

relevant sources of information and evidence;

(4) The impartial hearing officer shall make a decision based on the provisions of the approved State plan, the Act, and Federal and State vocational rehabilitation regulations and policies and shall provide to the individual or, if appropriate, the individual's representative and to the director of the designated State unit a full written report of the findings and grounds for the decision within the time period established under paragraph (c)(2) of this section;

(5) If the director of the designated State unit decides to review the decision of the impartial hearing officer, the director shall notify in writing the individual or, if appropriate, the individual's representative of that intent within 20 days of the mailing of the impartial hearing officer's decision;

(6) If the director of the designated State unit fails to provide the notice required by paragraph (b)(5) of this section, the impartial hearing officer's decision becomes a final decision;

(7) The decision of the director of the designated State unit to review any impartial hearing officer's decision must be based on standards of review contained in written State unit policy;

(8) If the director of the designated State unit decides to review the decision of the impartial hearing officer, the director shall provide the individual or, if appropriate, the individual's representative an opportunity to submit additional evidence and information relevant to the final decision;

(9) The director may not overturn or modify a decision, or part of a decision, of an impartial hearing officer that supports the position of the individual unless the director concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous because it is contrary to the approved State plan, the Act, or Federal or State vocational rehabilitation regulations or policy;

(10) The director of the designated State unit shall make a final decision and provide a full report in writing of the decision, and of the findings and grounds for the decision, to the individual or, if appropriate, the individual's representative within the time period established under paragraph (c)(3) of this section;

(11) The director of the designated State unit may not delegate responsibility to make any final decision to any other officer or employee of the designated State unit; and

(12) Except for the time limitations established in paragraphs (b)(5) and

(c)(1) of this section, each State's review procedures may provide for reasonable time extensions for good cause shown at the request of a party or at the request of both parties.

(c) *Timelines.* Each State unit, in consultation with its State Rehabilitation Advisory Council, if it has one, shall develop and implement reasonable timelines for the prompt handling of appeals, including, at a minimum, timelines for—

(1) Holding a formal hearing after an individual's request for review;

(2) Rendering the decision of the impartial hearing officer after completion of the formal hearing; and

(3) Rendering the final decision of the director of the designated State unit after providing notice of intent to review the decision of the impartial hearing officer in accordance with paragraph (b)(5) of this section.

(d) *Selection of impartial hearing officers.* Except as provided in paragraph (e) of this section, the impartial hearing officer for a particular case must be selected—

(1) From among the pool of persons qualified to be an impartial hearing officer, as defined in § 361.5(b)(22), who are identified by the State unit, if the State unit is an independent commission, or jointly by the designated State unit and the State Rehabilitation Advisory Council, if the State has a Council; and

(2)(i) On a random basis; or
(ii) By agreement between the director of the designated State unit and the individual or, if appropriate, the individual's representative.

(e) *State fair hearing board.* The provisions of paragraphs (b), (c), and (d) of this section are not applicable if the State has a fair hearing board that was established before January 1, 1985, that is authorized under State law to review rehabilitation counselor or coordinator determinations and to carry out the responsibilities of the director of the designated State unit under this section.

(f) *Informing affected individuals.* The State unit shall inform, through appropriate modes of communication, all applicants and eligible individuals of—

(1) Their right to review under this section, including the names and addresses of individuals with whom appeals may be filed; and

(2) The manner in which an impartial hearing officer will be selected consistent with the requirements of paragraph (d) of this section.

(g) *Data collection.* The director of the designated State unit shall collect and submit, at a minimum, the following data to the Secretary for inclusion each

year in the annual report to Congress under section 13 of the Act:

(1) The number of appeals to impartial hearing officers and the State director, including the type of complaints and the issues involved.

(2) The number of decisions by the State director reversing in whole or in part a decision of the impartial hearing officer.

(3) The number of decisions affirming the position of the dissatisfied individual assisted through the client assistance program, when that assistance is known to the State unit.

(Authority: Sections 102(b) and 102(d) of the Act; 29 U.S.C. 722(b) and 722(d))

Subpart C—Financing of State Vocational Rehabilitation Programs

§ 361.60 Matching requirements.

(a) *Federal share.* (1) *General.* Except as provided in paragraphs (a)(2) and (a)(3) of this section, the Federal share for expenditures made by the State unit under the State plan, including expenditures for the provision of vocational rehabilitation services, administration of the State plan, and the development and implementation of the strategic plan, is 78.7 percent.

(2) *Construction projects.* The Federal share for expenditures made for the construction of a facility for community rehabilitation program purposes may not be more than 50 percent of the total cost of the project.

(3) *Innovation and expansion grant activities.* The Federal share for the cost of innovation and expansion grant activities funded by appropriations under Part C of Title I of the Act is 90 percent.

(b) *Non-Federal share.* (1) *General.* Except as provided in paragraphs (b)(2) and (b)(3) of this section, expenditures made under the State plan to meet the non-Federal share under this section must be consistent with the provisions of 34 CFR 80.24.

(2) *Third party in-kind contributions.* Third party in-kind contributions specified in 34 CFR 80.24(a)(2) may not be used to meet the non-Federal share under this section.

(3) *Contributions by private entities.* Expenditures made from contributions by private organizations, agencies, or individuals that are deposited in the account of the State agency or sole local agency in accordance with State law and that are earmarked, under a condition imposed by the contributor, may be used as part of the non-Federal share under this section if the following requirements are met:

(i) The funds are earmarked for meeting in whole or in part the State's