

### *Section 361.19—Affirmative Action for Individuals With Disabilities*

This proposed section, which is based on section 101(a)(6)(A) of the Act and § 361.15 of the existing regulations, requires the State agency to take affirmative action to employ and advance in employment qualified individuals with disabilities. In accordance with the Department's principles for regulating, the Secretary proposes to delete the non-statutory requirement in the draft regulations and the current regulations that the State unit develop an affirmative action plan that provides for specific goals, action steps, timetables, evaluation criteria for measuring progress, and complaint and enforcement procedures. By not requiring a formal affirmative action plan or specifying the minimum requirements a State must incorporate into that plan, the proposed provision would give State agencies greater flexibility to take those steps it considers most appropriate for increasing the number of qualified individuals with disabilities that it employs or advances in employment. The proposed changes also would reduce State paperwork burdens.

### *Section 361.20—State Plan Development*

This proposed section revises § 361.18 of the existing regulations to implement new requirements in section 101(a)(23) of the Act.

Consistent with section 101(a)(23) of the Act, paragraph (a)(1) of this section of the regulations would require the State unit to conduct public meetings throughout the State to provide all segments of the public, including interested groups, organizations, and individuals, an opportunity to comment on the State plan prior to its development and to comment on any revisions to the State plan. In accordance with the Department's principles for regulating, the Secretary believes that States should have the latitude to develop their own procedures for ensuring that interested parties are afforded a meaningful opportunity to comment on the State plan before it is developed and when it is revised. Additionally, in order to satisfy the statutory requirement that the State unit, prior to conducting public meetings throughout the State, provide appropriate and sufficient notice of the public meetings, the proposed regulations would require the State unit to follow notice requirements established under State law or, in the absence of those requirements, to consult with the State Rehabilitation

Advisory Council to develop notice procedures. The proposed regulations would not impose any specific minimum Federal requirements for what constitutes "appropriate and sufficient notice."

In response to those commenters who sought regulatory clarification of the public participation and notice requirements of this section, the Secretary provides the following examples as suggested ways a DSU might meet these requirements. A State unit could satisfy the public participation requirement, for example, by soliciting input from the public before developing a preliminary draft State plan and making the preliminary draft plan available to the public 30 days prior to the public meetings. An example of "appropriate and sufficient notice" of public meetings would be notice that is provided at least 30 days prior to a public meeting through various media available to the general public, such as newspapers and public service announcements, and through specific contacts with appropriate constituency groups and organizations identified by the State unit, in consultation with the State Rehabilitation Advisory Council. An example of how a State unit could meet the statutory requirement that it "conduct public meetings throughout the State," would be to hold public meetings in at least two different geographic locations that are among the State's most densely populated areas and at sites that are accessible to individuals with disabilities.

Some commenters on the draft regulations suggested that larger States be required to hold a greater number of public meetings than smaller States, while other commenters suggested that States make use of emerging technologies that enable individuals to participate in public meetings without having to be in attendance. The Secretary encourages each State to hold as many public meetings as are necessary to ensure meaningful participation of all interested persons and organizations in that State. The Secretary also urges States to consider using alternative or emerging technologies that allow for wider public participation. The proposed regulations are intended to provide each State with the flexibility to choose the manner in which it conducts public meetings (e.g., in person, satellite broadcasts, teleconferences, or a combination thereof) as long as the meetings are truly interactive and are designed to maximize the opportunity for meaningful participation.

The proposed section also would implement the new statutory provision in section 105(c)(2) of the Act that requires the State Rehabilitation Advisory Council to advise the State unit on the preparation of the State plan by requiring the State unit to consult with the Council in the development of the State plan. Finally, the proposed section implements the new statutory requirement in section 101(a)(32) of the Act that the State plan describe the manner in which it will modify State policy and procedures in response to consumer satisfaction surveys.

### *Section 361.21—Consultations Regarding the Administration of the State Plan*

This proposed section is also taken from § 361.18 of the existing regulations. It incorporates section 101(a)(18) of the Act, including the new statutory requirement regarding consultation with the director of the CAP. It would also require consultation with the State Rehabilitation Advisory Council, consistent with the Council functions in new section 105(c) of the Act. It proposes to remove provisions in the existing regulations that list examples of matters of general policy development and implementation. Finally, this proposed section, as well as the previous section, would implement new section 101(a)(32) of the Act, which requires the State plan to describe the manner in which the State will modify State policy and procedures in response to consumer satisfaction surveys.

### *Section 361.22—Cooperation With Agencies Responsible for Transitioning Students*

This proposed new section combines § 361.19(b) of the existing regulations, which requires the State plan to provide for the coordination of services for individuals who are eligible both for vocational rehabilitation services and for services under IDEA, with the new statutory provisions in sections 101(a)(11) and (a)(24) of the Act. The new statutory provisions require formal interagency agreements to facilitate the transfer of responsibilities for transitioning students who are receiving special education services from the agency responsible for providing a free appropriate public education to the State unit responsible for providing vocational rehabilitation services. In addition, proposed paragraph (b) of this section implements the new requirement in section 101(a)(30) of the Act regarding the availability of vocational rehabilitation services to students who are individuals with