

**PART 381—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS**

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AUTHORITY: 29 U.S.C. 794e, unless otherwise noted.

SOURCE: 58 FR 43022, Aug. 12, 1993, unless otherwise noted.

**Subpart A—General**

**§ 381.1 What is the Protection and Advocacy of Individual Rights program?**

This program is designed to support a system in each State to protect the legal and human rights of eligible individuals with disabilities.

(Authority: Sec. 509(a) of the Act; 29 U.S.C. 794e(a))

**§ 381.2 Who is eligible for an award?**

(a) A protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (DDA), 42 U.S.C. 6041–6043, and that meets the require-

ments of § 381.10 is eligible to apply for a grant award under this program.

(b) In any fiscal year in which the amount appropriated to carry out this section is less than \$5,500,000, a protection and advocacy system from any State or from Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau may apply for a grant under the Protection and Advocacy of Individual Rights (PAIR) program to plan for, develop outreach strategies for, and carry out a protection and advocacy program authorized under this part, except that the Republic of Palau may not apply for a grant under the PAIR program after the Compact of Free Association with Palau takes effect.

(c) In any fiscal year in which the amount appropriated to carry out this section is equal to or greater than \$5,500,000, an eligible system from any State and from any of the jurisdictions named in paragraph (b) of this section may apply to receive the amount allotted pursuant to section 509(c)-(e) of the Act, except that the Republic of Palau may receive an allotment under section 509 of the Act only until the Compact of Free Association with Palau takes effect.

(Authority: Sec. 509(b)-(e) of the Act; 29 U.S.C. 794e(b)-(e))

[58 FR 43022, Aug. 12, 1993, as amended at 59 FR 8343, Feb. 18, 1994]

**§ 381.3 What activities may the Secretary fund?**

(a) Funds made available under this part must be used for the following activities:

- (1) Establishing a system to protect, and advocate for, the rights of individuals with disabilities.
- (2) Pursuing legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of eligible individuals with disabilities within the State.
- (3) Providing information on and making referrals to programs and services addressing the needs of individuals with disabilities in the State, including individuals with disabilities who are exiting from public school programs.

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(4) Coordinating the protection and advocacy program provided through an eligible system with the advocacy programs under—

(i) Section 112 of the Act (the Client Assistance Program (CAP));

(ii) The Older Americans Act of 1965 (the State long-term care ombudsman program);

(iii) Part C of the DDA; and

(iv) The Protection and Advocacy for Individuals with Mental Illness Act of 1986 (PAIMI), 42 U.S.C. 10801–10851.

(5) Developing a statement of objectives and priorities on an annual basis and a plan for achieving these objectives and priorities.

(6) Providing to the public, including individuals with disabilities and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities described in § 381.10(f).

(7) Establishing a grievance procedure for clients or prospective clients of the eligible system to ensure that individuals with disabilities are afforded equal access to the services of the eligible system.

(b) Funds made available under this part also may be used to carry out any other activities consistent with the purpose of this part and the activities listed in paragraph (a) of this section.

(Authority: Secs. 12 and 509(f) of the Act; 29 U.S.C. 711(c) and 794e(f)).

[58 FR 43022, Aug. 12, 1993, as amended at 59 FR 8344, Feb. 18, 1994]

### § 381.4 What regulations apply?

The following regulations apply to the PAIR program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations), if the eligible system is not a State or local government agency or Indian tribal organization.

(2) 34 CFR part 75 (Direct Grant Programs), if the appropriation for the PAIR program is less than \$5,500,000.

(3) 34 CFR part 76 (State-Administered Programs), if the appropriation for the PAIR program is equal to or greater than \$5,500,000 and the eligible

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system is a State or local government agency, except for—

(i) Section 76.103;

(ii) Sections 76.125 through 76.137;

(iii) Sections 76.300 through 76.401;

(iv) Section 76.704;

(v) Section 76.734; and

(vi) Section 76.740.

(4) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(5) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(6) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), if the eligible system is a State or local government agency.

(7) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(8) 34 CFR part 82 (New Restrictions on Lobbying).

(9) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(10) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 381.

(c) The regulations in 34 CFR 369.43, 369.46 and 369.48 relating to certain conditions that must be met by grantees.

(Authority: Secs. 12 and 509 of the Act; 29 U.S.C. 711(c) and 794e)

### § 381.5 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Award  
EDGAR  
Fiscal year  
Nonprofit  
Private  
Public  
Secretary

(b) *Other definitions.* The following definitions also apply to this part:

*Act* means the Rehabilitation Act of 1973, as amended.

*Advocacy* means pleading an individual's cause or speaking or writing in support of an individual. Advocacy may be formal, as in the case of a lawyer representing an individual in a court of law or in formal administrative proceedings before government