

**§ 395.38**

property over which the dispute arose, who shall be jointly designated by the other members of the panel and who shall serve as chairman of the panel.

(c) If either the State licensing agency or the head of the Federal department, agency, or instrumentality fails to designate a member of an arbitration panel, the Secretary shall designate such member on behalf of such party.

(d) If the panel finds that the acts or practices of any department, agency, or instrumentality are in violation of the Act or of this part, the head of any such department, agency, or instrumentality (subject to any appeal under paragraph (b) of this section) shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

(e) The decisions of an arbitration panel convened by the Secretary under this section shall be matters of public record and shall be published in the FEDERAL REGISTER.

(f) The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses which shall be published in the FEDERAL REGISTER.

**§ 395.38 Reports.**

At the end of each fiscal year, each property managing department, agency, or instrumentality of the United States shall report to the Secretary the total number of applications for vending facility locations received from State licensing agencies, the number accepted, the number denied, the number still pending, the total amount of vending machine income collected and the amount of such vending machine income disbursed to the State licensing agency in each State.

**PART 396—TRAINING OF INTERPRETERS FOR INDIVIDUALS WHO ARE DEAF OR HARD OF HEARING AND INDIVIDUALS WHO ARE DEAF-BLIND**

**Subpart A—General**

Sec.

396.1 What is the Training of Interpreters for Individuals Who Are Deaf or Hard of

**34 CFR Ch. III (7–1–18 Edition)**

Hearing and Individuals Who Are Deaf-Blind program?

396.2 Who is eligible for an award?

396.3 What regulations apply?

396.4 What definitions apply?

396.5 What activities may the Secretary fund?

**Subpart B [Reserved]**

**Subpart C—How Does One Apply for an Award?**

396.20 What must be included in an application?

**Subpart D—How Does the Secretary Make an Award?**

396.30 How does the Secretary evaluate an application?

396.31 What additional selection criteria are used under this program?

396.32 What additional factors does the Secretary consider in making awards?

396.33 What priorities does the Secretary apply in making awards?

396.34 What are the matching requirements?

AUTHORITY: Sections 12(c) and 302(a) and (f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772(a) and (f), unless otherwise noted.

SOURCE: 81 FR 55625, Aug. 19, 2016, unless otherwise noted.

**Subpart A—General**

**§ 396.1 What is the Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are Deaf-Blind program?**

The Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are Deaf-Blind program is designed to establish interpreter training programs or to provide financial assistance for ongoing interpreter programs to train a sufficient number of qualified interpreters throughout the country in order to meet the communication needs of individuals who are deaf or hard of hearing and individuals who are deaf-blind by—

(a) Training interpreters to effectively interpret and transliterate between spoken language and sign language and to transliterate between spoken language and oral or tactile modes of communication;

(b) Ensuring the maintenance of the interpreting skills of qualified interpreters; and

(c) Providing opportunities for interpreters to raise their skill level competence in order to meet the highest standards approved by certifying associations.

(Authority: Sections 12(c) and 302(a) and (f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772(a) and (f))

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

Public and private nonprofit agencies and organizations, including institutions of higher education, are eligible for assistance under this program.

(Authority: Section 302(f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 772(f))

**§ 396.3 What regulations apply?**

The following regulations apply to the Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are Deaf-Blind program:

- (a) 34 CFR part 385 (Rehabilitation Training), sections—
  - (1) 385.3(a) and (d);
  - (2) 385.40 through 385.46; and
- (b) The regulations under this part 396.

(Authority: Sections 12(c) and 302(f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772(f))

**§ 396.4 What definitions apply?**

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

- Applicant
- Application
- Award
- Equipment
- Grant
- Nonprofit
- Private
- Project
- Public
- Secretary
- Supplies

(b) *Definitions in the rehabilitation training regulations.* The following terms defined in 34 CFR 385.4(b) apply to this part:

- Individual With a Disability
- Institution of Higher Education

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

*Existing program that has demonstrated its capacity for providing interpreter*

*training services* means an established program with—

- (i) A record of training qualified interpreters who are serving the deaf, hard of hearing, and deaf-blind communities; and
- (ii) An established curriculum that uses evidence-based practices in the training of interpreters and promising practices when evidence-based practices are not available.

*Individual who is deaf* means an individual who, in order to communicate, depends primarily upon visual modes, such as sign language, speech reading, and gestures, or reading and writing.

*Individual who is deaf-blind* means an individual—

- (i)(A) Who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both of these conditions;
- (B) Who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and
- (C) For whom the combination of impairments described in paragraphs (i)(A) and (B) of this definition causes extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

(ii) Who, despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

(iii) Who meets any other requirements that the Secretary may prescribe.

*Individual who is hard of hearing* means an individual who, in order to communicate, needs to supplement auditory information by depending primarily upon visual modes, such as sign

## § 396.5

language, speech reading, and gestures, or reading and writing.

*Interpreter for individuals who are deaf or hard of hearing* means a qualified professional who uses sign language skills, cued speech, or oral interpreting skills, as appropriate to the needs of individuals who are deaf or hard of hearing, to facilitate communication between individuals who are deaf or hard of hearing and other individuals.

*Interpreter for individuals who are deaf-blind* means a qualified professional who uses tactile or other manual language or fingerspelling modes, as appropriate to the needs of individuals who are deaf-blind, to facilitate communication between individuals who are deaf-blind and other individuals.

*Novice Interpreter* means an interpreter who has graduated from an interpreter education program or enters the field through an alternate pathway, is at the start of his or her professional career with some level of proficiency in American Sign Language, and is working toward becoming a qualified professional.

*Qualified professional* means an individual who has—

- (i) Met existing certification or evaluation requirements equivalent to the highest standards approved by certifying associations; and
- (ii) Successfully demonstrated interpreting skills that reflect the highest standards approved by certifying associations through prior work experience.

*Related agency* means—

- (i) An American Indian rehabilitation program; or
- (ii) Any of the following agencies that provide services to individuals with disabilities under an agreement or other arrangement with a designated State agency in the area of specialty for which training is provided:
  - (A) A Federal, State, or local agency.
  - (B) A nonprofit organization.
  - (C) A professional corporation or professional practice group.

(Authority: Sections 12(c) and 302(f) of the Rehabilitation Act of 1973, as amended and Section 206 of Pub. L. 98-221; 29 U.S.C. 709(c) and 772(f) and 29 U.S.C 1905)

## 34 CFR Ch. III (7-1-18 Edition)

### § 396.5 What activities may the Secretary fund?

The Secretary may award grants to public or private nonprofit agencies or organizations, including institutions of higher education, to provide assistance for establishment of interpreter training programs or for projects that provide training in interpreting skills for persons preparing to serve, and persons who are already serving, as interpreters for individuals who are deaf or hard of hearing, and as interpreters for individuals who are deaf-blind in public and private agencies, schools, and other service-providing institutions.

(Authority: Section 302(f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 772(f))

### Subpart B [Reserved]

### Subpart C—How Does One Apply for an Award?

#### § 396.20 What must be included in an application?

Each applicant shall include in the application—

- (a) A description of the manner in which the proposed interpreter training program will be developed and operated during the five-year period following the award of the grant;
- (b) A description of the communication needs for training interpreters for the population(s) or in the geographical area(s) to be served by the project;
- (c) A description of the applicant's capacity or potential for providing training of interpreters for individuals who are deaf or hard of hearing and interpreters for individuals who are deaf-blind that is evidence-based, and based on promising practices when evidence-based practices are not available;
- (d) An assurance that any interpreter trained or retrained under this program shall meet those standards of competency for a qualified professional, that the Secretary may establish;
- (e) An assurance that the project shall cooperate or coordinate its activities, as appropriate, with the activities of other projects funded under this program;

(f) The descriptions required in 34 CFR 385.45 with regard to the training of individuals with disabilities, including those from minority groups, for rehabilitation careers; and

(g) Such other information as the Secretary may require.

(Approved by the Office of Management and Budget under control number 1820-0018)

(Authority: Sections 12(c), 21(c), and 302(f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 718(c), and 772(f))

**Subpart D—How Does the Secretary Make an Award?**

**§ 396.30 How does the Secretary evaluate an application?**

(a) The Secretary evaluates applications under the procedures in 34 CFR part 75.

(b) The Secretary evaluates each application using selection criteria in § 396.31.

(c) In addition to the selection criteria described in paragraph (b) of this section, the Secretary evaluates each application using—

- (1) Selection criteria in 34 CFR 75.210;
- (2) Selection criteria established under 34 CFR 75.209; or
- (3) A combination of selection criteria established under 34 CFR 75.209 and selection criteria in 34 CFR 75.210.

(Authority: Section 302(f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 772(f))

**§ 396.31 What additional selection criteria are used under this program?**

In addition to the criteria in 34 CFR 396.30(c), the Secretary uses the following additional selection criterion to evaluate an application. The Secretary reviews each application to determine the extent to which—

(a) The proposed interpreter training project was developed in consultation with State Vocational Rehabilitation agencies and their related agencies and consumers;

(b) The training is appropriate to the needs of both individuals who are deaf or hard of hearing and individuals who are deaf-blind and to the needs of public and private agencies that provide services to either individuals who are deaf or hard of hearing or individuals who are deaf-blind in the geographical

area to be served by the training project;

(c) Any curricula for the training of interpreters includes evidence-based practices and promising practices when evidence-based practices are not available;

(d) There is a working relationship between the interpreter training project and State Vocational Rehabilitation agencies and their related agencies, and consumers; and

(e) There are opportunities for individuals who are deaf or hard of hearing and individuals who are deaf-blind to provide input regarding the design and management of the training project.

(Authority: Sections 12(c) and 302(f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772(f))

**§ 396.32 What additional factors does the Secretary consider in making awards?**

In addition to the selection criteria listed in § 396.31 and 34 CFR 75.210, the Secretary, in making awards under this part, considers the geographical distribution of projects throughout the country, as appropriate, in order to best carry out the purposes of this program. To accomplish this, the Secretary may in any fiscal year make awards of regional or national scope.

(Authority: Sections 12(c) and 302(f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772(f))

**§ 396.33 What priorities does the Secretary apply in making awards?**

(a) The Secretary, in making awards under this part, gives priority to public or private nonprofit agencies or organizations, including institutions of higher education, with existing programs that have demonstrated their capacity for providing interpreter training.

(b) In announcing competitions for grants and contracts, the Secretary may give priority consideration to—

- (1) Increasing the skill level of interpreters for individuals who are deaf or hard of hearing and individuals who are deaf-blind in unserved or underserved populations or in unserved or underserved geographic areas;
- (2) Existing programs that have demonstrated their capacity for providing interpreter training services that raise

## § 396.34

the skill level of interpreters in order to meet the highest standards approved by certifying associations; and

(3) Specialized topical training based on the communication needs of individuals who are deaf or hard of hearing and individuals who are deaf-blind.

(Authority: Sections 12(c) and 302(f)(1)(C) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772(f)(1)(C))

### § 396.34 What are the matching requirements?

A grantee must contribute to the cost of a project under this program in an amount satisfactory to the Secretary. The part of the costs to be borne by the grantee is determined by the Secretary at the time of the grant award.

(Authority: Section 12(c) and 302(f) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 772(f))

## PART 397—LIMITATIONS ON USE OF SUBMINIMUM WAGE

### Subpart A—General Provisions

Sec.

397.1 Purpose.

397.2 What is the Department of Education's jurisdiction under this part?

397.3 What rules of construction apply to this part?

397.4 What regulations apply?

397.5 What definitions apply?

### Subpart B—Coordinated Documentation Procedures Related to Youth with Disabilities

397.10 What documentation process must the designated State unit develop?

### Subpart C—Designated State Unit Responsibilities Prior to Youth with Disabilities Starting Subminimum Wage Employment

397.20 What are the responsibilities of a designated State unit to youth with disabilities who are known to be seeking subminimum wage employment?

### Subpart D—Local Educational Agency Responsibilities Prior to Youth with Disabilities Starting Subminimum Wage Employment

397.30 What are the responsibilities of a local educational agency to youth with

## 34 CFR Ch. III (7–1–18 Edition)

disabilities who are known to be seeking subminimum wage employment?

397.31 What are the contracting limitations on educational agencies under this part?

### Subpart E—Designated State Unit Responsibilities to Individuals with Disabilities During Subminimum Wage Employment

397.40 What are the responsibilities of a designated State unit for individuals with disabilities, regardless of age, who are employed at subminimum wage?

### Subpart F—Review of Documentation

397.50 What is the role of the designated State unit in the review of documentation under this part?

AUTHORITY: Section 511 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 794g, unless otherwise noted.

SOURCE: 81 FR 55785, Aug. 19, 2016, unless otherwise noted.

## Subpart A—General Provisions

### § 397.1 Purpose.

(a) The purpose of this part is to set forth requirements the designated State units and State and local educational agencies must satisfy to ensure that individuals with disabilities, especially youth with disabilities, have a meaningful opportunity to prepare for, obtain, maintain, advance in, or regain competitive integrated employment, including supported or customized employment.

(b) This part requires—

(1) A designated State unit to provide youth with disabilities documentation demonstrating that they have completed certain requirements, as described in this part, prior to starting subminimum wage employment with entities (as defined in § 397.5(d)) holding special wage certificates under section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c));

(2) A designated State unit to provide, at certain prescribed intervals for the duration of such employment, career counseling and information and referral services, designed to promote opportunities for competitive integrated employment, to individuals with disabilities, regardless of age, who are known to be employed at subminimum wage; and