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| **Rehabilitation Act of 1973**  **29 U.S. Code, Chapter 16 – Vocational Rehabilitation and Other Rehabilitation Services** |
| **Summary**  The year 2020 marks the 100th anniversary of the Vocational Rehabilitation (VR) program, as Congress passed the Smith-Fess Act in 1920, also known as the Industrial Rehabilitation Act and referred to as The National Civilian Vocational Rehabilitation Act. The Workforce Innovation and Opportunity Act (WIOA) of 2014 (Pub. L. 113-128) reauthorized the VR program, which is a federal-state program that assists people with physical or mental disabilities to get or keep a job. The No Child Left Behind Act (NCLB) (Pub. L. 114–95*)* amended the Rehabilitation Act to:   * extend and revise the authorization of grants to states for vocational rehabilitation services, with special emphasis on services to individuals with the most severe disabilities, * expand special federal responsibilities and research and training programs with respect to individuals with disabilities, * create linkage between state vocational rehabilitation programs and workforce investment activities carried out under title I of the Workforce Investment Ac*t* of 1998, * establish special responsibilities for the Secretary of Education for coordination of all activities with respect to individuals with disabilities within and across programs administered by the federal government, and * for other purposes.   The Rehabilitation Act of 1973 was landmark legislation that provided for a wide range of vocational rehabilitation services and prohibited discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment and in the employment practices of federal contractors. Title V is the section that advanced civil rights and included:   * **Section 501:** Required nondiscrimination in hiring handicapped individuals in the federal government. All executive branches of the federal government were required to develop affirmative action plans for hiring, placing and advancing handicapped individuals. * **Section 502:** Established the Architectural and Transportation Barriers and Compliance Board to oversee compliance to the Architectural Barriers Act of 1968. * **Section 503:** This section prohibited discrimination against handicapped individuals in employment by any federal contractor or subcontractor receiving $2,500 or more. A written affirmative action plan was required of all employers contracting with the government and having 50 or more employees or a federal contract of $50,000 or more. * **Section 504:** This section prohibits discrimination against qualified handicapped individuals in any federally supported program or activity. It applied to any organization receiving federal funds such as hospitals, school districts, and state public welfare offices, and colleges and universities.   Title VII, Chapter 1, part B of the Rehabilitation Act, as amended by WIOA, also authorized the Independent Living Services (ILS) Program, which provides formula grants, based primarily on population, to states for the purpose of funding, directly and/or through grant or contractual arrangements a number of activities. This provision also supports the operation of Statewide Independent Living Councils (SILCS) and provides IL services to individuals with significant disabilities, particularly those in unserved areas of the state, among other duties. Part C, as amended by WIOA, is the Centers for Independent Living Program that provides grants to consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agencies for the provision of an array of IL services to individuals with significant disabilities.  The Client Assistance Program (CAP) was authorized under the 1984 amendments and works primarily with individuals seeking or receiving services from the VR system, and the CAPS program can also advocate for individuals eligible for services from an Independent Living Center and other Rehabilitation Act funded programs. Under the Workforce Investment Act and the Ticket to Work and WIOA, CAP can also play a key role in local workforce efforts; |
| **Primary Federal AgencIes**  U.S. Department of Education’s Rehabilitation Services Administration; Office of Special Education Program |
| **Primary State Department**  The Nebraska VR. |
| **Correlating State Legislation**  Title 92, Chapter 72 – Vocational Rehabilitation Services. |
| **Other Collaborating State and Local Agencies**  Nebraska Department of Education; Nebraska State Rehabilitation Council; Nebraska’s Statewide Independent Living Council (SILC); The Nebraska Client Assistance Program (CAP); Disability Rights Nebraska. |
| **How Do the Federal Statutes Apply to People with Brain Injury**  Individuals with brain injury may be eligible for services offered by the Nebraska VR agency to help obtain and retain a job, as well as to benefit from services offered by centers for independent living. |
| **Pertinent Sections**  §705 pertains to definitions; §721 state plan requirements; §722 specifies eligibility requirements and individualized plan for employment; §723 outlines vocational rehabilitation services; §732 related to the CAP program; §773 provides for Parent Information & Training Program; §794 relates to rights and nondiscrimination; §794e establishes protection & advocacy for individual advoacay; §794g limits use of subminimum wage. |
| **Web Page Link:**  https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter16&edition=prelim |

**CHAPTER 16—VOCATIONAL REHABILITATION AND OTHER REHABILITATION SERVICES**

(selected sections)

**GENERAL PROVISIONS**

**§701. Findings; purpose; policy**

**(a) Findings**

Congress finds that—

(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

(A) live independently;

(B) enjoy self-determination;

(C) make choices;

(D) contribute to society;

(E) pursue meaningful careers; and

(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

(4) increased employment of individuals with disabilities can be achieved through implementation of statewide workforce development systems defined in section 3102 of this title that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under subchapter I, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services;

(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

(A) make informed choices and decisions; and

(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals; and

(7)(A) a high proportion of students with disabilities is leaving secondary education without being employed in competitive integrated employment, or being enrolled in postsecondary education; and

(B) there is a substantial need to support such students as they transition from school to postsecondary life.

**(b) Purpose**

The purposes of this chapter are—

(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

(A) statewide workforce development systems defined in section 3102 of this title that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

(B) independent living centers and services;

(C) research;

(D) training;

(E) demonstration projects; and

(F) the guarantee of equal opportunity;

(2) to maximize opportunities for individuals with disabilities, including individuals with significant disabilities, for competitive integrated employment;

(3) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living;

(4) to increase employment opportunities and employment outcomes for individuals with disabilities, including through encouraging meaningful input by employers and vocational rehabilitation service providers on successful and prospective employment and placement strategies; and

(5) to ensure, to the greatest extent possible, that youth with disabilities and students with disabilities who are transitioning from receipt of special education services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and receipt of services under section 794 of this title have opportunities for postsecondary success.

**(c) Policy**

It is the policy of the United States that all programs, projects, and activities receiving assistance under this chapter shall be carried out in a manner consistent with the principles of—

(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

(3) inclusion, integration, and full participation of the individuals;

(4) support for the involvement of an individual's representative if an individual with a disability requests, desires, or needs such support; and

(5) support for individual and systemic advocacy and community involvement.

**§702. Rehabilitation Services Administration**

(a) There is established in the Office of the Secretary in the Department of Education a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this chapter referred to as the "Commissioner") appointed by the President by and with the advice and consent of the Senate. Such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of the Department for purposes of carrying out subchapters I, III, VI, and part B of subchapter VII. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary of Education or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this chapter to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary of Education acting through the Commissioner. In carrying out any of the functions of the office under this chapter, the Commissioner shall be guided by general policies of the National Council on Disability established under subchapter IV of this chapter.

(b) The Secretary of Education shall take whatever action is necessary to ensure that funds appropriated pursuant to this chapter are expended only for the programs, personnel, and administration of programs carried out under this chapter.

**§703. Advance funding**

(a) For the purpose of affording adequate notice of funding available under this chapter, appropriations under this chapter are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

**§704. Joint funding**

Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this chapter, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this chapter, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this chapter, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this chapter.

**§705. Definitions**

For the purposes of this chapter:

**(1) Administrative costs**

The term "administrative costs" means expenditures incurred in the performance of administrative functions under the vocational rehabilitation program carried out under subchapter I, including expenses related to program planning, development, monitoring, and evaluation, including expenses for—

(A) quality assurance;

(B) budgeting, accounting, financial management, information systems, and related data processing;

(C) providing information about the program to the public;

(D) technical assistance and support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in section 723(b)(5) of this title;

(E) the State Rehabilitation Council and other advisory committees;

(F) professional organization membership dues for designated State unit employees;

(G) the removal of architectural barriers in State vocational rehabilitation agency offices and State operated rehabilitation facilities;

(H) operating and maintaining designated State unit facilities, equipment, and grounds;

(I) supplies;

(J) administration of the comprehensive system of personnel development described in section 721(a)(7) of this title, including personnel administration, administration of affirmative action plans, and training and staff development;

(K) administrative salaries, including clerical and other support staff salaries, in support of these administrative functions;

(L) travel costs related to carrying out the program, other than travel costs related to the provision of services;

(M) costs incurred in conducting reviews of rehabilitation counselor or coordinator determinations under section 722(c) of this title; and

(N) legal expenses required in the administration of the program.

**(2) Assessment for determining eligibility and vocational rehabilitation needs**

The term "assessment for determining eligibility and vocational rehabilitation needs" means, as appropriate in each case—

(A)(i) a review of existing data—

(I) to determine whether an individual is eligible for vocational rehabilitation services; and

(II) to assign priority for an order of selection described in section 721(a)(5)(A) of this title in the States that use an order of selection pursuant to section 721(a)(5)(A) of this title; and

(ii) to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make such determination and assignment;

(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the nature and scope of vocational rehabilitation services, to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—

(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan for employment of the eligible individual;

(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

(I) existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in section 721(a)(5)(A) of this title for the individual; and

(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual;

(iv) may include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

(v) to the maximum extent possible, relies on information obtained from experiences in integrated employment settings in the community, and other integrated community settings;

(C) referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

(D) an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which shall be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

**(3) Assistive technology terms**

**(A) Assistive technology**

The term "assistive technology" has the meaning given such term in section 3002 of this title.

**(B) Assistive technology device**

The term "assistive technology device" has the meaning given such term in section 3002 of this title, except that the reference in such section to the term "individuals with disabilities" shall be deemed to mean more than 1 individual with a disability as defined in paragraph (20)(A)).[1](https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter16&edition=prelim#705_1_target)

**(C) Assistive technology service**

The term "assistive technology service" has the meaning given such term in section 3002 of this title, except that the reference in such section—

(i) to the term "individual with a disability" shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

(ii) to the term "individuals with disabilities" shall be deemed to mean more than 1 such individual.

**(4) Community rehabilitation program**

The term "community rehabilitation program" means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

(C) recreational therapy;

(D) physical and occupational therapy;

(E) speech, language, and hearing therapy;

(F) psychiatric, psychological, and social services, including positive behavior management;

(G) assessment for determining eligibility and vocational rehabilitation needs;

(H) rehabilitation technology;

(I) job development, placement, and retention services;

(J) evaluation or control of specific disabilities;

(K) orientation and mobility services for individuals who are blind;

(L) extended employment;

(M) psychosocial rehabilitation services;

(N) supported employment services and extended services;

(O) customized employment;

(P) services to family members when necessary to the vocational rehabilitation of the individual;

(Q) personal assistance services; or

(R) services similar to the services described in one of subparagraphs (A) through (Q).

**(5) Competitive integrated employment**

The term "competitive integrated employment" means work that is performed on a full-time or part-time basis (including self-employment)—

(A) for which an individual—

(i) is compensated at a rate that—

(I)(aa) shall be not less than the higher of the rate specified in section 206(a)(1) of this title or the rate specified in the applicable State or local minimum wage law; and

(bb) is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(II) in the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(ii) is eligible for the level of benefits provided to other employees;

(B) that is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and

(C) that, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

**(6) Construction; cost of construction**

**(A) Construction**

The term "construction" means—

(i) the construction of new buildings;

(ii) the acquisition, expansion, remodeling, alteration, and renovation of existing buildings; and

(iii) initial equipment of buildings described in clauses (i) and (ii).

**(B) Cost of construction**

The term "cost of construction" includes architects' fees and the cost of acquisition of land in connection with construction but does not include the cost of offsite improvements.

**(7) Customized employment**

The term "customized employment" means competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the strengths, needs, and interests of the individual with a significant disability, is designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer, and is carried out through flexible strategies, such as—

(A) job exploration by the individual;

(B) working with an employer to facilitate placement, including—

(i) customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;

(ii) developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location;

(iii) representation by a professional chosen by the individual, or self-representation of the individual, in working with an employer to facilitate placement; and

(iv) providing services and supports at the job location.

**(8) Designated State agency; designated State unit**

**(A) Designated State agency**

The term "designated State agency" means an agency designated under section 721(a)(2)(A) of this title.

**(B) Designated State unit**

The term "designated State unit" means—

(i) any State agency unit required under section 721(a)(2)(B)(ii) of this title; or

(ii) in cases in which no such unit is so required, the State agency described in section 721(a)(2)(B)(i) of this title.

**(9) Disability**

The term "disability" means—

(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

(B) for purposes of sections 701, 711, and 712 of this title, and subchapters II, IV, V, and VII, the meaning given it in section 12102 of title 42.

**(10) Drug and illegal use of drugs**

**(A) Drug**

The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

**(B) Illegal use of drugs**

The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

**(11) Employment outcome**

The term "employment outcome" means, with respect to an individual—

(A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

(B) satisfying the vocational outcome of supported employment; or

(C) satisfying any other vocational outcome the Secretary of Education may determine to be appropriate (including satisfying the vocational outcome of customized employment, self-employment, telecommuting, or business ownership),

in a manner consistent with this chapter.

**(12) Establishment of a community rehabilitation program**

The term "establishment of a community rehabilitation program" includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary of Education may determine, in accordance with regulations the Secretary of Education shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

**(13) Extended services**

The term "extended services" means ongoing support services and other appropriate services, needed to support and maintain an individual with a most significant disability in supported employment, that—

(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

**(14) Federal share**

**(A) In general**

Subject to subparagraph (B), the term "Federal share" means 78.7 percent.

**(B) Exception**

The term "Federal share" means the share specifically set forth in section 731(a)(3) of this title, except that with respect to payments pursuant to part B of subchapter I to any State that are used to meet the costs of construction of those rehabilitation facilities identified in section 723(b)(2) of this title in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 731(a)(3) of this title applicable with respect to the State.

**(C) Relationship to expenditures by a political subdivision**

For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary of Education shall by regulation prescribe.

**(15) Governor**

The term "Governor" means a chief executive officer of a State.

**(16) Impartial hearing officer**

**(A) In general**

The term "impartial hearing officer" means an individual—

(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

(ii) who is not a member of the State Rehabilitation Council described in section 725 of this title;

(iii) who has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 721 of this title, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

**(B) Construction**

An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

**(17) Independent living core services**

The term "independent living core services" means—

(A) information and referral services;

(B) independent living skills training;

(C) peer counseling (including cross-disability peer counseling);

(D) individual and systems advocacy; and

(E) services that—

(i) facilitate the transition of individuals with significant disabilities from nursing homes and other institutions to home and community-based residences, with the requisite supports and services;

(ii) provide assistance to individuals with significant disabilities who are at risk of entering institutions so that the individuals may remain in the community; and

(iii) facilitate the transition of youth who are individuals with significant disabilities, who were eligible for individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)), and who have completed their secondary education or otherwise left school, to postsecondary life.

**(18) Independent living services**

The term "independent living services" includes—

(A) independent living core services; and

(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this chapter and of the subchapters of this chapter, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

(iii) rehabilitation technology;

(iv) mobility training;

(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

(vi) personal assistance services, including attendant care and the training of personnel providing such services;

(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

(viii) consumer information programs on rehabilitation and independent living services available under this chapter, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this chapter;

(ix) education and training necessary for living in a community and participating in community activities;

(x) supported living;

(xi) transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

(xii) physical rehabilitation;

(xiii) therapeutic treatment;

(xiv) provision of needed prostheses and other appliances and devices;

(xv) individual and group social and recreational services;

(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

(xvii) services for children;

(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

(xix) appropriate preventive services to decrease the need of individuals assisted under this chapter for similar services in the future;

(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

(xxi) such other services as may be necessary and not inconsistent with the provisions of this chapter.

**(19) Indian; American Indian; Indian American; Indian tribe**

**(A) In general**

The terms "Indian", "American Indian", and "Indian American" mean an individual who is a member of an Indian tribe and includes a Native and a descendant of a Native, as such terms are defined in subsections (b) and (r) of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

**(B) Indian tribe**

The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]) and a tribal organization (as defined in section 5304(l) of title 25).

**(20) Individual with a disability**

**(A) In general**

Except as otherwise provided in subparagraph (B), the term "individual with a disability" means any individual who—

(i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

(ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to subchapter I, III, or VI.

**(B) Certain programs; limitations on major life activities**

Subject to subparagraphs (C), (D), (E), and (F), the term "individual with a disability" means, for purposes of sections 701, 711, and 712 of this title, and subchapters II, IV, V, and VII of this chapter, any person who has a disability as defined in section 12102 of title 42.

**(C) Rights and advocacy provisions**

**(i) In general; exclusion of individuals engaging in drug use**

For purposes of subchapter V, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

**(ii) Exception for individuals no longer engaging in drug use**

Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(III) is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

**(iii) Exclusion for certain services**

Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under subchapters I, II, and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

**(iv) Disciplinary action**

For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at section 104.36 of title 34, Code of Federal Regulations (or any corresponding similar regulation or ruling) shall not apply to such disciplinary actions.

**(v) Employment; exclusion of alcoholics**

For purposes of sections 793 and 794 of this title as such sections relate to employment, the term "individual with a disability" does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

**(D) Employment; exclusion of individuals with certain diseases or infections**

For the purposes of sections 793 and 794 of this title, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

**(E) Rights provisions; exclusion of individuals on basis of homosexuality or bisexuality**

For the purposes of sections 791, 793, and 794 of this title—

(i) for purposes of the application of subparagraph (B) to such sections, the term "impairment" does not include homosexuality or bisexuality; and

(ii) therefore the term "individual with a disability" does not include an individual on the basis of homosexuality or bisexuality.

**(F) Rights provisions; exclusion of individuals on basis of certain disorders**

For the purposes of sections 791, 793, and 794 of this title, the term "individual with a disability" does not include an individual on the basis of—

(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) compulsive gambling, kleptomania, or pyromania; or

(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

**(G) Individuals with disabilities**

The term "individuals with disabilities" means more than one individual with a disability.

**(21) Individual with a significant disability**

**(A) In general**

Except as provided in subparagraph (B) or (C), the term "individual with a significant disability" means an individual with a disability—

(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

**(B) Independent living services and centers for independent living**

For purposes of subchapter VII, the term "individual with a significant disability" means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

**(C) Research and training**

For purposes of subchapter II, the term "individual with a significant disability" includes an individual described in subparagraph (A) or (B).

**(D) Individuals with significant disabilities**

The term "individuals with significant disabilities" means more than one individual with a significant disability.

**(E) Individual with a most significant disability**

**(i) In general**

The term "individual with a most significant disability", used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section 721(a)(5)(C) of this title.

**(ii) Individuals with the most significant disabilities**

The term "individuals with the most significant disabilities" means more than one individual with a most significant disability.

**(22) Individual's representative; applicant's representative**

The terms "individual's representative" and "applicant's representative" mean a parent, a family member, a guardian, an advocate, or an authorized representative of an individual or applicant, respectively.

**(23) Institution of higher education**

The term "institution of higher education" has the meaning given the term in section 1002 of title 20.

**(24) Local agency**

The term "local agency" means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 721 of this title. Nothing in the preceding sentence of this paragraph or in section 721 of this title shall be construed to prevent the local agency from arranging to utilize another local public or nonprofit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

**(25) Local workforce development board**

The term "local workforce development board" means a local board, as defined in section 3 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3102].

**(26) Nonprofit**

The term "nonprofit", when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of title 26.

**(27) Ongoing support services**

The term "ongoing support services" means services—

(A) provided to individuals with the most significant disabilities;

(B) provided, at a minimum, twice monthly—

(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

(C) consisting of—

(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the worksite;

(iii) job development, job retention, and placement services;

(iv) social skills training;

(v) regular observation or supervision of the individual;

(vi) followup services such as regular contact with the employers, the individuals, the individuals' representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

(vii) facilitation of natural supports at the worksite;

(viii) any other service identified in section 723 of this title; or

(ix) a service similar to another service described in this subparagraph.

**(28) Personal assistance services**

The term "personal assistance services" means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

**(30) Pre-employment transition services**

The term "pre-employment transition services" means services provided in accordance with section 733 of this title.

**(31) Public or nonprofit**

The term "public or nonprofit", used with respect to an agency or organization, includes an Indian tribe.

**(32) Rehabilitation technology**

The term "rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

**(33) Secretary**

Unless where the context otherwise requires, the term "Secretary"—

(A) used in subchapter I, III, IV, V, VI, or part B of subchapter VII, means the Secretary of Education; and

(B) used in subchapter II or part A of subchapter VII, means the Secretary of Health and Human Services.

**(34) State**

The term "State" includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**(35) State workforce development board**

The term "State workforce development board" means a State board, as defined in section 3 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3102].

**(36) Statewide workforce development system**

The term "statewide workforce development system" means a workforce development system, as defined in section 3 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3102].

**(37) Student with a disability**

**(A) In general**

The term "student with a disability" means an individual with a disability who—

(i)(I)(aa) is not younger than the earliest age for the provision of transition services under section 614(d)(1)(A)(i)(VIII) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VIII)); or

(bb) if the State involved elects to use a lower minimum age for receipt of pre-employment transition services under this chapter, is not younger than that minimum age; and

(II)(aa) is not older than 21 years of age; or

(bb) if the State law for the State provides for a higher maximum age for receipt of services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), is not older than that maximum age; and

(ii)(I) is eligible for, and receiving, special education or related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or

(II) is an individual with a disability, for purposes of section 794 of this title.

**(B) Students with disabilities**

The term "students with disabilities" means more than 1 student with a disability.

**(38) Supported employment**

The term "supported employment" means competitive integrated employment, including customized employment, or employment in an integrated work setting in which individuals are working on a short-term basis toward competitive integrated employment, that is individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individuals involved, for individuals with the most significant disabilities—

(A)(i) for whom competitive integrated employment has not historically occurred; or

(ii) for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and

(B) who, because of the nature and severity of their disability, need intensive supported employment services and extended services after the transition described in paragraph (13)(C), in order to perform the work involved.

**(39) Supported employment services**

The term "supported employment services" means ongoing support services, including customized employment, needed to support and maintain an individual with a most significant disability in supported employment, that—

(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive integrated employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

(C) are provided by the designated State unit for a period of not more than 24 months, except that period may be extended, if necessary, in order to achieve the employment outcome identified in the individualized plan for employment.

**(40) Vocational rehabilitation services**

The term "vocational rehabilitation services" means those services identified in section 723 of this title which are provided to individuals with disabilities under this chapter.

**(41) Workforce investment activities**

The term "workforce investment activities" means workforce investment activities, as defined in section 3 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3102], that are carried out under that Act.

**(42) Youth with a disability**

**(A) In general**

The term "youth with a disability" means an individual with a disability who—

(i) is not younger than 14 years of age; and

(ii) is not older than 24 years of age.

**(B) Youth with disabilities**

The term "youth with disabilities" means more than 1 youth with a disability.

(Pub. L. 93–112, §7, formerly §6, as added [Pub. L. 105–220, title IV, §403, Aug. 7, 1998, 112 Stat. 1097](https://uscode.house.gov/statviewer.htm?volume=112&page=1097); amended [Pub. L. 105–244, title I, §102(a)(9)(A), Oct. 7, 1998, 112 Stat. 1619](https://uscode.house.gov/statviewer.htm?volume=112&page=1619); renumbered §7 and amended [Pub. L. 105–277, div. A, §101(f) [title VIII, §402(a)(1), (b)(3), (c)(1)], Oct. 21, 1998, 112 Stat. 2681–337](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-337), [2681-412](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-412), [2681-413](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-413), [2681-415](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-415); [Pub. L. 105–394, title IV, §402(a), Nov. 13, 1998, 112 Stat. 3661](https://uscode.house.gov/statviewer.htm?volume=112&page=3661); [Pub. L. 110–325, §7, Sept. 25, 2008, 122 Stat. 3558](https://uscode.house.gov/statviewer.htm?volume=122&page=3558); [Pub. L. 111–256, §2(d)(1), Oct. 5, 2010, 124 Stat. 2643](https://uscode.house.gov/statviewer.htm?volume=124&page=2643); [Pub. L. 113–128, title IV, §404, July 22, 2014, 128 Stat. 1632](https://uscode.house.gov/statviewer.htm?volume=128&page=1632).)

**SUBCHAPTER I—VOCATIONAL REHABILITATION SERVICES**

**Part A—General Provisions**

**§720. Declaration of policy; authorization of appropriations**

**(a) Findings; purpose; policy**

**(1) Findings**

Congress finds that—

(A) work—

(i) is a valued activity, both for individuals and society; and

(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States;

(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

(C) individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in competitive integrated employment settings if appropriate services and supports are provided;

(D) reasons for significant numbers of individuals with disabilities not working, or working at levels not commensurate with their abilities and capabilities, include—

(i) discrimination;

(ii) lack of accessible and available transportation;

(iii) fear of losing health coverage under the Medicare and Medicaid programs carried out under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing private health insurance; and

(iv) lack of education, training, and supports to meet job qualification standards necessary to secure, retain, regain, or advance in employment;

(E) enforcement of subchapter V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities;

(F) the provision of workforce development activities and vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities; and

(G) linkages between the vocational rehabilitation programs established under this subchapter and other components of the statewide workforce development systems are critical to ensure effective and meaningful participation by individuals with disabilities in workforce development activities.

**(2) Purpose**

The purpose of this subchapter is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is—

(A) an integral part of a statewide workforce development system; and

(B) designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, informed choice, and economic self-sufficiency, so that such individuals may prepare for and engage in gainful employment.

**(3) Policy**

It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

(A) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

(B) Individuals with disabilities must be provided the opportunities to obtain competitive integrated employment.

(C) Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners in the vocational rehabilitation process, making meaningful and informed choices—

(i) during assessments for determining eligibility and vocational rehabilitation needs; and

(ii) in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services.

(D) Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability involved requests, desires, or needs such supports.

(E) Vocational rehabilitation counselors that are trained and prepared in accordance with State policies and procedures as described in section 721(a)(7)(B) of this title (referred to individually in this subchapter as a "qualified vocational rehabilitation counselor"), other qualified rehabilitation personnel, and other qualified personnel should facilitate the accomplishment of the employment outcomes and objectives of an individual.

(F) Individuals with disabilities and the individuals' representatives are full partners in a vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

(G) Accountability measures must facilitate the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most significant disabilities.

**Definitions of Terms in Pub. L. 113–128**

Except as otherwise provided, definitions in section 3 of Pub. L. 113–128, which is classified to section 3102 of this title, apply to this section.

**§721. State plans**

**(a) Plan requirements**

**(1) In general**

**(A) Submission**

To be eligible to receive funds under this subchapter for a fiscal year, a State shall submit, and have approved by the Secretary and the Secretary of Labor, a unified State plan in accordance with section 102, or a combined State plan in accordance with section 103, of the Workforce Innovation and Opportunity Act [29 U.S.C. 3112, 3113]. The unified or combined State plan shall include, in the portion of the plan described in section 102(b)(2)(D) of such Act [29 U.S.C. 3112(b)(2)(D)] (referred to in this subsection as the "vocational rehabilitation services portion"), the provisions of a State plan for vocational rehabilitation services, described in this subsection.

**(B) Nonduplication**

The State shall not be required to submit, as part of the vocational rehabilitation services portion of the unified or combined State plan submitted in accordance with subparagraph (A), policies, procedures, or descriptions required under this subchapter that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this subchapter, including any policies, procedures, or descriptions submitted under this subchapter as in effect on the day before the effective date of the Workforce Innovation and Opportunity Act.

**(C) Duration**

The vocational rehabilitation services portion of the unified or combined State plan submitted in accordance with subparagraph (A) shall remain in effect until the State submits and receives approval of a new State plan in accordance with subparagraph (A), or until the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this chapter by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this chapter.

**(2) Designated State agency; designated State unit**

**(A) Designated State agency**

The State plan for vocational rehabilitation services shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.

**(B) Designated State unit**

The State agency designated under subparagraph (A) shall be—

(i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

(I) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

(II) has a full-time director who is responsible for the day-to-day operation of the vocational rehabilitation program;

(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work;

(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency; and

(V) has the sole authority and responsibility within the designated State agency described in subparagraph (A) to expend funds made available under this subchapter in a manner that is consistent with the purposes of this subchapter.

**(C) Responsibility for services for the blind**

If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

**(3) Non-Federal share**

The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B.

**(4) Statewideness**

The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that—

(A) in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner, but only if the non-Federal share of the cost of the vocational rehabilitation services involved is met from funds made available by a local agency (including funds contributed to such agency by a private agency, organization, or individual); and

(B) in a case in which earmarked funds are used toward the non-Federal share and such funds are earmarked for particular geographic areas within the State, the earmarked funds may be used in such areas if the State notifies the Commissioner that the State cannot provide the full non-Federal share without such funds.

**(5) Order of selection for vocational rehabilitation services**

In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

(B) provide the justification for the order of selection;

(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services;

(D) notwithstanding subparagraph (C), permit the State, in its discretion, to elect to serve eligible individuals (whether or not receiving vocational rehabilitation services) who require specific services or equipment to maintain employment; and

(E) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

**(6) Methods for administration**

**(A) In general**

The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

**(B) Employment of individuals with disabilities**

The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this subchapter shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 793 of this title.

**(C) Facilities**

The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved on August 12, 1968 (commonly known as the "Architectural Barriers Act of 1968") [42 U.S.C. 4151 et seq.], with section 794 of this title, and with the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.].

**(7) Comprehensive system of personnel development**

The State plan shall—

(A) include a description (consistent with the purposes of this chapter) of a comprehensive system of personnel development, which shall include—

(i) a description of the procedures and activities the designated State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

(I) the number and type of personnel that are employed by the designated State unit in the provision of vocational rehabilitation services, including ratios of qualified vocational rehabilitation counselors to clients; and

(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the vocational rehabilitation field, and other relevant factors;

(ii) where appropriate, a description of the manner in which activities will be undertaken under this section to coordinate the system of personnel development with personnel development activities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the programs of institutions of higher education within the State that are preparing rehabilitation professionals, including—

(I) the numbers of students enrolled in such programs; and

(II) the number of such students who graduated with certification or licensure, or with credentials to qualify for certification or licensure, as a rehabilitation professional during the past year;

(iv) a description of the development, updating, and implementation of a plan that—

(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

(II) provides for the coordination and facilitation of efforts between the designated State unit, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

(v) a description of the procedures and activities the designated State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology, including training implemented in coordination with entities carrying out State programs under section 3003 of this title; and

(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to this chapter made by the Workforce Innovation and Opportunity Act;

(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including rehabilitation professionals and paraprofessionals, needed within the designated State unit to carry out this part are appropriately and adequately prepared and trained, including—

(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

(ii) the establishment and maintenance of education and experience requirements, to ensure that the personnel have a 21st century understanding of the evolving labor force and the needs of individuals with disabilities, including requirements for—

(I)(aa) attainment of a baccalaureate degree in a field of study reasonably related to vocational rehabilitation, to indicate a level of competency and skill demonstrating basic preparation in a field of study such as vocational rehabilitation counseling, social work, psychology, disability studies, business administration, human resources, special education, supported employment, customized employment, economics, or another field that reasonably prepares individuals to work with consumers and employers; and

(bb) demonstrated paid or unpaid experience, for not less than 1 year, consisting of—

(AA) direct work with individuals with disabilities in a setting such as an independent living center;

(BB) direct service or advocacy activities that provide such individual with experience and skills in working with individuals with disabilities; or

(CC) direct experience as an employer, as a small business owner or operator, or in self-employment, or other experience in human resources, recruitment, or experience in supervising employees, training, or other activities that provide experience in competitive integrated employment environments; or

(II) attainment of a master's or doctoral degree in a field of study such as vocational rehabilitation counseling, law, social work, psychology, disability studies, business administration, human resources, special education, management, public administration, or another field that reasonably provides competence in the employment sector, in a disability field, or in both business-related and rehabilitation-related fields; and

(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual.

**(8) Comparable services and benefits**

**(A) Determination of availability**

**(i) In general**

The State plan shall include an assurance that, prior to providing an accommodation or auxiliary aid or service or any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(E) and in paragraphs (1) through (4) and (14) of section 723(a) of this title, the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this subchapter) unless such a determination would interrupt or delay—

(I) the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment of the individual in accordance with section 722(b) of this title;

(II) an immediate job placement; or

(III) the provision of such service to any individual at extreme medical risk.

**(ii) Awards and scholarships**

For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

**(B) Interagency agreement**

The State plan shall include an assurance that the Governor of the State, in consultation with the entity in the State responsible for the vocational rehabilitation program and other appropriate agencies, will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including the State entity responsible for administering the State Medicaid program, a public institution of higher education, and a component of the statewide workforce development system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in subparagraph (A) (other than those services specified in paragraph (5)(E), and in paragraphs (1) through (4) and (14) of section 723(a) of this title), and, if appropriate, accommodations or auxiliary aids and services, that are included in the individualized plan for employment of an eligible individual, including the provision of such vocational rehabilitation services (including, if appropriate, accommodations or auxiliary aids and services) during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

**(i) Agency financial responsibility**

An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating the financial responsibility of such public entity for providing such services.

**(ii) Conditions, terms, and procedures of reimbursement**

Information specifying the conditions, terms, and procedures under which a designated State unit shall be reimbursed by other public entities for providing such services, based on the provisions of such agreement or mechanism.

**(iii) Interagency disputes**

Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other public entities or otherwise implement the provisions of the agreement or mechanism).

**(iv) Coordination of services procedures**

Information specifying policies and procedures for public entities to determine and identify the interagency coordination responsibilities of each public entity to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(E) and in paragraphs (1) through (4) and (14) of section 723(a) of this title), and accommodations or auxiliary aids and services.

**(C) Responsibilities of other public entities**

**(i) Responsibilities under other law**

Notwithstanding subparagraph (B), if any public entity other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(E) and in paragraphs (1) through (4) and (14) of section 723(a) of this title), such public entity shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

**(ii) Reimbursement**

If a public entity other than the designated State unit fails to provide or pay for the services described in clause (i) for an eligible individual, the designated State unit shall provide or pay for such services to the individual. Such designated State unit may claim reimbursement for the services from the public entity that failed to provide or pay for such services. Such public entity shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism described in this paragraph according to the procedures established in such agreement or mechanism pursuant to subparagraph (B)(ii).

**(D) Methods**

The Governor of a State may meet the requirements of subparagraph (B) through—

(i) a State statute or regulation;

(ii) a signed agreement between the respective officials of the public entities that clearly identifies the responsibilities of each public entity relating to the provision of services; or

(iii) another appropriate method, as determined by the designated State unit.

**(9) Individualized plan for employment**

**(A) Development and implementation**

The State plan shall include an assurance that an individualized plan for employment meeting the requirements of section 722(b) of this title will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this subchapter, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

**(B) Provision of services**

The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized plan for employment.

**(10) Reporting requirements**

**(A) In general**

The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this subchapter.

**(B) Annual reporting**

In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting of information, on eligible individuals receiving the services, that is necessary to assess the State's performance on the standards and indicators described in section 726(a) of this title that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this subchapter.

**(C) Additional data**

In specifying the information required to be submitted in the reports, the Commissioner shall require additional data, from each State, with regard to applicants and eligible individuals related to—

(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this subchapter, including the number of individuals determined to be ineligible (disaggregated by type of disability and age);

(ii) the number of individuals who received vocational rehabilitation services through the program, including—

(I) the number who received services under paragraph (5)(E), but not assistance under an individualized plan for employment;

(II) of those recipients who are individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 722(b) of this title;

(III) of those recipients who are not individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 722(b) of this title;

(IV) the number of individuals with open cases (disaggregated by those who are receiving training and those who are in postsecondary education), and the type of services the individuals are receiving (including supported employment);

(V) the number of students with disabilities who are receiving pre-employment transition services under this subchapter: [1](https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter16&edition=prelim#721_1_target) and

(VI) the number of individuals referred to State vocational rehabilitation programs by one-stop operators (as defined in section 3 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3102]), and the number of individuals referred to such one-stop operators by State vocational rehabilitation programs;

(iii) of those applicants and eligible recipients who are individuals with significant disabilities—

(I) the number who ended their participation in the program carried out under this subchapter and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

(bb) the number who received employment benefits from an employer during such employment; and

(iv) of those applicants and eligible recipients who are not individuals with significant disabilities—

(I) the number who ended their participation in the program carried out under this subchapter and the number who achieved employment outcomes after receiving vocational rehabilitation services and, for those who achieved employment outcomes, the average length of time to obtain employment; and

(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

(bb) the number who received employment benefits from an employer during such employment.

**(D) Costs and results**

The Commissioner shall also require that the designated State agency include in the reports information on—

(i) the costs under this subchapter of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized plans for employment, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, providing other services to groups, and facilitating use of other programs under this chapter and title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] by eligible individuals; and

(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

**(E) Additional information**

The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

(i) information on—

(I) age, gender, race, ethnicity, education, category of impairment, severity of disability, and whether the individuals are students with disabilities;

(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized plan for employment, and termination of participation in the program;

(III) earnings at the time of application for the program and termination of participation in the program;

(IV) work status and occupation;

(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

(VI) types of public or private programs or agencies that furnished services under the program; and

(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

(ii) information necessary to determine the success of the State in meeting the standards and indicators established pursuant to section 726 of this title.

**(F) Completeness and confidentiality**

The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

**(G) Rules for reporting of data**

The disaggregation of data under this chapter shall not be required within a category if the number of individuals in a category is insufficient to yield statistically reliable information, or if the results would reveal personally identifiable information about an individual.

**(H) Comprehensive report**

The State plan shall specify that the Commissioner will provide an annual comprehensive report that includes the reports and data required under this section, as well as a summary of the reports and data, for each fiscal year. The Commissioner shall submit the report to the Committee on Education and the Workforce of the House of Representatives, the Committee on Appropriations of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Appropriations of the Senate, not later than 90 days after the end of the fiscal year involved.

**(11) Cooperation, collaboration, and coordination**

**(A) Cooperative agreements with other components of statewide workforce development systems**

The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of the statewide workforce development system of the State, regarding the system, which agreement may provide for—

(i) provision of intercomponent staff training and technical assistance with regard to—

(I) the availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and

(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce development activities in the State through the promotion of program accessibility (including programmatic accessibility and physical accessibility), the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

(ii) use of information and financial management systems that link all components of the statewide workforce development system, that link the components to other electronic networks, including nonvisual electronic networks, and that relate to such subjects as employment statistics, and information on job vacancies, career planning, and workforce investment activities;

(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

(iv) establishment of cooperative efforts with employers to—

(I) facilitate job placement; and

(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce development system with regard to paying for necessary services (consistent with State law and Federal requirements); and

(vi) specification of procedures for resolving disputes among such components.

**(B) Replication of cooperative agreements**

The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce development system.

**(C) Interagency cooperation with other agencies**

The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including the State programs carried out under section 3003 of this title, programs carried out by the Under Secretary for Rural Development of the Department of Agriculture, noneducational agencies serving out-of-school youth, and State use contracting programs, to the extent that such Federal, State, and local agencies and programs are not carrying out activities through the statewide workforce development system.

**(D) Coordination with education officials**

The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities, that are designed to facilitate the transition of the students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services, including pre-employment transition services, under this subchapter, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

(i) consultation and technical assistance, which may be provided using alternative means for meeting participation (such as video conferences and conference calls), to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;

(ii) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and implementation of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act [20 U.S.C. 1414(d)];

(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

(iv) procedures for outreach to and identification of students with disabilities who need the transition services.

**(E) Coordination with employers**

The State plan shall describe how the designated State unit will work with employers to identify competitive integrated employment opportunities and career exploration opportunities, in order to facilitate the provision of—

(i) vocational rehabilitation services; and

(ii) transition services for youth with disabilities and students with disabilities, such as pre-employment transition services.

**(F) Coordination with Statewide Independent Living Councils and independent living centers**

The State plan shall include an assurance that the designated State unit, the Statewide Independent Living Council established under section 796d of this title, and the independent living centers described in subpart 3 of part A of subchapter VII within the State have developed working relationships and coordinate their activities, as appropriate.

**(G) Cooperative agreement regarding individuals eligible for home and community-based waiver programs**

The State plan shall include an assurance that the designated State unit has entered into a formal cooperative agreement with the State agency responsible for administering the State Medicaid plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and the State agency with primary responsibility for providing services and supports for individuals with intellectual disabilities and individuals with developmental disabilities, with respect to the delivery of vocational rehabilitation services, including extended services, for individuals with the most significant disabilities who have been determined to be eligible for home and community-based services under a Medicaid waiver, Medicaid State plan amendment, or other authority related to a State Medicaid program.

**(H) Cooperative agreement with recipients of grants for services to American Indians**

In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized plans for employment;

(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living on or near a reservation or tribal service area are provided vocational rehabilitation services;

(iii) strategies for the provision of transition planning, by personnel of the designated State unit, the State educational agency, and the recipient of funds under part C, that will facilitate the development and approval of the individualized plans for employment under section 722 of this title; and

(iv) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

**(I) Coordination with assistive technology programs**

The State plan shall include an assurance that the designated State unit, and the lead agency and implementing entity (if any) designated by the Governor of the State under section 3003 of this title, have developed working relationships and will enter into agreements for the coordination of their activities, including the referral of individuals with disabilities to programs and activities described in that section.

**(J) Coordination with ticket to work and self-sufficiency program**

The State plan shall include an assurance that the designated State unit will coordinate activities with any other State agency that is functioning as an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19).

**(K) Interagency cooperation**

The State plan shall describe how the designated State agency or agencies (if more than 1 agency is designated under paragraph (2)(A)) will collaborate with the State agency responsible for administering the State Medicaid plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), the State agency responsible for providing services for individuals with developmental disabilities, and the State agency responsible for providing mental health services, to develop opportunities for community-based employment in integrated settings, to the greatest extent practicable.

**(12) Residency**

The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

**(13) Services to American Indians**

The State plan shall include an assurance that, except as otherwise provided in part C, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

**(14) Semiannual review of individuals in extended employment or other employment under special certificate provisions of the Fair Labor Standards Act of 1938**

The State plan shall provide for—

(A) a semiannual review and reevaluation of the status of each individual with a disability served under this subchapter who is employed either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the beginning of such employment, and annually thereafter, to determine the interests, priorities, and needs of the individual with respect to competitive integrated employment or training for competitive integrated employment;

(B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative;

(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist individuals described in subparagraph (A) in attaining competitive integrated employment; and

(D) an assurance that the State will report the information generated under subparagraphs (A), (B), and (C), for each of the individuals, to the Administrator of the Wage and Hour Division of the Department of Labor for each fiscal year, not later than 60 days after the end of the fiscal year.

**(15) Annual State goals and reports of progress**

**(A) Assessments and estimates**

The State plan shall—

(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

(I) individuals with the most significant disabilities, including their need for supported employment services;

(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this subchapter;

(III) individuals with disabilities served through other components of the statewide workforce development system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components; and

(IV) youth with disabilities, and students with disabilities, including their need for pre-employment transition services or other transition services;

(ii) include an assessment of the needs of individuals with disabilities for transition services and pre-employment transition services, and the extent to which such services provided under this chapter are coordinated with transition services provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in order to meet the needs of individuals with disabilities.

(iii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

(iv) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for any year in which the State updates the assessments.

**(B) Annual estimates**

The State plan shall include, and shall provide that the State shall annually submit a report to the Commissioner that includes, State estimates of—

(i) the number of individuals in the State who are eligible for services under this subchapter;

(ii) the number of such individuals who will receive services provided with funds provided under part B and under subchapter VI, including, if the designated State agency uses an order of selection in accordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order;

(iii) the number of individuals who are eligible for services under this subchapter, but are not receiving such services due to an order of selection; and

(iv) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

**(C) Goals and priorities**

**(i) In general**

The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

**(ii) Basis**

The State goals and priorities shall be based on an analysis of—

(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

(II) the performance of the State on the standards and indicators established under section 726 of this title; and

(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 725(c) of this title and the findings and recommendations from monitoring activities conducted under section 727 of this title.

**(iii) Service and outcome goals for categories in order of selection**

If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

**(D) Strategies**

The State plan shall contain a description of the strategies the State will use to address the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

(ii) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

(iii) the methods to be used to improve and expand vocational rehabilitation services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from the receipt of educational services in school to postsecondary life (including the receipt of vocational rehabilitation services under this subchapter, postsecondary education, employment, and pre-employment transition services);

(iv) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

(v) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 726 of this title; and

(vi) strategies for assisting entities carrying out other components of the statewide workforce development system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

**(E) Evaluation and reports of progress**

The State plan shall—

(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program, and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

(II) a description of strategies that contributed to achieving the goals;

(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 726 of this title; and

(ii) provide that the designated State unit and the State Rehabilitation Council, if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

**(16) Public comment**

The State plan shall—

(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 732 of this title, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

(B) provide that the designated State agency (or each designated State agency if two agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals' representatives;

(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

(iii) providers of vocational rehabilitation services to individuals with disabilities;

(iv) the director of the client assistance program; and

(v) the State Rehabilitation Council, if the State has such a Council.

**(17) Use of funds for construction of facilities**

The State plan shall provide that if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs—

(A) the Federal share of the cost of construction for the facilities for a fiscal year will not exceed an amount equal to 10 percent of the State's allotment under section 730 of this title for such year;

(B) the provisions of section 776 [2](https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter16&edition=prelim#721_2_target) of this title (as in effect on the day before August 7, 1998) shall be applicable to such construction and such provisions shall be deemed to apply to such construction; and

(C) there shall be compliance with regulations the Commissioner shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of facilities for community rehabilitation programs) because the plan includes such provisions for construction.

**(18) Innovation and expansion activities**

The State plan shall—

(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 730 of this title—

(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this subchapter, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

(ii) to support the funding of—

(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 725(d)(1) of this title; and

(II) the Statewide Independent Living Council, consistent with the plan prepared under section 796d(e)(1) of this title;

(B) include a description of how the reserved funds will be utilized; and

(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds were utilized during the preceding year.

**(19) Choice**

The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants' representatives or individuals' representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 722(d) of this title.

**(20) Information and referral services**

**(A) In general**

The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program carried out under this subchapter), including other components of the statewide workforce development system in the State.

**(B) Referrals**

An appropriate referral made through the system shall—

(i) be to the Federal or State programs, including programs carried out by other components of the statewide workforce development system in the State, best suited to address the specific employment needs of an individual with a disability; and

(ii) include, for each of these programs, provision to the individual of—

(I) a notice of the referral by the designated State agency to the agency carrying out the program;

(II) information identifying a specific point of contact within the agency carrying out the program; and

(III) information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

**(21) State independent consumer-controlled commission; State Rehabilitation Council**

**(A) Commission or Council**

The State plan shall provide that either—

(i) the designated State agency is an independent commission that—

(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

(II) is consumer-controlled by persons who—

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

(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

(IV) undertakes the functions set forth in section 725(c)(4) of this title; or

(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 725 of this title and the designated State unit—

(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 725(c)(5) of this title, the review and analysis of consumer satisfaction described in section 725(c)(4) of this title, and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

(IV) transmits to the Council—

(aa) all plans, reports, and other information required under this subchapter to be submitted to the Secretary;

(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this subchapter; and

(cc) copies of due process hearing decisions issued under this subchapter, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

**(B) More than one designated State agency**

In the case of a State that, under subsection (a)(2), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the two agencies that does not meet the requirements in subparagraph (A)(i), or establish one State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

**(22) Supported employment State plan supplement**

The State plan shall include an assurance that the State has an acceptable plan for carrying out subchapter VI, including the use of funds under that part to supplement funds made available under part B of this subchapter to pay for the cost of services leading to supported employment.

**(23) Annual updates**

The plan shall include an assurance that the State will submit to the Commissioner reports containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

**(24) Certain contracts and cooperative agreements**

**(A) Contracts with for-profit organizations**

The State plan shall provide that the designated State agency has the authority to enter into contracts with for-profit organizations for the purpose of providing, as vocational rehabilitation services, on-the-job training and related programs for individuals with disabilities under part A of subchapter VI, upon a determination by such agency that such for-profit organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations.

**(B) Cooperative agreements with private nonprofit organizations**

The State plan shall describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established.

**(25) Services for students with disabilities**

The State plan shall provide an assurance that, with respect to students with disabilities, the State—

(A) has developed and will implement—

(i) strategies to address the needs identified in the assessments described in paragraph (15); and

(ii) strategies to achieve the goals and priorities identified by the State, in accordance with paragraph (15), to improve and expand vocational rehabilitation services for students with disabilities on a statewide basis; and

(B) has developed and will implement strategies to provide pre-employment transition services.

**(26) Job growth and development**

The State plan shall provide an assurance describing how the State will utilize initiatives involving in-demand industry sectors or occupations under sections 106(c) and 108 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3121(c), 3123] to increase competitive integrated employment opportunities for individuals with disabilities.

**(b) Submission; approval; modification**

The State plan for vocational rehabilitation services shall be subject to—

(1) subsection (c) of section 102 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3112], in a case in which that plan is a portion of the unified State plan described in that section 102; and

(2) subsection (b), and paragraphs (1), (2), and (3) of subsection (c), of section 103 of such Act [29 U.S.C. 3113] in a case in which that State plan for vocational rehabilitation services is a portion of the combined State plan described in that section 103.

**(c) Construction**

Nothing in this part shall be construed to reduce the obligation under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) of a local educational agency or any other agency to provide or pay for any transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities within the State involved.

(Pub. L. 93–112, title I, §101, as added [Pub. L. 105–220, title IV, §404, Aug. 7, 1998, 112 Stat. 1119](https://uscode.house.gov/statviewer.htm?volume=112&page=1119); amended [Pub. L. 105–277, div. A, §101(f) [title VIII, §402(c)(4)], Oct. 21, 1998, 112 Stat. 2681–337](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-337), [2681-415](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-415); [Pub. L. 108–446, title III, §305(h)(1), Dec. 3, 2004, 118 Stat. 2805](https://uscode.house.gov/statviewer.htm?volume=118&page=2805); [Pub. L. 113–128, title IV, §412, July 22, 2014, 128 Stat. 1641](https://uscode.house.gov/statviewer.htm?volume=128&page=1641).)

**§722. Eligibility and individualized plan for employment**

**(a) Eligibility**

**(1) Criterion for eligibility**

An individual is eligible for assistance under this subchapter if the individual—

(A) has undergone an assessment for determining eligibility and vocational rehabilitation needs and as a result has been determined to be an individual with a disability under section 705(20)(A) of this title; and

(B) requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

For purposes of an assessment for determining eligibility and vocational rehabilitation needs under this chapter, an individual shall be presumed to have a goal of an employment outcome.

**(2) Presumption of benefit**

**(A) Applicants**

For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 705(20)(A) of this title.

**(B) Responsibilities**

Prior to determining under this subsection that an applicant described in subparagraph (A) is unable to benefit due to the severity of the individual's disability or that the individual is ineligible for vocational rehabilitation services, the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 705(2)(D) of this title, with appropriate supports provided through the designated State unit. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual. In providing the trial experiences, the designated State unit shall provide the individual with the opportunity to try different employment experiences, including supported employment, and the opportunity to become employed in competitive integrated employment.

**(3) Presumption of eligibility**

**(A) In general**

For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

(i) considered to be an individual with a significant disability under section 705(21)(A) of this title; and

(ii) presumed to be eligible for vocational rehabilitation services under this subchapter (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome due to the severity of the individual's disability (as of the date of the determination).

**(B) Construction**

Nothing in this paragraph shall be construed to create an entitlement to any vocational rehabilitation service.

**(4) Use of existing information**

**(A) In general**

To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this subchapter and developing the individualized plan for employment described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized plan for employment), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

**(B) Determinations by officials of other agencies**

Determinations made by officials of other agencies, particularly education officials described in section 721(a)(11)(D) of this title, regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 705(20)(A) of this title or an individual with a significant disability under section 705(21)(A) of this title shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

**(C) Basis**

The determination of eligibility for vocational rehabilitation services shall be based on—

(i) the review of existing data described in section 705(2)(A)(i) of this title; and

(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 705(2)(A)(ii) of this title.

**(5) Determination of ineligibility**

If, after the designated State unit carries out the activities described in paragraph (2)(B), a review of existing data, and, to the extent necessary, the assessment activities described in section 705(2)(A)(ii) of this title, an individual who applies for services under this subchapter is determined not to be eligible for the services, or if an eligible individual receiving services under an individualized plan for employment is determined to be no longer eligible for the services—

(A) the ineligibility determination shall be an individualized one, based on the available data, and shall not be based on assumptions about broad categories of disabilities;

(B) the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

(C) the individual or, as appropriate, the individual's representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

(i) the reasons for the determination, including the clear and convincing evidence that forms the basis for the determination of ineligibility; and

(ii) a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c);

(D) the individual shall be provided with a description of services available from the client assistance program under section 732 of this title and information on how to contact that program; and

(E) any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

(i) within 12 months; and

(ii) thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative.

**(6) Timeframe for making an eligibility determination**

The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this subchapter within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

(A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

(B) the designated State unit is exploring an individual's abilities, capabilities, and capacity to perform in work situations under paragraph (2)(B).

**(b) Development of an individualized plan for employment**

**(1) Options for developing an individualized plan for employment**

If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a), the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs, as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized plan for employment, including—

(A) information on the availability of assistance from a qualified vocational rehabilitation counselor or, as appropriate, a disability advocacy organization in developing all or part of the individualized plan for employment for the individual, and the availability of technical assistance in developing all or part of the individualized plan for employment for the individual;

(B) a description of the full range of components that shall be included in an individualized plan for employment;

(C) as appropriate—

(i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized plan for employment;

(ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

(iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized plan for employment; and

(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); and

(ii) a description of the availability of a client assistance program established pursuant to section 732 of this title and information about how to contact the client assistance program.

**(2) Individuals desiring to enter the workforce**

For an individual entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness, the designated State unit shall provide to the individual general information on additional supports and assistance for individuals with disabilities desiring to enter the workforce, including assistance with benefits planning.

**(3) Mandatory procedures**

**(A) Written document**

An individualized plan for employment shall be a written document prepared on forms provided by the designated State unit.

**(B) Informed choice**

An individualized plan for employment shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services, consistent with subsection (d).

**(C) Signatories**

An individualized plan for employment shall be—

(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

**(D) Copy**

A copy of the individualized plan for employment for an eligible individual shall be provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, of the individual's representative.

**(E) Review and amendment**

The individualized plan for employment shall be—

(i) reviewed at least annually by—

(I) a qualified vocational rehabilitation counselor; and

(II) the eligible individual or, as appropriate, the individual's representative;

(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit); and

(iii) amended, as necessary, to include the postemployment services and service providers that are necessary for the individual to maintain or regain employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**(F) Timeframe for completing the individualized plan for employment**

The individualized plan for employment shall be developed as soon as possible, but not later than a deadline of 90 days after the date of the determination of eligibility described in paragraph (1), unless the designated State unit and the eligible individual agree to an extension of that deadline to a specific date by which the individualized plan for employment shall be completed.

**(4) Mandatory components of an individualized plan for employment**

Regardless of the approach selected by an eligible individual to develop an individualized plan for employment, an individualized plan for employment shall, at a minimum, contain mandatory components consisting of—

(A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, consistent with the general goal of competitive integrated employment (except that in the case of an eligible individual who is a student, the description may be a description of the student's projected postschool employment outcome);

(B)(i) a description of the specific vocational rehabilitation services that are—

(I) needed to achieve the employment outcome, including, as appropriate—

(aa) the provision of assistive technology devices and assistive technology services (including referrals described in section 723(a)(3) of this title to the device reutilization programs and demonstrations described in subparagraphs (B) and (D) of section 3003(e)(2) of this title through agreements developed under section 721(a)(11)(I) of this title; and

(bb) personal assistance services (including training in the management of such services);

(II) in the case of a plan for an eligible individual that is a student, the specific transition services and supports needed to achieve the student's employment outcome or projected postschool employment outcome; and

(III) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and

(ii) timelines for the achievement of the employment outcome and for the initiation of the services;

(C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;

(D) a description of criteria to evaluate progress toward achievement of the employment outcome;

(E) the terms and conditions of the individualized plan for employment, including, as appropriate, information describing—

(i) the responsibilities of the designated State unit;

(ii) the responsibilities of the eligible individual, including—

(I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;

(II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and

(III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 721(a)(8) of this title; and

(iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 721(a)(8) of this title;

(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

(i) the extended services needed by the eligible individual; and

(ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized plan for employment, a description of the basis for concluding that there is a reasonable expectation that such source will become available;

(G) as determined to be necessary, a statement of projected need for post-employment services; and

(H) for an individual who also is receiving assistance from an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), a description of how responsibility for service delivery will be divided between the employment network and the designated State unit.

**(c) Procedures**

**(1) In general**

Each State shall establish procedures for mediation of, and procedures for review through an impartial due process hearing of, determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals. The procedures shall allow an applicant or an eligible individual the opportunity to request mediation, an impartial due process hearing, or both procedures.

**(2) Notification**

**(A) Rights and assistance**

The procedures shall provide that an applicant or an eligible individual or, as appropriate, the applicant's representative or individual's representative shall be notified of—

(i) the right to obtain review of determinations described in paragraph (1) in an impartial due process hearing under paragraph (5);

(ii) the right to pursue mediation with respect to the determinations under paragraph (4);

(iii) the availability of assistance from the client assistance program under section 732 of this title; and

(iv) any applicable State limit on the time by which a request for mediation under paragraph (4) or a hearing under paragraph (5) shall be made, and any required procedure by which the request shall be made.

**(B) Timing**

Such notification shall be provided in writing—

(i) at the time an individual applies for vocational rehabilitation services provided under this subchapter;

(ii) at the time the individualized plan for employment for the individual is developed; and

(iii) upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

**(3) Evidence and representation**

The procedures required under this subsection shall, at a minimum—

(A) provide an opportunity for an applicant or an eligible individual, or, as appropriate, the applicant's representative or individual's representative, to submit at the mediation session or hearing evidence and information to support the position of the applicant or eligible individual; and

(B) include provisions to allow an applicant or an eligible individual to be represented in the mediation session or hearing by a person selected by the applicant or eligible individual.

**(4) Mediation**

**(A) Procedures**

Each State shall ensure that procedures are established and implemented under this subsection to allow parties described in paragraph (1) to disputes involving any determination described in paragraph (1) to resolve such disputes through a mediation process that, at a minimum, shall be available whenever a hearing is requested under this subsection.

**(B) Requirements**

Such procedures shall ensure that the mediation process—

(i) is voluntary on the part of the parties;

(ii) is not used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this subchapter; and

(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

**(C) List of mediators**

The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this subchapter, from which the mediators described in subparagraph (B) shall be selected.

**(D) Cost**

The State shall bear the cost of the mediation process.

**(E) Scheduling**

Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

**(F) Agreement**

An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

**(G) Confidentiality**

Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

**(H) Construction**

Nothing in this subsection shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to proceedings under this paragraph or paragraph (5), if the informal process used is not used to deny or delay the right of the applicant or eligible individual to a hearing under this subsection or to deny any other right afforded under this subchapter.

**(5) Hearings**

**(A) Officer**

A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who, on reviewing the evidence presented, shall issue a written decision based on the provisions of the approved State plan, requirements specified in this chapter (including regulations implementing this chapter), and State regulations and policies that are consistent with the Federal requirements specified in this subchapter. The officer shall provide the written decision to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit. The impartial hearing officer shall have the authority to render a decision and require actions regarding the applicant's or eligible individual's vocational rehabilitation services under this subchapter.

**(B) List**

The designated State unit shall maintain a list of qualified impartial hearing officers who are knowledgeable about Federal laws (including regulations) relating to the provision of vocational rehabilitation services under this subchapter from which the officer described in subparagraph (A) shall be selected. For the purposes of maintaining such list, impartial hearing officers shall be identified jointly by—

(i) the designated State unit; and

(ii) members of the Council or commission, as appropriate, described in section 721(a)(21) of this title.

**(C) Selection**

Such an impartial hearing officer shall be selected to hear a particular case relating to a determination—

(i) on a random basis; or

(ii) by agreement between—

(I) the Director of the designated State unit and the individual with a disability; or

(II) in appropriate cases, the Director and the individual's representative.

**(D) Procedures for seeking review**

A State may establish procedures to enable a party involved in a hearing under this paragraph to seek an impartial review of the decision of the hearing officer under subparagraph (A) by—

(i) the chief official of the designated State agency if the State has established both a designated State agency and a designated State unit under section 721(a)(2) of this title; or

(ii) an official from the office of the Governor.

**(E) Review request**

If the State establishes impartial review procedures under subparagraph (D), either party may request the review of the decision of the hearing officer within 20 days after the decision.

**(F) Reviewing official**

The reviewing official described in subparagraph (D) shall—

(i) in conducting the review, provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review;

(ii) not overturn or modify the decision of the hearing officer, or part of the decision, that supports the position of the applicant or eligible individual unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, this chapter (including regulations implementing this chapter) or any State regulation or policy that is consistent with the Federal requirements specified in this subchapter;

(iii) make a final decision with respect to the matter in a timely manner and provide such decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit, including a full report of the findings and the grounds for such decision; and

(iv) not delegate the responsibility for making the final decision to any officer or employee of the designated State unit.

**(G) Finality of hearing decision**

A decision made after a hearing under subparagraph (A) shall be final, except that a party may request an impartial review if the State has established procedures for such review under subparagraph (D) and a party involved in a hearing may bring a civil action under subparagraph (J).

**(H) Finality of review**

A decision made under subparagraph (F) shall be final unless such a party brings a civil action under subparagraph (J).

**(I) Implementation**

If a party brings a civil action under subparagraph (J) to challenge a final decision of a hearing officer under subparagraph (A) or to challenge a final decision of a State reviewing official under subparagraph (F), the final decision involved shall be implemented pending review by the court.

**(J) Civil action**

**(i) In general**

Any party aggrieved by a final decision described in subparagraph (I), may bring a civil action for review of such decision. The action may be brought in any State court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

**(ii) Procedure**

In any action brought under this subparagraph, the court—

(I) shall receive the records relating to the hearing under subparagraph (A) and the records relating to the State review under subparagraphs (D) through (F), if applicable;

(II) shall hear additional evidence at the request of a party to the action; and

(III) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

**(6) Hearing board**

**(A) In general**

A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations or decisions under this chapter, is authorized to carry out the responsibilities of the impartial hearing officer under this subsection.

**(B) Application**

The provisions of paragraphs (1), (2), and (3) that relate to due process hearings do not apply, and paragraph (5) (other than subparagraph (J)) does not apply, to any State to which subparagraph (A) applies.

**(7) Impact on provision of services**

Unless the individual with a disability so requests, or, in an appropriate case, the individual's representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual's representative.

**(8) Information collection and report**

**(A) In general**

The Director of the designated State unit shall collect information described in subparagraph (B) and prepare and submit to the Commissioner a report containing such information. The Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 710 of this title. The Commissioner shall also collect copies of the final decisions of impartial hearing officers conducting hearings under this subsection and State officials conducting reviews under this subsection.

**(B) Information**

The information required to be collected under this subsection includes—

(i) a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers under this subsection;

(ii) information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;

(iii) information on the number of hearing decisions made under this subsection that were not reviewed by the State reviewing officials; and

(iv) information on the number of the hearing decisions that were reviewed by the State reviewing officials, and, based on such reviews, the number of hearing decisions that were—

(I) sustained in favor of an applicant or eligible individual;

(II) sustained in favor of the designated State unit;

(III) reversed in whole or in part in favor of the applicant or eligible individual; and

(IV) reversed in whole or in part in favor of the designated State unit.

**(C) Confidentiality**

The confidentiality of records of applicants and eligible individuals maintained by the designated State unit shall not preclude the access of the Commissioner to those records for the purposes described in subparagraph (A).

**(d) Policies and procedures**

Each designated State agency, in consultation with the State Rehabilitation Council, if the State has such a council, shall, consistent with section 720(a)(3)(C) of this title, develop and implement written policies and procedures that enable each individual who is an applicant for or eligible to receive vocational rehabilitation services under this subchapter to exercise informed choice throughout the vocational rehabilitation process carried out under this subchapter, including policies and procedures that require the designated State agency—

(1) to inform each such applicant and eligible individual (including students with disabilities who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process;

(2) to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this subchapter;

(3) to develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services, under this subchapter;

(4) to provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this subchapter in the selection of—

(A) the employment outcome;

(B) the specific vocational rehabilitation services needed to achieve the employment outcome;

(C) the entity that will provide the services;

(D) the employment setting and the settings in which the services will be provided; and

(E) the methods available for procuring the services; and

(5) to ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated State agency under this subchapter.

(Pub. L. 93–112, title I, §102, as added [Pub. L. 105–220, title IV, §404, Aug. 7, 1998, 112 Stat. 1138](https://uscode.house.gov/statviewer.htm?volume=112&page=1138); amended [Pub. L. 105–277, div. A, §101(f) [title VIII, §402(c)(5)], Oct. 21, 1998, 112 Stat. 2681–337](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-337), [2681-415](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-415); [Pub. L. 113–128, title IV, §413, July 22, 2014, 128 Stat. 1649](https://uscode.house.gov/statviewer.htm?volume=128&page=1649).)

**References in Text**

The Social Security Act, referred to in subsecs. (a)(3)(A) and (b)(2), is act [Aug. 14, 1935, ch. 531, 49 Stat. 620](https://uscode.house.gov/statviewer.htm?volume=49&page=620). Titles II and XVI of the Act are classified generally to subchapters II (§401 et seq.) and XVI (§1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

**Prior Provisions**

A prior section 722, [Pub. L. 93–112, title I, §102, Sept. 26, 1973, 87 Stat. 368](https://uscode.house.gov/statviewer.htm?volume=87&page=368); [Pub. L. 93–516, title I, §111(e), Dec. 7, 1974, 88 Stat. 1620](https://uscode.house.gov/statviewer.htm?volume=88&page=1620); [Pub. L. 93–651, title I, §111(e), Nov. 21, 1974, 89 Stat. 2–5](https://uscode.house.gov/statviewer.htm?volume=89&page=2-5); [Pub. L. 95–602, title I, §§103, 122(b)(1), Nov. 6, 1978, 92 Stat. 2959](https://uscode.house.gov/statviewer.htm?volume=92&page=2959), [2987](https://uscode.house.gov/statviewer.htm?volume=92&page=2987); [Pub. L. 98–221, title I, §§104(a)(3), 112, Feb. 22, 1984, 98 Stat. 18](https://uscode.house.gov/statviewer.htm?volume=98&page=18), [20](https://uscode.house.gov/statviewer.htm?volume=98&page=20); [Pub. L. 99–506, title I, §103(d)(2)(A), (B), title II, §203, title X, §1001(b)(5), Oct. 21, 1986, 100 Stat. 1810](https://uscode.house.gov/statviewer.htm?volume=100&page=1810), [1815](https://uscode.house.gov/statviewer.htm?volume=100&page=1815), [1842](https://uscode.house.gov/statviewer.htm?volume=100&page=1842); [Pub. L. 100–630, title II, §202(c), Nov. 7, 1988, 102 Stat. 3305](https://uscode.house.gov/statviewer.htm?volume=102&page=3305); [Pub. L. 102–569, title I, §§102(p)(8), 123, Oct. 29, 1992, 106 Stat. 4357](https://uscode.house.gov/statviewer.htm?volume=106&page=4357), [4375](https://uscode.house.gov/statviewer.htm?volume=106&page=4375); [Pub. L. 103–73, title I, §107(b), Aug. 11, 1993, 107 Stat. 720](https://uscode.house.gov/statviewer.htm?volume=107&page=720), related to individualized written rehabilitation program, prior to the general amendment of this subchapter by Pub. L. 105–220.

**Definitions of Terms in Pub. L. 113–128**

Except as otherwise provided, definitions in section 3 of Pub. L. 113–128, which is classified to section 3102 of this title, apply to this section.

**§723. Vocational rehabilitation services**

**(a) Vocational rehabilitation services for individuals**

Vocational rehabilitation services provided under this subchapter are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 722(d) of this title;

(3) referral and other services to secure needed services from other agencies through agreements developed under section 721(a)(11) of this title, if such services are not available under this subchapter;

(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this subchapter unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 721(a)(8)(A) of this title), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

(B) necessary hospitalization in connection with surgery or treatment;

(C) prosthetic and orthotic devices;

(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;

(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

(12) occupational licenses, tools, equipment, and initial stocks and supplies;

(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce development system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

(15) transition services for students with disabilities, that facilitate the transition from school to postsecondary life, such as achievement of an employment outcome in competitive integrated employment, or pre-employment transition services;

(16) supported employment services;

(17) customized employment;

(18) encouraging qualified individuals who are eligible to receive services under this subchapter to pursue advanced training in a science, technology, engineering, or mathematics (including computer science) field, medicine, law, or business;

(19) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

(20) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

**(b) Vocational rehabilitation services for groups of individuals**

Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

(2) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs shall be used to provide services described in this section that promote integration into the community and that prepare individuals with disabilities for competitive integrated employment, including supported employment and customized employment.

(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

(C) Tactile materials for individuals who are deaf-blind.

(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

(5) Technical assistance to businesses that are seeking to employ individuals with disabilities.

(6) Consultation and technical assistance services to assist State educational agencies and local educational agencies in planning for the transition of students with disabilities from school to postsecondary life, including employment.

(7) Transition services to youth with disabilities and students with disabilities, for which a vocational rehabilitation counselor works in concert with educational agencies, providers of job training programs, providers of services under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), entities designated by the State to provide services for individuals with developmental disabilities, centers for independent living (as defined in section 796a of this title), housing and transportation authorities, workforce development systems, and businesses and employers.

(8) The establishment, development, or improvement of assistive technology demonstration, loan, reutilization, or financing programs in coordination with activities authorized under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.) to promote access to assistive technology for individuals with disabilities and employers.

(9) Support (including, as appropriate, tuition) for advanced training in a science, technology, engineering, or mathematics (including computer science) field, medicine, law, or business, provided after an individual eligible to receive services under this subchapter, demonstrates—

(A) such eligibility;

(B) previous completion of a bachelor's degree program at an institution of higher education or scheduled completion of such degree program prior to matriculating in the program for which the individual proposes to use the support; and

(C) acceptance by a program at an institution of higher education in the United States that confers a master's degree in a science, technology, engineering, or mathematics (including computer science) field, a juris doctor degree, a master of business administration degree, or a doctor of medicine degree,

except that the limitations of subsection (a)(5) that apply to training services shall apply to support described in this paragraph, and nothing in this paragraph shall prevent any designated State unit from providing similar support to individuals with disabilities within the State who are eligible to receive support under this subchapter and who are not served under this paragraph.

(Pub. L. 93–112, title I, §103, as added [Pub. L. 105–220, title IV, §404, Aug. 7, 1998, 112 Stat. 1148](https://uscode.house.gov/statviewer.htm?volume=112&page=1148); amended [Pub. L. 113–128, title IV, §414, July 22, 2014, 128 Stat. 1652](https://uscode.house.gov/statviewer.htm?volume=128&page=1652).)

**References in Text**

The Social Security Act, referred to in subsec. (b)(7), is act [Aug. 14, 1935, ch. 531, 49 Stat. 620](https://uscode.house.gov/statviewer.htm?volume=49&page=620). Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Assistive Technology Act of 1998, referred to in subsec. (b)(8), is [Pub. L. 105–394, Nov. 13, 1998, 112 Stat. 3627](https://uscode.house.gov/statviewer.htm?volume=112&page=3627), which is classified principally to chapter 31 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

**Prior Provisions**

A prior section 723, [Pub. L. 93–112, title I, §103, Sept. 26, 1973, 87 Stat. 368](https://uscode.house.gov/statviewer.htm?volume=87&page=368); [Pub. L. 95–602, title I, §104, Nov. 6, 1978, 92 Stat. 2960](https://uscode.house.gov/statviewer.htm?volume=92&page=2960); [Pub. L. 99–506, title I, §103(d)(2), title II, §204, Oct. 21, 1986, 100 Stat. 1810](https://uscode.house.gov/statviewer.htm?volume=100&page=1810), [1817](https://uscode.house.gov/statviewer.htm?volume=100&page=1817); [Pub. L. 100–630, title II, §202(d), Nov. 7, 1988, 102 Stat. 3305](https://uscode.house.gov/statviewer.htm?volume=102&page=3305); [Pub. L. 102–569, title I, §§102(p)(9), 124, Oct. 29, 1992, 106 Stat. 4357](https://uscode.house.gov/statviewer.htm?volume=106&page=4357), [4379](https://uscode.house.gov/statviewer.htm?volume=106&page=4379); [Pub. L. 103–73, title I, §107(c), Aug. 11, 1993, 107 Stat. 721](https://uscode.house.gov/statviewer.htm?volume=107&page=721), related to scope of vocational rehabilitation services, prior to the general amendment of this subchapter by Pub. L. 105–220.

**Amendments**

**2014**—Subsec. (a)(13). Pub. L. 113–128, §414(1)(A), substituted "workforce development system" for "workforce investment system".

Subsec. (a)(15). Pub. L. 113–128, §414(1)(B), added par. (15) and struck out former par. (15) which read as follows: "transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;".

Subsec. (a)(17) to (20). Pub. L. 113–128, §414(1)(C), (D), added pars. (17) and (18) and redesignated former pars. (17) and (18) as (19) and (20), respectively.

Subsec. (b)(2). Pub. L. 113–128, §414(2)(A), struck out subpar. (A) designation, substituted "Such programs shall be used to provide services described in this section that promote integration into the community and that prepare individuals with disabilities for competitive integrated employment, including supported employment and customized employment." for "Such programs shall be used to provide services that promote integration and competitive employment.", and struck out subpar. (B) which read as follows: "The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any 1 individual with a disability."

Subsec. (b)(5). Pub. L. 113–128, §414(2)(B), added par. (5) and struck out former par. (5) which read as follows: "Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities."

Subsec. (b)(6) to (9). Pub. L. 113–128, §414(2)(C), added pars. (6) to (9) and struck out former par. (6) which read as follows: "Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment."

**Definitions of Terms in Pub. L. 113–128**

Except as otherwise provided, definitions in section 3 of Pub. L. 113–128, which is classified to section 3102 of this title, apply to this section.

**§724. Non-Federal share for establishment of program or construction**

For the purpose of determining the amount of payments to States for carrying out part B (or to an Indian tribe under part C), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program or construction of such a facility.

(Pub. L. 93–112, title I, §104, as added [Pub. L. 105–220, title IV, §404, Aug. 7, 1998, 112 Stat. 1151](https://uscode.house.gov/statviewer.htm?volume=112&page=1151).)

**Prior Provisions**

A prior section 724, [Pub. L. 93–112, title I, §104, Sept. 26, 1973, 87 Stat. 370](https://uscode.house.gov/statviewer.htm?volume=87&page=370); [Pub. L. 95–602, title I, §122(b)(1), Nov. 6, 1978, 92 Stat. 2987](https://uscode.house.gov/statviewer.htm?volume=92&page=2987); [Pub. L. 99–506, title II, §205, Oct. 21, 1986, 100 Stat. 1817](https://uscode.house.gov/statviewer.htm?volume=100&page=1817); [Pub. L. 102–569, title I, §125, Oct. 29, 1992, 106 Stat. 4381](https://uscode.house.gov/statviewer.htm?volume=106&page=4381), related to non-Federal share for construction, prior to the general amendment of this subchapter by Pub. L. 105–220.

**§725. State Rehabilitation Council**

**(a) Establishment**

**(1) In general**

Except as provided in section 721(a)(21)(A)(i) of this title, to be eligible to receive financial assistance under this subchapter a State shall establish a State Rehabilitation Council (referred to in this section as the "Council") in accordance with this section.

**(2) Separate agency for individuals who are blind**

A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 721(a)(2)(A)(i) of this title may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

**(b) Composition and appointment**

**(1) Composition**

**(A) In general**

Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

(i) at least one representative of the Statewide Independent Living Council established under section 796d of this title, which representative may be the chairperson or other designee of the Council;

(ii) at least one representative of a parent training and information center established pursuant to section 671 of the Individuals with Disabilities Education Act [20 U.S.C. 1471];

(iii) at least one representative of the client assistance program established under section 732 of this title;

(iv) at least one qualified vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

(v) at least one representative of community rehabilitation program service providers;

(vi) four representatives of business, industry, and labor;

(vii) representatives of disability advocacy groups representing a cross section of—

(I) individuals with physical, cognitive, sensory, and mental disabilities; and

(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

(ix) in a State in which one or more projects are funded under section 741 of this title, at least one representative of the directors of the projects located in such State;

(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this subchapter and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.]; and

(xi) at least one representative of the State workforce development board.

**(B) Separate Council**

In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

(i) at least one representative described in subparagraph (A)(i);

(ii) at least one representative described in subparagraph (A)(ii);

(iii) at least one representative described in subparagraph (A)(iii);

(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

(v) at least one representative described in subparagraph (A)(v);

(vi) four representatives described in subparagraph (A)(vi);

(vii) at least one representative of a disability advocacy group representing individuals who are blind;

(viii) at least one individual's representative, of an individual who—

(I) is an individual who is blind and has multiple disabilities; and

(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

(ix) applicants or recipients described in subparagraph (A)(viii);

(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

(xi) at least one representative described in subparagraph (A)(x); and

(xii) at least one representative described in subparagraph (A)(xi).

**(C) Exception**

In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on October 29, 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

(ii) includes at least—

(I) one representative described in subparagraph (B)(vi); and

(II) one applicant or recipient described in subparagraph (B)(ix).

**(2) Ex officio member**

The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

**(3) Appointment**

Members of the Council shall be appointed by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the appointing authority shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

**(4) Qualifications**

**(A) In general**

A majority of Council members shall be persons who are—

(i) individuals with disabilities described in section 705(20)(B) of this title; and

(ii) not employed by the designated State unit.

**(B) Separate Council**

In the case of a separate Council established under subsection (a)(2), a majority of Council members shall be persons who are—

(i) blind; and

(ii) not employed by the designated State unit.

**(5) Chairperson**

**(A) In general**

Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

**(B) Designation by chief executive officer**

In States in which the chief executive officer does not have veto power pursuant to State law, the appointing authority described in paragraph (3) shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

**(6) Terms of appointment**

**(A) Length of term**

Each member of the Council shall serve for a term of not more than 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority described in paragraph (3)) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

**(B) Number of terms**

No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

**(7) Vacancies**

**(A) In general**

Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

**(B) Delegation**

The appointing authority described in paragraph (3) may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

**(c) Functions of Council**

The Council shall, after consulting with the State workforce development board—

(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this subchapter, particularly responsibilities relating to—

(A) eligibility (including order of selection);

(B) the extent, scope, and effectiveness of services provided; and

(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this subchapter;

(2) in partnership with the designated State unit—

(A) develop, agree to, and review State goals and priorities in accordance with section 721(a)(15)(C) of this title; and

(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 721(a)(15)(E) of this title;

(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this subchapter, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this subchapter;

(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

(A) the functions performed by the designated State agency;

(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this chapter; and

(C) employment outcomes achieved by eligible individuals receiving services under this subchapter, including the availability of health and other employment benefits in connection with such employment outcomes;

(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 796d of this title, the advisory panel established under section 612(a)(20) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(20)], the State Council on Developmental Disabilities established under section 15025 of title 42, the State mental health planning council established under section 300x–3(a) of title 42 and the State workforce development board, and with the activities of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.);

(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

(8) perform such other functions, consistent with the purpose of this subchapter, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

**(d) Resources**

**(1) Plan**

The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

**(2) Resolution of disagreements**

To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

**(3) Supervision and evaluation**

Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

**(4) Personnel conflict of interest**

While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

**(e) Conflict of interest**

No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

**(f) Meetings**

The Council shall convene at least four meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

**(g) Compensation and expenses**

The Council may use funds allocated to the Council by the designated State unit under this subchapter (except for funds appropriated to carry out the client assistance program under section 732 of this title and funds reserved pursuant to section 730(c) of this title to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

**(h) Hearings and forums**

The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

(Pub. L. 93–112, title I, §105, as added [Pub. L. 105–220, title IV, §404, Aug. 7, 1998, 112 Stat. 1151](https://uscode.house.gov/statviewer.htm?volume=112&page=1151); amended [Pub. L. 105–277, div. A, §101(f) [title VIII, §402(c)(6)], Oct. 21, 1998, 112 Stat. 2681–337](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-337), [2681-415](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-415); [Pub. L. 106–402, title IV, §401(b)(3)(A), Oct. 30, 2000, 114 Stat. 1737](https://uscode.house.gov/statviewer.htm?volume=114&page=1737); [Pub. L. 108–446, title III, §305(h)(2), (3), Dec. 3, 2004, 118 Stat. 2805](https://uscode.house.gov/statviewer.htm?volume=118&page=2805); [Pub. L. 113–128, title IV, §415, July 22, 2014, 128 Stat. 1654](https://uscode.house.gov/statviewer.htm?volume=128&page=1654).)

**Definitions of Terms in Pub. L. 113–128**

Except as otherwise provided, definitions in section 3 of Pub. L. 113–128, which is classified to section 3102 of this title, apply to this section.

**§726. Evaluation standards and performance indicators**

**(a) In general**

**(1) Standards and indicators**

The evaluation standards and performance indicators for the vocational rehabilitation program carried out under this subchapter shall be subject to the performance accountability provisions described in section 3141(b) of this title.

**(2) Additional performance accountability indicators**

A State may establish and provide information on additional performance accountability indicators, which shall be identified in the State plan submitted under section 721 of this title.

**(b) Compliance**

**(1) State reports**

In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

**(2) Program improvement**

**(A) Plan**

If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

**(B) Review**

The Commissioner shall—

(i) on a biannual basis, review the program improvement efforts of the State and, if the State has not improved its performance to acceptable levels, as determined by the Commissioner, direct the State to make further revisions to the plan to improve performance; and

(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

**(c) Withholding**

If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 727 of this title, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

**(d) Report to Congress**

Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 710 of this title an analysis of program performance, including relative State performance, based on the standards and indicators.

(Pub. L. 93–112, title I, §106, as added [Pub. L. 105–220, title IV, §404, Aug. 7, 1998, 112 Stat. 1156](https://uscode.house.gov/statviewer.htm?volume=112&page=1156); amended [Pub. L. 113–128, title IV, §416, July 22, 2014, 128 Stat. 1654](https://uscode.house.gov/statviewer.htm?volume=128&page=1654).)

**§728a. Training and services for employers**

A State may expend payments received under section 731 of this title to educate and provide services to employers who have hired or are interested in hiring individuals with disabilities under programs carried out under this subchapter, including—

(1) providing training and technical assistance to employers regarding the employment of individuals with disabilities, including disability awareness, and the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and other employment-related laws;

(2) working with employers to—

(A) provide opportunities for work-based learning experiences (including internships, short-term employment, apprenticeships, and fellowships), and opportunities for pre-employment transition services;

(B) recruit qualified applicants who are individuals with disabilities;

(C) train employees who are individuals with disabilities; and

(D) promote awareness of disability-related obstacles to continued employment;

(3) providing consultation, technical assistance, and support to employers on workplace accommodations, assistive technology, and facilities and workplace access through collaboration with community partners and employers, across States and nationally, to enable the employers to recruit, job match, hire, and retain qualified individuals with disabilities who are recipients of vocational rehabilitation services under this subchapter, or who are applicants for such services; and

(4) assisting employers with utilizing available financial support for hiring or accommodating individuals with disabilities.

(Pub. L. 93–112, title I, §109, as added [Pub. L. 105–220, title IV, §404, Aug. 7, 1998, 112 Stat. 1160](https://uscode.house.gov/statviewer.htm?volume=112&page=1160); amended [Pub. L. 113–128, title IV, §418, July 22, 2014, 128 Stat. 1655](https://uscode.house.gov/statviewer.htm?volume=128&page=1655).)

**Definitions of Terms in Pub. L. 113–128**

Except as otherwise provided, definitions in section 3 of Pub. L. 113–128, which is classified to section 3102 of this title, apply to this section.

**Part B—Basic Vocational Rehabilitation Services**

**§732. Client assistance program**

**(a) Establishment of grant program**

From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this chapter, including under sections 733 and 794g of this title, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this chapter, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this chapter and to facilitate access to the services funded under this chapter through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this chapter and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this subchapter, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

**(b) Existence of State program as requisite to receiving payments**

No State may receive payments from its allotment under this chapter in any fiscal year unless the State has in effect a client assistance program which—

(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this chapter within the State; and

(2) meets the requirements of designation under subsection (c).

**(c) Designation of agency to conduct program**

(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this chapter. If there is an agency in the State which has, or had, prior to February 22, 1984, served as a client assistance agency under this section and which received Federal financial assistance under this chapter, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this chapter.

(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

(ii) If, after August 7, 1998—

(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of one or more new State agencies or departments or results in the merger of the designated State agency with one or more other State agencies or departments; and

(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this chapter.

(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

**(d) Class action by designated agency prohibited**

The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

**§733. Provision of pre-employment transition services**

**(a) In general**

From the funds reserved under section 730(d) of this title, and any funds made available from State, local, or private funding sources, each State shall ensure that the designated State unit, in collaboration with the local educational agencies involved, shall provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services who are eligible or potentially eligible for services under this subchapter.

**(b) Required activities**

Funds available under subsection (a) shall be used to make available to students with disabilities described in subsection (a)—

(1) job exploration counseling;

(2) work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment to the maximum extent possible;

(3) counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;

(4) workplace readiness training to develop social skills and independent living; and

(5) instruction in self-advocacy, which may include peer mentoring.

**(c) Authorized activities**

Funds available under subsection (a) and remaining after the provision of the required activities described in subsection (b) may be used to improve the transition of students with disabilities described in subsection (a) from school to postsecondary education or an employment outcome by—

(1) implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;

(2) developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment;

(3) providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;

(4) disseminating information about innovative, effective, and efficient approaches to achieve the goals of this section;

(5) coordinating activities with transition services provided by local educational agencies under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(6) applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of this section;

(7) developing model transition demonstration projects;

(8) establishing or supporting multistate or regional partnerships involving States, local educational agencies, designated State units, developmental disability agencies, private businesses, or other participants to achieve the goals of this section; and

(9) disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved populations.

**(d) Pre-employment transition coordination**

Each local office of a designated State unit shall carry out responsibilities consisting of—

(1) attending individualized education program meetings for students with disabilities, when invited;

(2) working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships;

(3) work with schools, including those carrying out activities under section 614(d)(1)(A)(i)(VIII) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VIII)), to coordinate and ensure the provision of pre-employment transition services under this section; and

(4) when invited, attend person-centered planning meetings for individuals receiving services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

**(e) National pre-employment transition coordination**

The Secretary shall support designated State agencies providing services under this section, highlight best State practices, and consult with other Federal agencies to advance the goals of this section.

**(f) Support**

In carrying out this section, States shall address the transition needs of all students with disabilities, including such students with physical, sensory, intellectual, and mental health disabilities.

(Pub. L. 93–112, title I, §113, as added [Pub. L. 113–128, title IV, §422, July 22, 2014, 128 Stat. 1657](https://uscode.house.gov/statviewer.htm?volume=128&page=1657).)

**Part D—Vocational Rehabilitation Services Client Information**

**§751. Data sharing**

**(a) In general**

**(1) Memorandum of understanding**

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

(A) that concern clients of designated State agencies; and

(B) that are data maintained either by—

(i) the Rehabilitation Services Administration, as required by section 710 of this title; or

(ii) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

**(2) Employment statistics**

The Secretary of Labor shall provide the Commissioner with employment statistics specified in section 49l–2 of this title, that facilitate evaluation by the Commissioner of the program carried out under part B, and allow the Commissioner to compare the progress of individuals with disabilities who are assisted under the program in securing, retaining, regaining, and advancing in employment with the progress made by individuals who are assisted under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.].

**(b) Treatment of information**

For purposes of the exchange described in subsection (a)(1), the data described in subsection (a)(1)(B)(ii) shall not be considered return information (as defined in section 6103(b)(2) of title 26) and, as appropriate, the confidentiality of all client information shall be maintained by the Rehabilitation Services Administration and the Social Security Administration.

(Pub. L. 93–112, title I, §131, as added [Pub. L. 105–220, title IV, §404, Aug. 7, 1998, 112 Stat. 1167](https://uscode.house.gov/statviewer.htm?volume=112&page=1167); amended [Pub. L. 113–128, title IV, §424, July 22, 2014, 128 Stat. 1660](https://uscode.house.gov/statviewer.htm?volume=128&page=1660).)

**§762. National Institute on Disability, Independent Living, and Rehabilitation Research**

**(a) Establishment; Director as principal officer**

(1) There is established within the Administration for Community Living of the Department of Health and Human Services a National Institute on Disability, Independent Living, and Rehabilitation Research (referred to in this subchapter as the "Institute"), which shall be headed by a Director (hereinafter in this subchapter referred to as the "Director"), in order to—

(A) promote, coordinate, and provide for—

(i) research;

(ii) demonstration projects, training, and technical assistance;

(iii) outreach and information that clarifies research implications for policy and practice; and

(iv) related activities, with respect to individuals with disabilities;

(B) more effectively carry out activities through the programs under section 764 of this title and activities under this section;

(C) widely disseminate information from the activities described in subparagraphs (A) and (B); and

(D) provide leadership in advancing the quality of life of individuals with disabilities.

(2) In the performance of the functions of the office, the Director shall be directly responsible to the Administrator for the Administration for Community Living of the Department of Health and Human Services.

**(b) Duties of Director**

The Director, through the Institute, shall be responsible for—

(1) administering the programs described in section 764 of this title and activities under this section;

(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, training, and related activities (referred to in this subchapter as "covered activities") funded by the Institute, to—

(A) other Federal, State, tribal, and local public agencies;

(B) private organizations engaged in research relating to—

(i) independent living;

(ii) rehabilitation; or

(iii) providing rehabilitation or independent living services;

(C) rehabilitation practitioners; and

(D) individuals with disabilities and the individuals' representatives;

(3) coordinating, through the Interagency Committee established by section 763 of this title, all Federal programs and policies relating to research on disability, independent living, and rehabilitation;

(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, education, health and wellness, family support, and economic and social self-sufficiency of individuals with disabilities, to—

(A) public and private entities, including—

(i) elementary schools and secondary schools (as defined in section 7801 of title 20); and

(ii) institutions of higher education;

(B) rehabilitation practitioners;

(C) employers and organizations representing employers with respect to employment-based educational materials or research;

(D) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this chapter);

(E) the individuals' representatives for the individuals described in subparagraph (D); and

(F) the Committee on Education and the Workforce of the House of Representatives, the Committee on Appropriations of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Appropriations of the Senate;

(5)(A) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to—

(i) family care;

(ii) self-care; and

(iii) assistive technology devices and assistive technology services; and

(B) as part of the program, disseminating engineering information about assistive technology devices;

(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in disability, independent living, and rehabilitation research and rehabilitation technology (including advances concerning the selection and use of assistive technology devices and assistive technology services), pertinent to the full inclusion and integration into society, employment, independent living, education, health and wellness, family support, and economic and social self-sufficiency of individuals with disabilities;

(7) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Centers for Medicare & Medicaid Services, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, self-employment, telecommuting, health and wellness, income, education, and other demographic characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations, and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the individuals' representatives, and others to assist in the planning, assessment, and evaluation of independent living, vocational, and rehabilitation services for individuals with disabilities;

(8) conducting research on consumer satisfaction with independent living and vocational rehabilitation services for the purpose of identifying effective independent living and rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term independent living and employment goals;

(9) conducting research to examine the relationship between the provision of specific services and successful, sustained employment outcomes, including employment outcomes involving self-employment, supported employment (including customized employment), and telecommuting; and

(10) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 [2](https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter16&edition=prelim#762_2_target) of such Act (42 U.S.C. 12206).

**(c) Development and dissemination of models**

(1) The Director, acting through the Institute or one or more entities funded by the Institute, shall provide for the development and dissemination of models to address consumer-driven information needs related to assistive technology devices and assistive technology services.

(2) The development and dissemination of models may include—

(A) convening groups of individuals with disabilities, family members and advocates of such individuals, commercial producers of assistive technology, and entities funded by the Institute to develop, assess, and disseminate knowledge about information needs related to assistive technology;

(B) identifying the types of information regarding assistive technology devices and assistive technology services that individuals with disabilities find especially useful;

(C) evaluating current models, and developing new models, for transmitting the information described in subparagraph (B) to consumers and to commercial producers of assistive technology; and

(D) disseminating through one or more entities funded by the Institute, the models described in subparagraph (C) and findings regarding the information described in subparagraph (B) to consumers and commercial producers of assistive technology.

**(d) Appointment of Director; employment of technical and professional personnel; consultants**

(1) The Director of the Institute shall be appointed by the Secretary. The Director shall be an individual with substantial knowledge of and experience in independent living, rehabilitation, and research administration.

(2) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5 governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director determines to be necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

(3) The Director may obtain the services of consultants, without regard to the provisions of title 5 governing appointments in the competitive service.

**(e) Fellowships**

The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

**(f) Scientific peer review of research, training, and demonstration projects**

(1) The Director shall provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The scientific peer review shall be conducted by individuals who are not Department of Health and Human Services employees. The Secretary shall consider for peer review individuals who are scientists or other experts in disability, independent living, and rehabilitation, including individuals with disabilities and the individuals' representatives, and who have sufficient expertise to review the projects.

(2) In providing for such scientific peer review, the Secretary shall provide for training, as necessary and appropriate, to facilitate the effective participation of those individuals selected to participate in such review.

**(g) Use of funds**

Not less than 90 percent of the funds appropriated under this subchapter for any fiscal year shall be expended by the Director to carry out activities under this subchapter through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this subchapter for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

**(h) 5-year plan**

(1) The Director shall—

(A) by October 1, 1998, and every fifth October 1 thereafter, prepare and publish in the Federal Register for public comment a draft of a 5-year plan that outlines priorities for disability, independent living, and rehabilitation research, demonstration projects, training, dissemination, and related activities and explains the basis for such priorities;

(B) by June 1, 1999, and every fifth June 1 thereafter, after considering public comments, submit the plan in final form to the appropriate committees of Congress;

(C) at appropriate intervals, prepare and submit revisions in the plan to the appropriate committees of Congress; and

(D) annually prepare and submit progress reports on the plan to the appropriate committees of Congress.

(2) Such plan shall—

(A) identify any covered activity that should be conducted under this section and section 764 of this title respecting the full inclusion and integration into society of individuals with disabilities, especially in the areas of employment and independent living;

(B) determine the funding priorities for covered activities to be conducted under this section and section 764 of this title;

(C) specify appropriate goals and timetables for covered activities to be conducted under this section and section 764 of this title;

(D) be coordinated with the strategic plan required under section 763(c) of this title—

(i) after consultation with the Disability, Independent Living, and Rehabilitation Research Advisory Council established under section 765 of this title;

(ii) in coordination with the Administrator;

(iii) after consultation with the National Council on Disability established under subchapter IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15001 et seq.], and the Interagency Committee on Disability Research established under section 763 of this title; and

(iv) after full consideration of the input of individuals with disabilities and the individuals' representatives, organizations representing individuals with disabilities, providers of services furnished under this chapter, researchers in the independent living and rehabilitation fields, and any other persons or entities the Director considers to be appropriate;

(E) be developed by the Director;

(F) specify plans for widespread dissemination of the results of covered activities, and information that clarifies implications of the results for practice, in accessible formats, to rehabilitation practitioners, individuals with disabilities, and the individuals' representatives; and

(G) specify plans for widespread dissemination of the results of covered activities and information that clarifies implications of the results for practice that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs carried out under this chapter.

**(i) Cooperation and consultation with other agencies and departments on design of research programs**

In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 763 of this title, regarding the design of research projects conducted by such entities and the results and applications of such research.

**(j) Comprehensive and coordinated research program; interagency cooperation; research and training center**

(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this subchapter. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this chapter shall consult, through the Interagency Committee established by section 763 of this title, with the Director as Chairperson of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 763 of this title, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this subchapter.

**(k) Grants for training**

The Director shall make grants to institutions of higher education for the training of independent living and rehabilitation researchers, including individuals with disabilities and traditionally underserved populations of individuals with disabilities, as described in section 718 of this title, with particular attention to research areas that—

(1) support the implementation and objectives of this chapter; and

(2) improve the effectiveness of services authorized under this chapter.

**(l) Annual report**

(1) Not later than December 31 of each year, the Director shall prepare, and submit to the Secretary, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives, a report on the activities funded under this subchapter.

(2) The report under paragraph (1) shall include—

(A) a compilation and summary of the information provided by recipients of funding for such activities under this subchapter;

(B) a summary describing the funding received under this subchapter and the progress of the recipients of the funding in achieving the measurable goals described in section 764(d)(2) of this title; and

(C) a summary of implications of research outcomes on practice.

**(m) Action taken for failure to comply**

(1) If the Director determines that an entity that receives funding under this subchapter fails to comply with the applicable requirements of this chapter, or to make progress toward achieving the measurable goals described in section 764(d)(2) of this title, with respect to the covered activities involved, the Director shall utilize available monitoring and enforcement measures.

(2) As part of the annual report required under subsection (l), the Secretary shall describe each action taken by the Secretary under paragraph (1) and the outcomes of such action.

(Pub. L. 93–112, title II, §202, as added [Pub. L. 105–220, title IV, §405, Aug. 7, 1998, 112 Stat. 1168](https://uscode.house.gov/statviewer.htm?volume=112&page=1168); amended [Pub. L. 105–277, div. A, §101(f) [title VIII, §401(16)], Oct. 21, 1998, 112 Stat. 2681–337](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-337), [2681-412](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-412); [Pub. L. 106–402, title IV, §401(b)(3)(B), Oct. 30, 2000, 114 Stat. 1737](https://uscode.house.gov/statviewer.htm?volume=114&page=1737); [Pub. L. 107–110, title X, §1076(u)(1), Jan. 8, 2002, 115 Stat. 2092](https://uscode.house.gov/statviewer.htm?volume=115&page=2092); [Pub. L. 108–173, title IX, §900(e)(6)(A), Dec. 8, 2003, 117 Stat. 2373](https://uscode.house.gov/statviewer.htm?volume=117&page=2373); [Pub. L. 113–128, title IV, §433, July 22, 2014, 128 Stat. 1661](https://uscode.house.gov/statviewer.htm?volume=128&page=1661); [Pub. L. 114–95, title IX, §9215(mmm)(1), Dec. 10, 2015, 129 Stat. 2188](https://uscode.house.gov/statviewer.htm?volume=129&page=2188).)

**§773. Demonstration and training programs**

**(a) Demonstration projects to increase client choice**

**(1) Grants**

The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

**(2) Use of funds**

An entity that receives a grant under this subsection shall use the grant only—

(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

**(3) Application**

Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

(A) a description of—

(i) how the entity intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

(ii) how the entity intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

(i) a statement of the vocational rehabilitation goals to be achieved;

(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

**(4) Award of grants**

In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration—

(A) the diversity of strategies used to increase client choice, including selection among qualified service providers;

(B) the geographic distribution of projects; and

(C) the diversity of clients to be served.

**(5) Records**

Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

**(6) Direct services**

At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

**(7) Evaluation**

The Commissioner may conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost-effectiveness of the project, and the effects of increased choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this section for the fiscal year.

**(8) Definitions**

For the purposes of this subsection:

**(A) Direct services**

The term "direct services" means vocational rehabilitation services, as described in section 723(a) of this title.

**(B) Eligible client**

The term "eligible client" means an individual with a disability, as defined in section 705(20)(A) of this title, who is not currently receiving services under an individualized plan for employment established through a designated State unit.

**(b) Special demonstration programs**

**(1) Grants; contracts**

The Commissioner, subject to the provisions of section 776 of this title, may provide grants to, or enter into contracts with, eligible entities to pay all or part of the cost of programs that expand and improve the provision of rehabilitation and other services authorized under this chapter or that further the purposes of the chapter, including related research and evaluation activities.

**(2) Eligible entities; terms and conditions**

**(A) Eligible entities**

To be eligible to receive a grant, or enter into a contract, under paragraph (1), an entity shall be a State vocational rehabilitation agency, community rehabilitation program, Indian tribe or tribal organization, or other public or nonprofit agency or organization, or as the Commissioner determines appropriate, a for-profit organization. The Commissioner may limit competitions to one or more types of organizations described in this subparagraph.

**(B) Terms and conditions**

A grant or contract under paragraph (1) shall contain such terms and conditions as the Commissioner may require.

**(3) Application**

An eligible entity that desires to receive a grant, or enter into a contract, under paragraph (1) shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Commissioner may require, including, if the Commissioner determines appropriate, a description of how the proposed project or demonstration program—

(A) is based on current research findings, which may include research conducted by the National Institute on Disability, Independent Living, and Rehabilitation Research, the National Institutes of Health, and other public or private organizations; and

(B) is of national significance.

**(4) Types of projects**

The programs that may be funded under this subsection may include—

(A) special projects and demonstrations of service delivery;

(B) model demonstration projects;

(C) technical assistance projects;

(D) systems change projects;

(E) special studies and evaluations; and

(F) dissemination and utilization activities.

**(5) Priority for competitions**

**(A) In general**

In announcing competitions for grants and contracts under this subsection, the Commissioner shall give priority consideration to—

(i) initiatives focused on improving transition from education, including postsecondary education, to employment, particularly in competitive integrated employment, for youth who are individuals with significant disabilities;

(ii) supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services; and

(iii) increasing competitive integrated employment for individuals with significant disabilities.

**(B) Additional competitions**

In announcing competitions for grants and contracts under this subsection, the Commissioner may require that applicants address one or more of the following:

(i) Age ranges.

(ii) Types of disabilities.

(iii) Types of services.

(iv) Models of service delivery.

(v) Stage of the rehabilitation process.

(vi) The needs of underserved populations, unserved and underserved areas, individuals with significant disabilities, low-incidence disability population or individuals residing in federally designated empowerment zones and enterprise communities.

(vii) Expansion of employment opportunities for individuals with disabilities.

(viii) Systems change projects to promote meaningful access of individuals with disabilities to employment-related services under subtitle B of title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151 et seq.] and under other Federal laws.

(ix) Innovative methods of promoting achievement of high-quality employment outcomes.

(x) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

(xi) Alternative methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

**(c) Parent information and training program**

**(1) Grants**

The Commissioner is authorized to make grants to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational, independent living, and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of the individuals described in the preceding sentence, who live in the area to be served, particularly those who are members of populations that have been unserved or underserved by programs under this chapter.

**(2) Use of grants**

An organization that receives a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals—

(A) to better understand vocational rehabilitation and independent living programs and services;

(B) to provide followup support for transition and employment programs;

(C) to communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

(D) to provide support in the development of the individualized plan for employment;

(E) to provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate;

(F) to provide support and guidance in helping individuals with significant disabilities, including students with disabilities, transition to competitive integrated employment; and

(G) to understand the provisions of this chapter, particularly provisions relating to employment, supported employment, and independent living.

**(3) Award of grants**

The Commissioner shall ensure that grants under this subsection—

(A) shall be distributed geographically to the greatest extent possible throughout all States; and

(B) shall be targeted to individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

**(4) Eligible organizations**

In order to receive a grant under this subsection, an organization—

(A) shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization—

(i) to coordinate training and information activities with Centers for Independent Living;

(ii) to coordinate and work closely with the parent training and information centers established pursuant to section 1471 of title 20, the community parent resource centers established pursuant to section 1472 of title 20, and the eligible entities receiving awards under section 1473 of title 20; and

(iii) to effectively conduct the training and information activities authorized under this subsection;

(B)(i) shall be governed by a board of directors—

(I) that includes professionals in the field of vocational rehabilitation; and

(II) on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

(ii)(I) shall have a membership that represents the interests of individuals with disabilities; and

(II) shall establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

(C) shall serve, and demonstrate the capacity for serving, individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

**(5) Consultation**

Each organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

**(6) Coordination**

The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established pursuant to section 1471 of title 20.

**(7) Review**

**(A) Quarterly review**

The board of directors or special governing committee of an organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

**(B) Review for grant renewal**

If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the organization during the preceding fiscal year.

**(8) Reservation**

From the amount appropriated to carry out this section for a fiscal year, 20 percent of such amount or $500,000, whichever is less, may be reserved to carry out paragraph (6).

**(d) Braille training programs**

**(1) Establishment**

The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind.

**(2) Projects**

Such grants shall be used for the establishment or continuation of projects that may provide—

(A) development of braille training materials;

(B) in-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching braille to youth and adults who are blind; and

(C) activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

**(3) Application**

To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

**(e) Authorization of appropriations**

For the purpose of carrying out this section there are authorized to be appropriated $5,796,000 for fiscal year 2015, $6,244,000 for fiscal year 2016, $6,373,000 for fiscal year 2017, $6,515,000 for fiscal year 2018, $6,668,000 for fiscal year 2019, and $6,809,000 for fiscal year 2020.

(Pub. L. 93–112, title III, §303, as added [Pub. L. 105–220, title IV, §406, Aug. 7, 1998, 112 Stat. 1190](https://uscode.house.gov/statviewer.htm?volume=112&page=1190); amended [Pub. L. 108–446, title III, §305(h)(5), (6), Dec. 3, 2004, 118 Stat. 2805](https://uscode.house.gov/statviewer.htm?volume=118&page=2805); [Pub. L. 113–128, title IV, §442, July 22, 2014, 128 Stat. 1673](https://uscode.house.gov/statviewer.htm?volume=128&page=1673).)

**SUBCHAPTER V—RIGHTS AND ADVOCACY**

**Section 794. Nondiscrimination under Federal grants and programs; promulgation of rules and regulations**

**(a) Promulgation of rules and regulations**

No otherwise qualified individual with a disability in the United States, as defined in section [705 (20)](http://www.gpo.gov/fdsys/granule/uscode-2011-title29/uscode-2011-title29-chap16-other-sec705/content-detail.html) of this title, shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Development Disabilities Act of 1978. Copies of any proposed regulations shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date of which such regulation is so submitted to such committees. See also 29 CFR Part 32 and 29 CFR Part 37.

**(b) "Program or activity" defined**

For the purposes of this section, the term "program or activity" means all of the operations of --

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 8801 of Title 20), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship --

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (l), (2) or (3); any part of which is extended Federal financial assistance.

**(c) Significant structural alterations by small providers**

Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services is available. The terms used in this subsection shall be construed with reference to the regulations existing on March 22, 1988.

**(d) Standards used in determining violation of section**

The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201-12204 and 12210), as such sections related to employment.

**Section 794a. Remedies and attorney fees**

(a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), including the application of sections 706(f) through 706 (k) [42 U.S.C. 2000e-5(f) through k)] shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternative therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq)shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistant under section 794 of this title.

(b) In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

**§794e. Protection and advocacy of individual rights**

**(a) Purpose and construction**

**(1) Purpose**

The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

(A) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 732 of this title; and

(B)(i) are ineligible for protection and advocacy programs under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.] because the individuals do not have a developmental disability, as defined in section 102 of such Act [42 U.S.C. 15002]; and

(ii) are ineligible for services under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 [1](https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter16&edition=prelim#794e_1_target) (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

**(2) Construction**

This section shall not be construed to require the provision of protection and advocacy services that can be provided under the Assistive Technology Act of 1998 [29 U.S.C. 3001 et seq.].

**§794g. Limitations on use of subminimum wage**

**(a) In general**

No entity, including a contractor or subcontractor of the entity, which holds a special wage certificate as described in section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)) may compensate an individual with a disability who is age 24 or younger at a wage (referred to in this section as a "subminimum wage") that is less than the Federal minimum wage unless 1 of the following conditions is met:

(1) The individual is currently employed, as of the effective date of this section, by an entity that holds a valid certificate pursuant to section 14(c) of the Fair Labor Standards Act of 1938.

(2) The individual, before beginning work that is compensated at a subminimum wage, has completed, and produces documentation indicating completion of, each of the following actions:

(A) The individual has received pre-employment transition services that are available to the individual under section 733 of this title, or transition services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) such as transition services available to the individual under section 614(d) of that Act (20 U.S.C. 1414(d)).

(B) The individual has applied for vocational rehabilitation services under subchapter I, with the result that—

(i)(I) the individual has been found ineligible for such services pursuant to that subchapter and has documentation consistent with section 722(a)(5)(C) of this title regarding the determination of ineligibility; or

(II)(aa) the individual has been determined to be eligible for vocational rehabilitation services;

(bb) the individual has an individualized plan for employment under section 722 of this title;

(cc) the individual has been working toward an employment outcome specified in such individualized plan for employment, with appropriate supports and services, including supported employment services, for a reasonable period of time without success; and

(dd) the individual's vocational rehabilitation case is closed; and

(ii)(I) the individual has been provided career counseling, and information and referrals to Federal and State programs and other resources in the individual's geographic area that offer employment-related services and supports designed to enable the individual to explore, discover, experience, and attain competitive integrated employment; and

(II) such counseling and information and referrals are not for employment compensated at a subminimum wage provided by an entity described in this subsection, and such employment-related services are not compensated at a subminimum wage and do not directly result in employment compensated at a subminimum wage provided by an entity described in this subsection.

**SUBCHAPTER VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES**

**§795h. Allotments**

**(a) In general**

**(1) States**

The Secretary shall allot the sums appropriated for each fiscal year to carry out this subchapter among the States on the basis of relative population of each State, except that—

(A) no State shall receive less than $250,000, or 1/3 of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever amount is greater; and

(B) if the sums appropriated to carry out this subchapter for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out part B of this subchapter (as in effect on September 30, 1992) in fiscal year 1992, no State shall receive less than $300,000, or 1/3 of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever amount is greater.

**(2) Certain territories**

**(A) In general**

For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

**(B) Allotment**

Each jurisdiction described in subparagraph (A) shall be allotted not less than 1/8 of 1 percent of the amounts appropriated for the fiscal year for which the allotment is made.

**(d) Services for youth with the most significant disabilities**

A State that receives an allotment under this subchapter shall reserve and expend half of such allotment for the provision of supported employment services, including extended services, to youth with the most significant disabilities in order to assist those youth in achieving an employment outcome in supported employment.

**§795i. Availability of services**

**(a) Supported employment services**

Funds provided under this subchapter may be used to provide supported employment services to individuals who are eligible under this subchapter.

**(b) Extended services**

**(1) In general**

Except as provided in paragraph (2), funds provided under this subchapter, or subchapter I, may not be used to provide extended services to individuals under this subchapter or subchapter I.

**(2) Extended services for youth with the most significant disabilities**

Funds allotted under this subchapter, or subchapter I, and used for the provision of services under this subchapter to youth with the most significant disabilities pursuant to section 795h(d) of this title, may be used to provide extended services to youth with the most significant disabilities. Such extended services shall be available for a period not to exceed 4 years.

**§795j. Eligibility**

An individual, including a youth with a disability, shall be eligible under this subchapter to receive supported employment services authorized under this chapter if—

(1) the individual is eligible for vocational rehabilitation services under subchapter I;

(2) the individual is determined to be an individual with a most significant disability;

(3) for purposes of activities carried out with funds described in section 795h(d) of this title, the individual is a youth with a disability, as defined in section 705(42) of this title; [1](https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter16&edition=prelim#795j_1_target) and

(4) a comprehensive assessment of the rehabilitation needs of the individual described in section 705(2)(B) of this title, including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate employment outcome for the individual.

**§795k. State plan**

**(a) State plan supplements**

To be eligible for an allotment under this subchapter, a State shall submit to the Commissioner, as part of the State plan under section 721 of this title, a State plan supplement for providing supported employment services authorized under this chapter to individuals, including youth with the most significant disabilities, who are eligible under this chapter to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

**(b) Contents**

Each such plan supplement shall—

(1) designate each designated State agency as the agency to administer the program assisted under this subchapter;

(2) summarize the results of the comprehensive, statewide assessment conducted under section 721(a)(15)(A)(i) of this title, with respect to the rehabilitation needs of individuals, including youth, with significant disabilities and the need for supported employment services, including needs related to coordination;

(3) describe the quality, scope, and extent of supported employment services authorized under this chapter to be provided to individuals, including youth with the most significant disabilities, who are eligible under this chapter to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 795h of this title;

(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

(6) describe the activities to be conducted pursuant to section 795h(d) of this title for youth with the most significant disabilities, including—

(A) the provision of extended services for a period not to exceed 4 years; and

(B) how the State will use the funds reserved in section 795h(d) of this title to leverage other public and private funds to increase resources for extended services and expand supported employment opportunities for youth with the most significant disabilities;

(7) provide assurances that—

(A) funds made available under this subchapter will only be used to provide supported employment services authorized under this chapter to individuals who are eligible under this subchapter to receive the services;

(B) the comprehensive assessments of individuals with significant disabilities, including youth with the most significant disabilities, conducted under section 722(b)(1) of this title and funded under subchapter I will include consideration of supported employment as an appropriate employment outcome;

(C) an individualized plan for employment, as required by section 722 of this title, will be developed and updated using funds under subchapter I in order to—

(i) specify the supported employment services to be provided, including, as appropriate, for youth with the most significant disabilities, transition services and pre-employment transition services;

(ii) specify the expected extended services needed, including the extended services that may be provided to youth with the most significant disabilities under this subchapter, in accordance with an approved individualized plan for employment, for a period not to exceed 4 years; and

(iii) identify, as appropriate, the source of extended services, which may include natural supports, or indicate that it is not possible to identify the source of extended services at the time the individualized plan for employment is developed;

(D) the State will use funds provided under this subchapter only to supplement, and not supplant, the funds provided under subchapter I, in providing supported employment services specified in the individualized plan for employment;

(E) services provided under an individualized plan for employment will be coordinated with services provided under other individualized plans established under other Federal or State programs;

(F) to the extent jobs skills training is provided, the training will be provided on site;

(G) supported employment services will include placement in an integrated setting based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;

(H) the State agencies designated under paragraph (1) will expend not more than 2.5 percent of the allotment of the State under this subchapter for administrative costs of carrying out this subchapter; and

(I) with respect to supported employment services provided to youth with the most significant disabilities pursuant to section 795h(d) of this title, the designated State agency will provide, directly or indirectly through public or private entities, non-Federal contributions in an amount that is not less than 10 percent of the costs of carrying out such services; and

(8) contain such other information and be submitted in such manner as the Commissioner may require.

**SUBCHAPTER VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING**

**Part A—Individuals With Significant Disabilities**

**subpart 1—general provisions**

**§796. Purpose**

The purpose of this part is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 796d of this title, State vocational rehabilitation programs receiving assistance under subchapter I, State programs of supported employment services receiving assistance under subchapter VI, client assistance programs receiving assistance under section 732 of this title, programs funded under other subchapters of this chapter, programs funded under other Federal law, and programs funded through non-Federal sources, with the goal of improving the independence of individuals with disabilities.

**§796–1. Administration of the independent living program**

There is established within the Administration for Community Living of the Department of Health and Human Services, an Independent Living Administration. The Independent Living Administration shall be headed by a Director (referred to in this section as the "Director") appointed by the Secretary of Health and Human Services. The Director shall be an individual with substantial knowledge of independent living services. The Independent Living Administration shall be the principal agency, and the Director shall be the principal officer, to carry out this part. In performing the functions of the office, the Director shall be directly responsible to the Administrator of the Administration for Community Living of the Department of Health and Human Services. The Secretary shall ensure that the Independent Living Administration has sufficient resources (including designating at least 1 individual from the Office of General Counsel who is knowledgeable about independent living services) to provide technical assistance and support to, and oversight of, the programs funded under this part.

(Pub. L. 93–112, title VII, §701A, as added [Pub. L. 113–128, title IV, §472, July 22, 2014, 128 Stat. 1685](https://uscode.house.gov/statviewer.htm?volume=128&page=1685).)

**§796a. Definitions**

As used in this part:

**(1) Administrator**

The term "Administrator" means the Administrator of the Administration for Community Living of the Department of Health and Human Services.

**(2) Center for independent living**

The term "center for independent living" means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency for individuals with significant disabilities (regardless of age or income) that—

(A) is designed and operated within a local community by individuals with disabilities; and

(B) provides an array of independent living services, including, at a minimum, independent living core services as defined in section 705(17) of this title.

**(3) Consumer control**

The term "consumer control" means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities, in terms of the management, staffing, decisionmaking, operation, and provisions of services, of the center.

**§796c. State plan**

**(a) In general**

**(1) Requirement**

To be eligible to receive financial assistance under this part, a State shall submit to the Administrator, and obtain approval of, a State plan developed and signed in accordance with paragraph (2), containing such provisions as the Administrator may require, including, at a minimum, the provisions required in this section.

**(2) Joint development**

The plan under paragraph (1) shall be jointly—

(A) developed by the chairperson of the Statewide Independent Living Council, and the directors of the centers for independent living in the State, after receiving public input from individuals with disabilities and other stakeholders throughout the State; and

(B) signed by—

(i) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council;

(ii) the director of the designated State entity described in subsection (c); and

(iii) not less than 51 percent of the directors of the centers for independent living in the State.

**(3) Periodic review and revision**

The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

(A) the provision of independent living services in the State;

(B) the development and support of a statewide network of centers for independent living; and

(C) working relationships and collaboration between—

(i) centers for independent living; and

(ii)(I) entities carrying out programs that provide independent living services, including those serving older individuals;

(II) other community-based organizations that provide or coordinate the provision of housing, transportation, employment, information and referral assistance, services, and supports for individuals with significant disabilities; and

(III) entities carrying out other programs providing services for individuals with disabilities.

**(4) Date of submission**

The State shall submit the plan to the Administrator 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Administrator may withhold financial assistance under this part until such time as the State submits such a plan.

**(5) Statewideness**

The State plan shall describe strategies for providing independent living services on a statewide basis, to the greatest extent possible.

**(b) Statewide Independent Living Council**

The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 796d of this title.

**(c) Designation of State entity**

The plan shall designate a State entity of such State (referred to in this subchapter as the "designated State entity") as the agency that, on behalf of the State, shall—

(1) receive, account for, and disburse funds received by the State under this part based on the plan;

(2) provide administrative support services for a program under subpart 2, and a program under subpart 3 in a case in which the program is administered by the State under section 796f–2 of this title;

(3) keep such records and afford such access to such records as the Administrator finds to be necessary with respect to the programs;

(4) submit such additional information or provide such assurances as the Administrator may require with respect to the programs; and

(5) retain not more than 5 percent of the funds received by the State for any fiscal year under subpart 2, for the performance of the services outlined in paragraphs (1) through (4).

**(d) Objectives**

The plan shall—

(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

(2) explain how such objectives are consistent with and further the purpose of this part.

**(e) Independent living services**

The plan shall provide that the State will provide independent living services under this part to individuals with significant disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

**(f) Scope and arrangements**

The plan shall describe the extent and scope of independent living services to be provided under this part to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

**(g) Network**

The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 796f–4 of this title.

**(h) Centers**

In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under subpart 3, as provided in section 796f–2 of this title, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 796f–2 of this title.

**(i) Cooperation, coordination, and working relationships among various entities**

The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

(1) the Statewide Independent Living Council;

(2) centers for independent living;

(3) the designated State entity; and

(4) other State agencies or entities represented on the Council, other councils that address the needs and issues of specific disability populations, and other public and private entities determined to be appropriate by the Council.

**(j) Coordination of services**

The plan shall describe how services funded under this part will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

**(k) Coordination between Federal and State sources**

The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

**(l) Outreach**

With respect to services and centers funded under this part, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this subchapter, including minority groups and urban and rural populations.

**(m) Requirements**

The plan shall provide satisfactory assurances that all recipients of financial assistance under this part will—

(1) notify all individuals seeking or receiving services under this part about the availability of the client assistance program under section 732 of this title, the purposes of the services provided under such program, and how to contact such program;

(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 793 of this title;

(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this part;

(4)(A) maintain records that fully disclose—

(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

(B) maintain such other records as the Administrator determines to be appropriate to facilitate an effective audit;

(C) afford such access to records maintained under subparagraphs (A) and (B) as the Administrator determines to be appropriate; and

(D) submit such reports with respect to such records as the Administrator determines to be appropriate;

(5) provide access to the Administrator and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part; and

(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

**(n) Evaluation**

The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

**(o) Promoting full access to community life**

The plan shall describe how the State will provide independent living services described in section 705(18) of this title that promote full access to community life for individuals with significant disabilities.

**§796d. Statewide Independent Living Council**

**(a) Establishment**

To be eligible to receive financial assistance under this part, each State shall establish and maintain a Statewide Independent Living Council (referred to in this section as the "Council"). The Council shall not be established as an entity within a State agency.

**(b) Composition and appointment**

**(1) Appointment**

Members of the Council shall be appointed by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

**(2) Composition**

The Council shall include—

(A) among its voting members, at least 1 director of a center for independent living chosen by the directors of centers for independent living within the State;

(B) among its voting members, for a State in which 1 or more centers for independent living are run by, or in conjunction with, the governing bodies of American Indian tribes located on Federal or State reservations, at least 1 representative of the directors of such centers; and

(C) as ex officio, nonvoting members, a representative of the designated State entity, and representatives from State agencies that provide services for individuals with disabilities.

**(3) Additional members**

The Council may include—

(A) other representatives from centers for independent living;

(B) individuals with disabilities;

(C) parents and guardians of individuals with disabilities;

(D) advocates of and for individuals with disabilities;

(E) representatives from private businesses;

(F) representatives from organizations that provide services for individuals with disabilities; and

(G) other appropriate individuals.

**(4) Qualifications**

**(A) In general**

The Council shall be composed of members—

(i) who provide statewide representation;

(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

(iii) who are knowledgeable about centers for independent living and independent living services; and

(iv) a majority of whom are persons who are—

(I) individuals with disabilities described in section 705(20)(B) of this title; and

(II) not employed by any State agency or center for independent living.

**(B) Voting members**

A majority of the voting members of the Council shall be—

(i) individuals with disabilities described in section 705(20)(B) of this title; and

(ii) not employed by any State agency or center for independent living.

**(5) Chairperson**

**(A) In general**

Except as provided in subparagraph (B), the Council shall select a chairperson from among the voting membership of the Council.

**(B) Designation by chief executive officer**

In States in which the Governor does not have veto power pursuant to State law, the appointing authority described in paragraph (1) shall designate a voting member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a voting member.

**(6) Terms of appointment**

**(A) Length of term**

Each member of the Council shall serve for a term of 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority described in paragraph (3)) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

**(B) Number of terms**

No member of the Council, other than a representative described in paragraph (2)(A) if there is only one center for independent living within the State, may serve more than two consecutive full terms.

**(7) Vacancies**

**(A) In general**

Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

**(B) Delegation**

The appointing authority described in paragraph (3) may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

**(c) Functions**

**(1) Duties**

The Council shall—

(A) develop the State plan as provided in section 796c(a)(2) of this title;

(B) monitor, review, and evaluate the implementation of the State plan;

(C) meet regularly, and ensure that such meetings of the Council are open to the public and sufficient advance notice of such meetings is provided;

(D) submit to the Administrator such periodic reports as the Administrator may reasonably request, and keep such records, and afford such access to such records, as the Administrator finds necessary to verify the information in such reports; and

(E) as appropriate, coordinate activities with other entities in the State that provide services similar to or complementary to independent living services, such as entities that facilitate the provision of or provide long-term community-based services and supports.

**(2) Authorities**

The Council may, consistent with the State plan described in section 796c of this title, unless prohibited by State law—

(A) in order to improve services provided to individuals with disabilities, work with centers for independent living to coordinate services with public and private entities;

(B) conduct resource development activities to support the activities described in this subsection or to support the provision of independent living services by centers for independent living; and

(C) perform such other functions, consistent with the purpose of this part and comparable to other functions described in this subsection, as the Council determines to be appropriate.

**(3) Limitation**

The Council shall not provide independent living services directly to individuals with significant disabilities or manage such services.

**(d) Hearings and forums**

The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

**(e) Plan**

**(1) In general**

The Council shall prepare, in conjunction with the designated State entity, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this part, and under section 730 of this title (consistent with section 721(a)(18) of this title), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

**(2) Supervision and evaluation**

Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

**(3) Conflict of interest**

While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State entity or any other agency or office of the State, that would create a conflict of interest.

**(f) Compensation and expenses**

The Council may use available resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (such as personal assistance services), and to pay reasonable compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

(Pub. L. 93–112, title VII, §705, as added [Pub. L. 105–220, title IV, §410, Aug. 7, 1998, 112 Stat. 1220](https://uscode.house.gov/statviewer.htm?volume=112&page=1220); amended [Pub. L. 105–277, div. A, §101(f) [title VIII, §402(c)(7)], Oct. 21, 1998, 112 Stat. 2681–337](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-337), [2681-416](https://uscode.house.gov/statviewer.htm?volume=112&page=2681-416); [Pub. L. 113–128, title IV, §475, July 22, 2014, 128 Stat. 1687](https://uscode.house.gov/statviewer.htm?volume=128&page=1687).)

**subpart 2—independent living services**

**§796e. Allotments**

**(a) In general**

**(1) States**

**(A) Population basis**

After the reservation required by section 796e–0 of this title is made, and except as provided in subparagraphs (B) and (C), from the remainder of the sums appropriated for each fiscal year to carry out this subpart, the Administrator shall make an allotment to each State whose State plan has been approved under section 796d–1 of this title of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

**(B) Maintenance of 1992 amounts**

Subject to the availability of appropriations to carry out this subpart, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this subchapter, as in effect on the day before October 29, 1992.

**(C) Minimums**

Subject to the availability of appropriations to carry out this subpart, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or 1/3 of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or 1/3 of 1 percent of such sums shall be increased to the greater of the two amounts.

**(2) Certain territories**

**(A) In general**

For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

**(B) Allotment**

Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than 1/8 of 1 percent of the remainder described in paragraph (1)(A) for the fiscal year for which the allotment is made.

**(3) Adjustment for inflation**

For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this subpart exceeds the total amount appropriated to carry out this subpart for the preceding fiscal year, the Administrator shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this subpart between the preceding fiscal year and the fiscal year involved.

**(b) Proportional reduction**

To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Administrator shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).

**(c) Reallotment**

Whenever the Administrator determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this subpart, the Administrator shall make such amount available for carrying out the provisions of this subpart to one or more of the States that the Administrator determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

**(d) Administration**

Funds allotted or made available to a State under this section shall be administered by the designated State entity, in accordance with the approved State plan.

(Pub. L. 93–112, title VII, §711, as added [Pub. L. 105–220, title IV, §410, Aug. 7, 1998, 112 Stat. 1224](https://uscode.house.gov/statviewer.htm?volume=112&page=1224); amended [Pub. L. 113–128, title IV, §476(a), July 22, 2014, 128 Stat. 1690](https://uscode.house.gov/statviewer.htm?volume=128&page=1690).)