

§ 367.4

34 CFR Ch. III (7–1–18 Edition)

entering institutions so that the individuals may remain in the community; and

(8) Other IL services, as defined in § 367.5.

(Authority: Section 752(d) and (e) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 796k (d) and (e))

§ 367.4 What regulations apply?

The following regulations apply to the Independent Living Services for Older Individuals Who Are Blind program:

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

(1) 34 CFR part 75 (Direct Grant Programs), with respect to grants under subpart B and D.

(2) 34 CFR part 76 (State-Administered Programs), with respect to grants under subpart E.

(3) 34 CFR part 77 (Definitions That Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR part 82 (New Restrictions on Lobbying).

(7) 2 CFR part 180 (OMB Guidelines to Agencies on Debarment and Suspension (Nonprocurement)), as adopted at 2 CFR part 3485.

(8) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), as adopted at 2 CFR part 3474.

(b) The regulations in this part 367.

(Authority: Sections 12(c) and 752 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 796k)

§ 367.5 What definitions apply?

(a) The definitions of terms used in this part that are included in the regulations identified in § 367.4 as applying to this program.

(b) In addition, the following definitions also apply to this part:

(1) *Act* means the Rehabilitation Act, as amended by WIOA.

(2) *Advocacy* means pleading an individual's cause or speaking or writing in support of an individual. To the extent permitted by State law or the rules of the agency before which an individual

is appearing, a non-lawyer may engage in advocacy on behalf of another individual. Advocacy may—

(i) Involve representing an individual—

(A) Before private entities or organizations, government agencies (whether State, local, or Federal), or in a court of law (whether State or Federal); or

(B) In negotiations or mediation, in formal or informal administrative proceedings before government agencies (whether State, local, or Federal), or in legal proceedings in a court of law; and

(ii) Be on behalf of—

(A) A single individual, in which case it is individual advocacy;

(B) A group or class of individuals, in which case it is systems (or systemic) advocacy; or

(C) Oneself, in which case it is self advocacy.

(3) *Attendant care* means a personal assistance service provided to an individual with significant disabilities in performing a variety of tasks required to meet essential personal needs in areas such as bathing, communicating, cooking, dressing, eating, homemaking, toileting, and transportation.

(4) *Contract* means a legal instrument by which RSA in subpart B or the DSA receiving a grant under this part purchases property or services needed to carry out the program under this Part. The term as used in this part does not include a legal instrument, even if RSA or the DSA considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.

(Authority: 20 U.S.C. 1221e–3)

(5) *Designated State Agency* means the agency described in section 101(a)(2)(A)(i) of the Rehabilitation Act as the sole State agency authorized to provide rehabilitation services to individuals who are blind and administer the OIB grant.

(6) *Independent living services for older individuals who are blind* means those services listed in § 367.3(b).

(7) *Legally authorized advocate or representative* means an individual who is authorized under State law to act or advocate on behalf of another individual. Under certain circumstances, State law permits only an attorney,

legal guardian, or individual with a power of attorney to act or advocate on behalf of another individual. In other circumstances, State law may permit other individuals to act or advocate on behalf of another individual.

(8) *Minority group* means Alaska Natives, American Indians, Asians, Blacks (African Americans), Hispanics (Latinos), Native Hawaiians, and Pacific Islanders.

(9) *Older individual who is blind* means an individual age fifty-five or older whose severe visual impairment makes competitive employment extremely difficult to obtain but for whom IL goals are feasible.

(10) *Other IL services* include:

(i) Counseling services, including psychological, psychotherapeutic, and related services;

(ii) Services related to securing housing or shelter, including services related to community group living, that are supportive of the purposes of the Act, and adaptive housing services, including appropriate accommodations to and modifications of any space used to serve, or to be occupied by, older individuals who are blind;

(iii) Rehabilitation technology;

(iv) Services and training for older individuals who are blind who also have cognitive and sensory disabilities, including life skills training and interpreter services;

(v) Personal assistance services, including attendant care and the training of personnel providing these services;

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

(vii) Consumer information programs on rehabilitation and IL services available under the Act, especially for minorities and other older individuals who are blind who have traditionally been unserved or underserved by programs under the Act;

(viii) Education and training necessary for living in a community and participating in community activities;

(ix) Supported living;

(x) Transportation, including referral and assistance for transportation;

(xi) Physical rehabilitation;

(xii) Therapeutic treatment;

(xiii) Provision of needed prostheses and other appliances and devices;

(xiv) Individual and group social and recreational services;

(xv) 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 older individuals who are blind;

(xvi) Appropriate preventive services to decrease the need of older individuals who are blind who are assisted under the Act for similar services in the future;

(xvii) Community awareness programs to enhance the understanding and integration into society of older individuals who are blind; and

(xviii) Any other services that may be necessary to improve the ability of an older individual who is blind to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment and that are not inconsistent with any other provisions of the Act.

(11) *Peer relationships* mean relationships involving mutual support and assistance among individuals with significant disabilities who are actively pursuing IL goals.

(12) *Peer role models* means individuals with significant disabilities whose achievements can serve as a positive example for other older individuals who are blind.

(13) *Personal assistance services* means a range of IL services, provided by one or more persons, designed to assist an older individual who is blind to perform daily living activities on or off the job that the individual would typically perform if the individual was not blind. These IL services must be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

(14) *Service provider* means—

(i) The DSA that directly provides services authorized under § 367.3; or

(ii) Any other entity that receives a subaward or contract from the DSA to provide services authorized under § 367.3.

§ 367.20

(15) *Significant disability* means a severe physical, mental, cognitive, or sensory impairment that substantially limits an individual's ability to function independently in the family or community or to obtain, maintain, or advance in employment.

(16) *State* means, except where otherwise specified in the Act, 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.

(17) *Subaward* means a grant or a cooperative agreement provided by the DSA to a subrecipient for the subrecipient to carry out part of the Federal award received by the DSA under this part. It does not include payments to a contractor or payments to an individual that is a beneficiary of a program funded under this part. A subaward may be provided through any form of legal agreement, including an agreement that the DSA considers a contract.

(Authority: 20 U.S.C. 1221e-3)

(18) *Subrecipient* means a non-Federal entity that receives a subaward from the DSA to carry out part of the program funded under this part; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

(Authority: 20 U.S.C. 1221e-3)

(19) *Transportation* means travel and related expenses that are necessary to enable an older individual who is blind to benefit from another IL service and travel and related expenses for an attendant or aide if the services of that attendant or aide are necessary to enable an older individual who is blind to benefit from that IL service.

(20) *Unserved and underserved groups or populations*, with respect to groups or populations of older individuals who are blind in a State, include, but are not limited to, groups or populations of older individuals who are blind who—

(i) Have cognitive and sensory impairments;

(ii) Are members of racial and ethnic minority groups;

(iii) Live in rural areas; or

(iv) Have been identified by the DSA as unserved or underserved.

(Authority: Unless otherwise noted, Section 7 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705)

Subpart B—Training and Technical Assistance

§ 367.20 What are the requirements for funding training and technical assistance under this chapter?

For any fiscal year, beginning with fiscal year 2015, the Secretary shall first reserve not less than 1.8 percent and not more than 2 percent of funds appropriated and made available to carry out this chapter to provide training and technical assistance to DSAs, or other providers of independent living services for older individuals who are blind, that are funded under this chapter for such fiscal year.

(Authority: Section 751A(a) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 796j-1(a))

§ 367.21 How does the Secretary use these funds to provide training and technical assistance?

(a) The Secretary uses these funds to provide training and technical assistance, either directly or through grants, contracts, or cooperative agreements with State and public or non-profit agencies and organizations and institutions of higher education that have the capacity to provide technical assistance and training in the provision of independent living services for older individuals who are blind.

(b) An entity receiving assistance in accordance with paragraph (a) of this section shall provide training and technical assistance to DSAs or other service providers to assist them in improving the operation and performance of programs and services for older individuals who are blind resulting in their enhanced independence and self-sufficiency.

(Authority: Section 751A(a) and (c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 796j-1(a) and (c))