

specified in paragraph (a)(1)(ii) or (a)(1)(iii) of this section, or if the designated State agency specified in paragraph (a)(3) of this section does not have as its major function vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities, the State plan must assure that the agency (or each agency if two agencies are designated) includes a vocational rehabilitation bureau, division, or unit that—

(i) Is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities and is responsible for the administration of the State agency's vocational rehabilitation program under the State plan, including those responsibilities specified in paragraph (d) of this section;

(ii) Has a full-time director;

(iii) Has a staff, at least 90 percent of whom are employed full time on the rehabilitation work of the organizational unit; and

(iv) Is located at an organizational level and has an organizational status within the State agency comparable to that of other major organizational units of the agency or, in the case of an agency described in paragraph (a)(1)(ii) of this section, is so located and has that status or has a director who is the executive officer of the State agency.

(2) In the case of a State that has not designated a separate State agency for individuals who are blind, as provided for in paragraph (a)(3) of this section, the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided to individuals who are blind to one organizational unit of the designated State agency and may assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of paragraph (b)(1) of this section applying separately to each of these units.

(c) *Responsibility for administration.* The State plan must assure that all decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of these services are made by the designated State unit or the sole local agency under the supervision of the State unit. This responsibility may not be delegated to any other agency or individual.

(Authority: Sections 101(a)(1) and 101(a)(2) of the Act; 29 U.S.C. 721(a)(1) and 721(a)(2))

§ 361.14 Substitute State agency.

(a) *General provisions.*

(1) If the Secretary has withheld all funding from a State under § 361.11, the

State may designate another agency to substitute for the designated State agency in carrying out the State's program of vocational rehabilitation services.

(2) Any public or nonprofit private organization or agency within the State or any political subdivision of the State is eligible to be a substitute agency.

(3) The substitute agency shall submit a State plan that meets the requirements of this part.

(4) The Secretary makes no grant to a substitute agency until the Secretary approves its plan.

(b) *Substitute agency matching share.* The Secretary does not make any payment to a substitute agency unless it has provided assurances that it will contribute the same matching share as the State would have been required to contribute if the State agency were carrying out the vocational rehabilitation program.

(Authority: Section 107(c)(3) of the Act; 29 U.S.C. 727(c)(3))

§ 361.15 Local administration.

(a) If the State plan provides for local administration, it must—

(1) Identify each local agency;

(2) Assure that each local agency is under the supervision of the designated State unit and is the sole local agency responsible for the administration of the program within the political subdivision that it serves; and

(3) Describe the methods each local agency will use to administer the vocational rehabilitation program, in accordance with the State plan.

(b) A separate local agency serving individuals who are blind may administer that part of the plan relating to vocational rehabilitation of individuals who are blind, under the supervision of the designated State unit for individuals who are blind.

(Authority: Section 101(a)(1)(A) of the Act; 29 U.S.C. 721(a)(1)(A))

§ 361.16 Establishment of an independent commission or a State Rehabilitation Advisory Council.

(a) *General requirement.* Except as provided in paragraph (b) of this section, the State plan must contain one of the following two assurances:

(1) An assurance that the State agency is an independent State commission that—

(i) Is primarily concerned with vocational rehabilitation or vocational and other rehabilitation services, in accordance with § 361.13(a)(1)(i);

(ii) Is consumer-controlled by persons who—

(A) Are individuals with physical or mental impairments that substantially limit major life activities; and

(B) Represent individuals with a broad range of disabilities;

(iii) Includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

(iv) Conducts a review and analysis of the effectiveness of and consumer satisfaction with vocational rehabilitation services and providers in the State, in accordance with the provisions in § 361.17(h)(3).

(2) An assurance that—

(i) The State has established a State Rehabilitation Advisory Council (Council) that meets the requirements of § 361.17;

(ii) The designated State unit seeks and seriously considers, on a regular and ongoing basis, advice from the Council regarding the development, implementation, and amendment of the State plan, the strategic plan, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

(iii) The designated State unit transmits to the Council—

(A) All plans, reports, and other information required under the Act to be submitted to the Secretary;

(B) Copies of all written policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

(C) Copies of due process hearing decisions in a manner that preserves the confidentiality of the participants in the hearings; and

(iv) The State plan summarizes annually the advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the State agency's response to the advice and recommendations, including the manner in which the State will modify its policies and procedures based on the survey of consumer satisfaction and explanations of reasons for rejecting any advice or recommendations of the Council.

(b) *Exception for separate State agency for individuals who are blind.* In the case of a State that designates a separate State agency, under § 361.13(a)(3), to administer the part of the State plan under which vocational rehabilitation services are provided to individuals who are blind, the State plan must contain one of the following four assurances:

(1) An assurance that an independent commission in accordance with paragraph (a)(1) of this section is responsible under State law for