the native languages of applicants and eligible individuals who have limited English speaking ability. That personnel may include State agency staff, family members of an applicant or eligible individual, community volunteers, and other individuals able to communicate in the appropriate native language. The State unit also must describe how it ensures that appropriate modes of communication are used for all applicants and eligible individuals.

In response to public comment on the draft regulations, the Secretary wishes to stress the importance of requiring in the State plan a description of the State's personnel performance evaluation system that facilitates, and does not impede, the purposes and policies of the vocational rehabilitation services program outlined in the Act. More precisely, the proposed regulations require that the evaluation system further the statutory policy of serving individuals with the most severe disabilities. In support of this requirement, the Senate Committee on Labor and Human Resources states in its report that it "is concerned that in some States, procedures used for evaluating performance of counselors may have the unintended consequence of providing a disincentive to serve individuals with the most severe disabilities and those clients requiring complex services." The performance evaluation system required under the Act and included in the proposed regulations is designed to address these disincentives.

The Secretary proposes to modify paragraph (g) of this section to track section 101(a)(7)(A)(ii) of the Act, which requires the State agency to describe the activities it will undertake to coordinate its comprehensive system of personnel development with personnel development under IDEA. This proposed change is intended to increase the flexibility of State agencies to implement the most effective procedures for coordinating the development of personnel under both statutes. An example of how a State may address this coordination requirement would be to establish a joint continuing education program for both DSU personnel and personnel under IDEA that deals with the provision of VR services, including transition services, to transitioning students.