

(B) Such agreement shall be approved by each local board providing guidance to the local area and shall be described in the local plan under section 2833 of this title.

(4) On-the-job training contracts under this chapter shall not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this chapter.

(6) The Secretary shall not provide financial assistance for any program under this chapter that involves political activities.

(7)(A) Income under any program administered by a public or private nonprofit entity may be retained by such entity only if such income is used to continue to carry out the program.

(B) Income subject to the requirements of subparagraph (A) shall include—

(i) receipts from goods or services (including conferences) provided as a result of activities funded under this chapter;

(ii) funds provided to a service provider under this chapter that are in excess of the costs associated with the services provided; and

(iii) interest income earned on funds received under this chapter.

(C) For purposes of this paragraph, each entity receiving financial assistance under this chapter shall maintain records sufficient to determine the amount of such income received and the purposes for which such income is expended.

(8)(A) The Secretary shall notify the Governor and the appropriate local board and chief elected official of, and consult with the Governor and such board and official concerning, any activity to be funded by the Secretary under this chapter within the corresponding State or local area.

(B) The Governor shall notify the appropriate local board and chief elected official of, and consult with such board and official concerning, any activity to be funded by the Governor under this chapter within the corresponding local area.

(9)(A) All education programs for youth supported with funds provided under part D of subchapter II of this chapter shall be consistent with applicable State and local educational standards.

(B) Standards and procedures with respect to awarding academic credit and certifying educational attainment in programs conducted under such part shall be consistent with the requirements of applicable State and local law, including regulation.

(10) No funds available under this chapter may be used for public service employment ex-

cept as specifically authorized under this chapter.

(11) The Federal requirements governing the chapter, use, and disposition of real property, equipment, and supplies purchased with funds provided under this chapter shall be the Federal requirements generally applicable to Federal grants to States and local governments.

(12) Nothing in this chapter shall be construed to provide an individual with an entitlement to a service under this chapter.

(13) Services, facilities, or equipment funded under this chapter may be used, as appropriate, on a fee-for-service basis, by employers in a local area in order to provide employment and training activities to incumbent workers—

(A) when such services, facilities, or equipment are not in use for the provision of services for eligible participants under this chapter;

(B) if such use for incumbent workers would not have an adverse effect<sup>1</sup> on the provision of services to eligible participants under this chapter; and

(C) if the income derived from such fees is used to carry out the programs authorized under this chapter.

(Pub. L. 105-220, title I, §195, Aug. 7, 1998, 112 Stat. 1057.)

## CHAPTER 31—ASSISTIVE TECHNOLOGY FOR INDIVIDUALS WITH DISABILITIES

Sec.

3001. Findings and purposes.

3002. Definitions.

3003. State grants for assistive technology.

3004. State grants for protection and advocacy services related to assistive technology.

3005. National activities.

3006. Administrative provisions.

3007. Authorization of appropriations.

3011 to 3058. Omitted.

### § 3001. Findings and purposes

#### (a) Findings

Congress finds the following:

(1) Over 54,000,000 individuals in the United States have disabilities, with almost half experiencing severe disabilities that affect their ability to see, hear, communicate, reason, walk, or perform other basic life functions.

(2) 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 and make choices;

(C) benefit from an education;

(D) pursue meaningful careers; and

(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of society in the United States.

(3) Technology is one of the primary engines for economic activity, education, and innovation in the Nation, and throughout the world. The commitment of the United States to the

<sup>1</sup> So in original. Probably should be "effect".

development and utilization of technology is one of the main factors underlying the strength and vibrancy of the economy of the United States.

(4) As technology has come to play an increasingly important role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the conduct of commerce, and in the provision of education, its impact upon the lives of individuals with disabilities in the United States has been comparable to its impact upon the remainder of the citizens of the United States. Any development in mainstream technology will have profound implications for individuals with disabilities in the United States.

(5) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing devices that facilitate activities of daily living that significantly benefit individuals with disabilities of all ages. These devices, including adaptations, increase involvement in, and reduce expenditures associated with, programs and activities that facilitate communication, ensure independent functioning, enable early childhood development, support educational achievement, provide and enhance employment options, and enable full participation in community living for individuals with disabilities. Access to such devices can also reduce expenditures associated with early childhood intervention, education, rehabilitation and training, health care, employment, residential living, independent living, recreation opportunities, and other aspects of daily living.

(6) Over the last 15 years, the Federal Government has invested in the development of comprehensive statewide programs of technology-related assistance, which have proven effective in assisting individuals with disabilities in accessing assistive technology devices and assistive technology services. This partnership between the Federal Government and the States provided an important service to individuals with disabilities by strengthening the capacity of each State to assist individuals with disabilities of all ages meet their assistive technology needs.

(7) Despite the success of the Federal-State partnership in providing access to assistive technology devices and assistive technology services, there is a continued need to provide information about the availability of assistive technology, advances in improving accessibility and functionality of assistive technology, and appropriate methods to secure and utilize assistive technology in order to maximize the independence and participation of individuals with disabilities in society.

(8) The combination of significant recent changes in Federal policy (including changes to section 794d of this title, accessibility provisions of the Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.), and the amendments made to the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) by the No Child Left Behind Act of 2001) and the rapid and unending evolution of technology require a Federal-State investment in State assistive

technology systems to continue to ensure that individuals with disabilities reap the benefits of the technological revolution and participate fully in life in their communities.

#### (b) Purposes

The purposes of this chapter are—

(1) to support State efforts to improve the provision of assistive technology to individuals with disabilities through comprehensive statewide programs of technology-related assistance, for individuals with disabilities of all ages, that are designed to—

(A) increase the availability of, funding for, access to, provision of, and training about assistive technology devices and assistive technology services;

(B) increase the ability of individuals with disabilities of all ages to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by educational or human service agencies or between settings of daily living (for example, between home and work);

(C) increase the capacity of public agencies and private entities to provide and pay for assistive technology devices and assistive technology services on a statewide basis for individuals with disabilities of all ages;

(D) increase the involvement of individuals with disabilities and, if appropriate, their family members, guardians, advocates, and authorized representatives, in decisions related to the provision of assistive technology devices and assistive technology services;

(E) increase and promote coordination among State agencies, between State and local agencies, among local agencies, and between State and local agencies and private entities (such as managed care providers), that are involved or are eligible to be involved in carrying out activities under this chapter;

(F) increase the awareness and facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

(G) increase awareness and knowledge of the benefits of assistive technology devices and assistive technology services among targeted individuals and entities and the general population; and

(2) to provide States with financial assistance that supports programs designed to maximize the ability of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to obtain assistive technology devices and assistive technology services.

(Pub. L. 105-394, §2, Nov. 13, 1998, 112 Stat. 3628; Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1707.)

#### REFERENCES IN TEXT

The Help America Vote Act of 2002, referred to in subsec. (a)(8), is Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, which is classified principally to chapter 146 (§15301 et seq.) of Title 42, The Public Health and Welfare. For

complete classification of this Act to the Code, see Short Title note set out under section 15301 of Title 42 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(8), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The No Child Left Behind Act of 2001, referred to in subsec. (a)(8), is Pub. L. 107-110, Jan. 8, 2002, 115 Stat. 1425, as amended. For complete classification of this Act to the Code, see Short Title of 2002 Amendment note set out under section 6301 of Title 20, Education, and Tables.

#### AMENDMENTS

2004—Pub. L. 108-364 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) and (b) relating to findings and purposes.

#### SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-364, §1, Oct. 25, 2004, 118 Stat. 1707, provided that: “This Act [enacting sections 3003 to 3007 of this title, amending this section, sections 763, 781, 792, and 3002 of this title, and sections 15024, 15025, 15043, and 15064 of Title 42, The Public Health and Welfare, omitting sections 3011 to 3015, 3031 to 3037, and 3051 to 3058 of this title, and amending provisions set out as a note under this section] may be cited as the ‘Assistive Technology Act of 2004’.”

#### SHORT TITLE

Pub. L. 105-394, §1(a), Nov. 13, 1998, 112 Stat. 3627, as amended by Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1707, provided that: “This Act [enacting this chapter] may be cited as the ‘Assistive Technology Act of 1998’.”

### § 3002. Definitions

In this chapter:

#### (1) Adult service program

The term “adult service program” means a program that provides services to, or is otherwise substantially involved with the major life functions of, individuals with disabilities. Such term includes—

(A) a program providing residential, supportive, or employment services, or employment-related services, to individuals with disabilities;

(B) a program carried out by a center for independent living, such as a center described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

(C) a program carried out by an employment support agency connected to adult vocational rehabilitation, such as a one-stop partner, as defined in section 2801 of this title; and

(D) a program carried out by another organization or vender licensed or registered by the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705).

#### (2) American Indian consortium

The term “American Indian consortium” means an entity that is an American Indian Consortium (as defined in section 102 of Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), and that is established to provide protection and advocacy services for purposes of receiving funding

under subtitle C of title I of such Act (42 U.S.C. 15041 et seq.).

#### (3) Assistive technology

The term “assistive technology” means technology designed to be utilized in an assistive technology device or assistive technology service.

#### (4) Assistive technology device

The term “assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

#### (5) Assistive technology service

The term “assistive technology service” means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

(B) a service consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) a service consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, replacing, or donating assistive technology devices;

(D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with a disability or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual;

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services and entities that manufacture or sell assistive technology devices), employers, providers of employment and training services, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities; and

(G) a service consisting of expanding the availability of access to technology, including electronic and information technology, to individuals with disabilities.

#### (6) Capacity building and advocacy activities

The term “capacity building and advocacy activities” means efforts that—

(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

(B) facilitate and increase access to, provision of, and funding for, assistive technology

devices and assistive technology services, in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

**(7) Comprehensive statewide program of technology-related assistance**

The term “comprehensive statewide program of technology-related assistance” means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

**(8) Consumer-responsive**

The term “consumer-responsive”—

(A) with regard to policies, means that the policies are consistent with the principles of—

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

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

(iii) inclusion, integration, and full participation of such individuals in society;

(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

(v) support for individual and systems advocacy and community involvement; and

(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect capacity building and advocacy activities.

**(9) Disability**

The term “disability” means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this chapter or for the purposes of the law of the State in which the individual resides.

**(10) Individual with a disability; individuals with disabilities**

**(A) Individual with a disability**

The term “individual with a disability” means any individual of any age, race, or ethnicity—

(i) who has a disability; and

(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

**(B) Individuals with disabilities**

The term “individuals with disabilities” means more than 1 individual with a disability.

**(11) Institution of higher education**

The term “institution of higher education” has the meaning given such term in section 1001(a) of title 20, and includes a community college receiving funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

**(12) Protection and advocacy services**

The term “protection and advocacy services” means services that—

(A) are described in subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

**(13) Secretary**

The term “Secretary” means the Secretary of Education.

**(14) State**

**(A) In general**

Except as provided in subparagraph (B), the term “State” means each of the 50 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.

**(B) Outlying areas**

In section 3003(b) of this title:

**(i) Outlying area**

The term “outlying area” means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**(ii) State**

The term “State” does not include the United States Virgin Islands, Guam, Amer-

ican Samoa, and the Commonwealth of the Northern Mariana Islands.

**(15) State assistive technology program**

The term “State assistive technology program” means a program authorized under section 3003 of this title.

**(16) Targeted individuals and entities**

The term “targeted individuals and entities” means—

(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

(B) underrepresented populations, including the aging workforce;

(C) individuals who work for public or private entities (including centers for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), insurers, or managed care providers) that have contact, or provide services to, with individuals with disabilities;

(D) educators at all levels (including providers of early intervention services, elementary schools, secondary schools, community colleges, and vocational and other institutions of higher education) and related services personnel;

(E) technology experts (including web designers and procurement officials);

(F) health, allied health, and rehabilitation professionals and hospital employees (including discharge planners);

(G) employers, especially small business employers, and providers of employment and training services;

(H) entities that manufacture or sell assistive technology devices;

(I) entities that carry out community programs designed to develop essential community services in rural and urban areas; and

(J) other appropriate individuals and entities, as determined for a State by the State.

**(17) Technology-related assistance**

The term “technology-related assistance” means assistance provided through capacity building and advocacy activities that accomplish the purposes described in section 3001(b) of this title.

**(18) Underrepresented population**

The term “underrepresented population” means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited English proficiency, older individuals, or persons from rural areas.

**(19) Universal design**

The term “universal design” means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

(Pub. L. 105-394, §3, Nov. 13, 1998, 112 Stat. 3631; Pub. L. 106-402, title IV, §401(b)(4)(A), Oct. 30,

2000, 114 Stat. 1738; Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1709; Pub. L. 110-315, title IX, §941(k)(2)(K), Aug. 14, 2008, 122 Stat. 3467.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in pars. (1)(B) and (16)(C), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355. Part C of title VII of the Act is classified generally to subpart 3 (§796f et seq.) of part A of subchapter VII of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in pars. (2) and (12)(A), is Pub. L. 106-402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of title I of the Act is classified generally to part C (§1504i et seq.) of subchapter I of chapter 144 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in par. (11), is Pub. L. 95-471, Oct. 17, 1978, 92 Stat. 1325, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Protection and Advocacy for Individuals with Mental Illness Act, referred to in par. (12)(A), is Pub. L. 99-319, May 23, 1986, 100 Stat. 478, which is classified generally to chapter 114 (§10801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of Title 42 and Tables.

AMENDMENTS

2008—Par. (11). Pub. L. 110-315 substituted “the Tribally Controlled Colleges and Universities Assistance Act of 1978” for “the Tribally Controlled College or University Assistance Act of 1978”.

2004—Pub. L. 108-364 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) and (b) relating to definitions and references.

2000—Subsec. (a)(11)(A). Pub. L. 106-402 substituted “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000” for “part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.)”.

**§ 3003. State grants for assistive technology**

**(a) Grants to States**

The Secretary shall award grants under subsection (b) to States to maintain comprehensive statewide programs of technology-related assistance to support programs that are designed to maximize the ability of individuals with disabilities across the human lifespan and across the wide array of disabilities, and their family members, guardians, advocates, and authorized representatives, to obtain assistive technology, and that are designed to increase access to assistive technology.

**(b) Amount of financial assistance**

**(1) In general**

From funds made available to carry out this section, the Secretary shall award a grant to each eligible State and eligible outlying area from an allotment determined in accordance with paragraph (2).

**(2) Calculation of State grants**

**(A) Base year**

Except as provided in subparagraphs (B) and (C), the Secretary shall allot to each

State and outlying area for a fiscal year an amount that is not less than the amount the State or outlying area received under the grants provided under section 3011 of this title (as in effect on the day before October 25, 2004) for fiscal year 2004.

**(B) Ratable reduction**

**(i) In general**

If funds made available to carry out this section for any fiscal year are insufficient to make the allotments required for each State and outlying area under subparagraph (A) for such fiscal year, the Secretary shall ratably reduce the allotments for such fiscal year.

**(ii) Additional funds**

If, after the Secretary makes the reductions described in clause (i), additional funds become available to carry out this section for the fiscal year, the Secretary shall ratably increase the allotments, until the Secretary has allotted the entire base year amount.

**(C) Higher appropriation years**

Except as provided in subparagraph (D), for a fiscal year for which the amount of funds made available to carry out this section is greater than the base year amount, the Secretary shall—

(i) make the allotments described in subparagraph (A);

(ii) from a portion of the remainder of the funds after the Secretary makes the allotments described in clause (i), the Secretary shall—

(I) from 50 percent of the portion, allot to each State or outlying area an equal amount; and

(II) from 50 percent of the portion, allot to each State or outlying area an amount that bears the same relationship to such 50 percent as the population of the State or outlying area bears to the population of all States and outlying areas,

until each State has received an allotment of not less than \$410,000 and each outlying area has received an allotment of \$125,000 under clause (i) and this clause;

(iii) from the remainder of the funds after the Secretary makes the allotments described in clause (ii), the Secretary shall—

(I) from 80 percent of the remainder allot to each State an amount that bears the same relationship to such 80 percent as the population of the State bears to the population of all States; and

(II) from 20 percent of the remainder, allot to each State an equal amount.

**(D) Special rule for fiscal year 2005**

Notwithstanding subparagraph (C), if the amount of funds made available to carry out this section for fiscal year 2005 is greater than the base year amount, the Secretary may award grants on a competitive basis for periods of 1 year to States or outlying areas in accordance with the requirements of sub-

chapter III of this chapter<sup>1</sup> (as in effect on the day before October 25, 2004) to develop, support, expand, or administer an alternative financing program.

**(E) Base year amount**

In this paragraph, the term “base year amount” means the total amount received by all States and outlying areas under the grants described in subparagraph (A) for fiscal year 2004.

**(c) Lead agency, implementing entity, and advisory council**

**(1) Lead agency and implementing entity**

**(A) Lead agency**

**(i) In general**

The Governor of a State shall designate a public agency as a lead agency—

(I) to control and administer the funds made available through the grant awarded to the State under this section; and

(II) to submit the application described in subsection (d) on behalf of the State, to ensure conformance with Federal and State accounting requirements.

**(ii) Duties**

The duties of the lead agency shall include—

(I) preparing the application described in subsection (d) and carrying out State activities described in that application, including making programmatic and resource allocation decisions necessary to implement the comprehensive statewide program of technology-related assistance;

(II) coordinating the activities of the comprehensive statewide program of technology-related assistance among public and private entities, including coordinating efforts related to entering into interagency agreements, and maintaining and evaluating the program; and

(III) coordinating efforts related to the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out through the grant.

**(B) Implementing entity**

The Governor may designate an agency, office, or other entity to carry out State activities under this section (referred to in this section as the “implementing entity”), if such implementing entity is different from the lead agency. The implementing agency shall carry out responsibilities under this chapter through a subcontract or another administrative agreement with the lead agency.

**(C) Change in agency or entity**

**(i) In general**

On obtaining the approval of the Secretary, the Governor may redesignate the

<sup>1</sup> See References in Text note below.

lead agency, or the implementing entity, if the Governor shows to the Secretary good cause why the entity designated as the lead agency, or the implementing entity, respectively, should not serve as that agency or entity, respectively. The Governor shall make the showing in the application described in subsection (d).

**(ii) Construction**

Nothing in this paragraph shall be construed to require the Governor of a State to change the lead agency or implementing entity of the State to an agency other than the lead agency or implementing entity of such State as of October 25, 2004.

**(2) Advisory council**

**(A) In general**

There shall be established an advisory council to provide consumer-responsive, consumer-driven advice to the State for, planning of, implementation of, and evaluation of the activities carried out through the grant, including setting the measurable goals described in subsection (d)(3).

**(B) Composition and representation**

**(i) Composition**

The advisory council shall be composed of—

(I) individuals with disabilities that use assistive technology or the family members or guardians of the individuals;

(II) a representative of the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) and the State agency for individuals who are blind (within the meaning of section 101 of that Act (29 U.S.C. 721)), if such agency is separate;

(III) a representative of a State center for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

(IV) a representative of the State workforce investment board established under section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821);

(V) a representative of the State educational agency, as defined in section 7801 of title 20; and

(VI) representatives of other State agencies, public agencies, or private organizations, as determined by the State.

**(ii) Majority**

**(I) In general**

A majority, not less than 51 percent, of the members of the advisory council, shall be members appointed under clause (i)(I).

**(II) Representatives of agencies**

Members appointed under subclauses (II) through (VI) of clause (i) shall not count toward the majority membership requirement established in subclause (I).

**(iii) Representation**

The advisory council shall be geographically representative of the State and re-

flect the diversity of the State with respect to race, ethnicity, types of disabilities across the age span, and users of types of services that an individual with a disability may receive.

**(C) Expenses**

The members of the advisory council shall receive no compensation for their service on the advisory council, but shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties for the advisory council.

**(D) Period**

The members of the State advisory council shall be appointed not later than 120 days after October 25, 2004.

**(E) Impact on existing statutes, rules, or policies**

Nothing in this paragraph shall be construed to affect State statutes, rules, or official policies relating to advisory bodies for State assistive technology programs or require changes to governing bodies of incorporated agencies who carry out State assistive technology programs.

**(d) Application**

**(1) In general**

Any State that desires to receive a grant under this section shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

**(2) Lead agency and implementing entity**

The application shall contain information identifying and describing the lead agency referred to in subsection (c)(1)(A). The application shall contain information identifying and describing the implementing entity referred to in subsection (c)(1)(B), if the Governor of the State designates such an entity.

**(3) Measurable goals**

The application shall include—

(A) measurable goals, and a timeline for meeting the goals, that the State has set for addressing the assistive technology needs of individuals with disabilities in the State related to—

(i) education, including goals involving the provision of assistive technology to individuals with disabilities who receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(ii) employment, including goals involving the State vocational rehabilitation program carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(iii) telecommunication and information technology; and

(iv) community living; and

(B) information describing how the State will quantifiably measure the goals to determine whether the goals have been achieved.

**(4) Involvement of public and private entities**

The application shall describe how various public and private entities were involved in

the development of the application and will be involved in the implementation of the activities to be carried out through the grant, including—

(A) in cases determined to be appropriate by the State, a description of the nature and extent of resources that will be committed by public and private collaborators to assist in accomplishing identified goals; and

(B) a description of the mechanisms established to ensure coordination of activities and collaboration between the implementing entity, if any, and the State.

#### **(5) Implementation**

The application shall include a description of—

(A) how the State will implement each of the required activities described in subsection (e), except as provided in subsection (e)(6)(A); and

(B) how the State will allocate and utilize grant funds to implement the activities, including describing proposed budget allocations and planned procedures for tracking expenditures for activities described in paragraphs (2) and (3) of subsection (e).

#### **(6) Assurances**

The application shall include assurances that—

(A) the State will annually collect data related to the required activities implemented by the State under this section in order to prepare the progress reports required under subsection (f);

(B) funds received through the grant—

(i) will be expended in accordance with this section; and

(ii) will be used to supplement, and not supplant, funds available from other sources for technology-related assistance, including the provision of assistive technology devices and assistive technology services;

(C) the lead agency will control and administer the funds received through the grant;

(D) the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for the funds received through the grant;

(E) the physical facility of the lead agency and implementing entity, if any, meets the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding accessibility for individuals with disabilities;

(F) a public agency or an individual with a disability holds title to any property purchased with funds received under the grant and administers that property;

(G) activities carried out in the State that are authorized under this chapter, and supported by Federal funds received under this chapter, will comply with the standards established by the Architectural and Transportation Barriers Compliance Board under section 508 of the Rehabilitation Act of 1973 (20<sup>2</sup> U.S.C. 794d); and

(H) the State will—

(i) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this chapter; and

(ii) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this subparagraph.

#### **(7) State support**

The application shall include a description of the activities described in paragraphs (2) and (3) of subsection (e) that the State will support with State funds.

#### **(e) Use of funds**

##### **(1) In general**

##### **(A) Required activities**

Except as provided in subparagraph (B) and paragraph (6), any State that receives a grant under this section shall use a portion of the funds made available through the grant to carry out activities described in paragraphs (2) and (3).

##### **(B) State or non-Federal financial support**

A State shall not be required to use a portion of the funds made available through the grant to carry out the category of activities described in subparagraph (A), (B), (C), or (D) of paragraph (2) if, in that State—

(i) financial support is provided from State or other non-Federal resources or entities for that category of activities; and

(ii) the amount of the financial support is comparable to, or greater than, the amount of the portion of the funds made available through the grant that the State would have expended for that category of activities, in the absence of this subparagraph.

#### **(2) State-level activities**

##### **(A) State financing activities**

The State shall support State financing activities to increase access to, and funding for, assistive technology devices and assistive technology services (which shall not include direct payment for such a device or service for an individual with a disability but may include support and administration of a program to provide such payment), including development of systems to provide and pay for such devices and services, for targeted individuals and entities described in section 3002(16)(A) of this title, including—

(i) support for the development of systems for the purchase, lease, or other acquisition of, or payment for, assistive technology devices and assistive technology services; or

(ii) support for the development of State-financed or privately financed alternative financing systems of subsidies (which may include conducting an initial 1-year feasibility study of, improving, administering, operating, providing capital for, or

<sup>2</sup> So in original. Probably should be "(29)".



collaborating with an entity with respect to, such a system) for the provision of assistive technology devices, such as—

- (I) a low-interest loan fund;
- (II) an interest buy-down program;
- (III) a revolving loan fund;
- (IV) a loan guarantee or insurance program;
- (V) a program providing for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or
- (VI) another mechanism that is approved by the Secretary.

**(B) Device reutilization programs**

The State shall directly, or in collaboration with public or private entities, carry out assistive technology device reutilization programs that provide for the exchange, repair, recycling, or other reutilization of assistive technology devices, which may include redistribution through device sales, loans, rentals, or donations.

**(C) Device loan programs**

The State shall directly, or in collaboration with public or private entities, carry out device loan programs that provide short-term loans of assistive technology devices to individuals, employers, public agencies, or others seeking to meet the needs of targeted individuals and entities, including others seeking to comply with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

**(D) Device demonstrations**

**(i) In general**

The State shall directly, or in collaboration with public and private entities, such as one-stop partners, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801), demonstrate a variety of assistive technology devices and assistive technology services (including assisting individuals in making informed choices regarding, and providing experiences with, the devices and services), using personnel who are familiar with such devices and services and their applications.

**(ii) Comprehensive information**

The State shall directly, or through referrals, provide to individuals, to the extent practicable, comprehensive information about State and local assistive technology vendors, providers, and repair services.

**(3) State leadership activities**

**(A) In general**

A State that receives a grant under this section shall use a portion of not more than 40 percent of the funds made available through the grant to carry out the activities described in subparagraph (B). From that portion, the State shall use at least 5 percent of the portion for activities described in subparagraph (B)(i)(III).

**(B) Required activities**

**(i) Training and technical assistance**

**(I) In general**

The State shall directly, or provide support to public or private entities with demonstrated expertise in collaborating with public or private agencies that serve individuals with disabilities, to develop and disseminate training materials, conduct training, and provide technical assistance, for individuals from local settings statewide, including representatives of State and local educational agencies, other State and local agencies, early intervention programs, adult service programs, hospitals and other health care facilities, institutions of higher education, and businesses.

**(II) Authorized activities**

In carrying out activities under subclause (I), the State shall carry out activities that enhance the knowledge, skills, and competencies of individuals from local settings described in subclause (I), which may include—

- (aa) general awareness training on the benefits of assistive technology and the Federal, State, and private funding sources available to assist targeted individuals and entities in acquiring assistive technology;
- (bb) skills-development training in assessing the need for assistive technology devices and assistive technology services;
- (cc) training to ensure the appropriate application and use of assistive technology devices, assistive technology services, and accessible technology for e-government functions;
- (dd) training in the importance of multiple approaches to assessment and implementation necessary to meet the individualized needs of individuals with disabilities; and
- (ee) technical training on integrating assistive technology into the development and implementation of service plans, including any education, health, discharge, Olmstead, employment, or other plan required under Federal or State law.

**(III) Transition assistance to individuals with disabilities**

The State shall directly, or provide support to public or private entities to, develop and disseminate training materials, conduct training, facilitate access to assistive technology, and provide technical assistance, to assist—

- (aa) students with disabilities, within the meaning of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), that receive transition services; and
- (bb) adults who are individuals with disabilities maintaining or transitioning to community living.

**(ii) Public-awareness activities****(I) In general**

The State shall conduct public-awareness activities designed to provide information to targeted individuals and entities relating to the availability, benefits, appropriateness, and costs of assistive technology devices and assistive technology services, including—

(aa) the development of procedures for providing direct communication between providers of assistive technology and targeted individuals and entities, which may include partnerships with entities in the statewide and local workforce investment systems established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), State vocational rehabilitation centers, public and private employers, or elementary and secondary public schools;

(bb) the development and dissemination, to targeted individuals and entities, of information about State efforts related to assistive technology; and

(cc) the distribution of materials to appropriate public and private agencies that provide social, medical, educational, employment, and transportation services to individuals with disabilities.

**(II) Collaboration**

The State shall collaborate with entities that receive awards under paragraphs (1) and (3) of section 3005(b) of this title to carry out public-awareness activities focusing on infants, toddlers, children, transition-age youth, employment-age adults, seniors, and employers.

**(III) Statewide information and referral system****(aa) In general**

The State shall directly, or in collaboration with public or private (such as nonprofit) entities, provide for the continuation and enhancement of a statewide information and referral system designed to meet the needs of targeted individuals and entities.

**(bb) Content**

The system shall deliver information on assistive technology devices, assistive technology services (with specific data regarding provider availability within the State), and the availability of resources, including funding through public and private sources, to obtain assistive technology devices and assistive technology services. The system shall also deliver information on the benefits of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities of all ages to perform activities of daily living.

**(iii) Coordination and collaboration**

The State shall coordinate activities described in paragraph (2) and this para-

graph, among public and private entities that are responsible for policies, procedures, or funding for the provision of assistive technology devices and assistive technology services to individuals with disabilities, service providers, and others to improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State.

**(4) Indirect costs**

Not more than 10 percent of the funds made available through a grant to a State under this section may be used for indirect costs.

**(5) Prohibition**

Funds made available through a grant to a State under this section shall not be used for direct payment for an assistive technology device for an individual with a disability.

**(6) State flexibility****(A) In general**

Notwithstanding paragraph (1)(A) and subject to subparagraph (B), a State may use funds that the State receives under a grant awarded under this section to carry out any 2 or more of the activities described in paragraph (2).

**(B) Special rule**

Notwithstanding paragraph (3)(A), any State that exercises its authority under subparagraph (A)—

(i) shall carry out each of the required activities described in paragraph (3)(B); and

(ii) shall use not more than 30 percent of the funds made available through the grant to carry out the activities described in paragraph (3)(B).

**(f) Annual progress reports****(1) Data collection**

States shall participate in data collection as required by law, including data collection required for preparation of the reports described in paragraph (2).

**(2) Reports****(A) In general**

Each State shall prepare and submit to the Secretary an annual progress report on the activities funded under this chapter, at such time, and in such manner, as the Secretary may require.

**(B) Contents**

The report shall include data collected pursuant to this section. The report shall document, with respect to activities carried out under this section in the State—

(i) the type of State financing activities described in subsection (e)(2)(A) used by the State;

(ii) the amount and type of assistance given to consumers of the State financing activities described in subsection (e)(2)(A) (who shall be classified by type of assistive technology device or assistive technology service financed through the State financ-

ing activities, and geographic distribution within the State), including—

- (I) the number of applications for assistance received;
  - (II) the number of applications approved and rejected;
  - (III) the default rate for the financing activities;
  - (IV) the range and average interest rate for the financing activities;
  - (V) the range and average income of approved applicants for the financing activities; and
  - (VI) the types and dollar amounts of assistive technology financed;
- (iii) the number, type, and length of time of loans of assistive technology devices provided to individuals with disabilities, employers, public agencies, or public accommodations through the device loan program described in subsection (e)(2)(C), and an analysis of the individuals with disabilities who have benefited from the device loan program;
- (iv) the number, type, estimated value, and scope of assistive technology devices exchanged, repaired, recycled, or reutilized (including redistributed through device sales, loans, rentals, or donations) through the device reutilization program described in subsection (e)(2)(B), and an analysis of the individuals with disabilities that have benefited from the device reutilization program;
- (v) the number and type of device demonstrations and referrals provided under subsection (e)(2)(D), and an analysis of individuals with disabilities who have benefited from the demonstrations and referrals;
- (vi)(I) the number and general characteristics of individuals who participated in training under subsection (e)(3)(B)(i) (such as individuals with disabilities, parents, educators, employers, providers of employment services, health care workers, counselors, other service providers, or vendors) and the topics of such training; and
- (II) to the extent practicable, the geographic distribution of individuals who participated in the training;
- (vii) the frequency of provision and nature of technical assistance provided to State and local agencies and other entities;
- (viii) the number of individuals assisted through the public-awareness activities and statewide information and referral system described in subsection (e)(3)(B)(ii);
- (ix) the outcomes of any improvement initiatives carried out by the State as a result of activities funded under this section, including a description of any written policies, practices, and procedures that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices, and assistive technology services, in the contexts of education, health care, employment, community living, and information technology and telecommunications, including e-government;

- (x) the source of leveraged funding or other contributed resources, including resources provided through subcontracts or other collaborative resource-sharing agreements, from and with public and private entities to carry out State activities described in subsection (e)(3)(B)(iii), the number of individuals served with the contributed resources for which information is not reported under clauses (i) through (ix) or clause (xi) or (xii), and other outcomes accomplished as a result of such activities carried out with the contributed resources; and
- (xi) the level of customer satisfaction with the services provided.

(Pub. L. 105-394, § 4, as added Pub. L. 108-364, § 2, Oct. 25, 2004, 118 Stat. 1714.)

#### REFERENCES IN TEXT

Section 3011 of this title, referred to in subsec. (b)(2)(A), was omitted in the general amendment of this chapter by Pub. L. 108-364, § 2, Oct. 25, 2004, 118 Stat. 1707.

Subchapter III of this chapter, referred to in subsec. (b)(2)(D), which consisted of sections 3051 to 3058 of this title, was omitted in the general amendment of this chapter by Pub. L. 108-364, § 2, Oct. 25, 2004, 118 Stat. 1707.

The Rehabilitation Act of 1973, referred to in subsecs. (c)(2)(B)(i)(III) and (d)(3)(A)(ii), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended. Title I of the Act is classified generally to subchapter I (§ 720 et seq.) of chapter 16 of this title. Part C of title VII of the Act is classified generally to subpart 3 (§ 796f et seq.) of part A of subchapter VII of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsecs. (d)(3)(A)(i) and (e)(2)(C), (3)(B)(i)(III)(aa), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsecs. (d)(6)(E) and (e)(2)(C), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (e)(3)(B)(ii)(I)(aa), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

### § 3004. State grants for protection and advocacy services related to assistive technology

#### (a) Grants

##### (1) In general

The Secretary shall make grants under subsection (b) to protection and advocacy systems in each State for the purpose of enabling such systems to assist in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services for individuals with disabilities.

##### (2) General authorities

In providing such assistance, protection and advocacy systems shall have the same general

authorities as the systems are afforded under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), as determined by the Secretary.

**(b) Grants**

**(1) Reservation**

For each fiscal year, the Secretary shall reserve such sums as may be necessary to carry out paragraph (4).

**(2) Population basis**

From the funds appropriated under section 3007(b) of this title for a fiscal year and remaining after the reservation required by paragraph (1) has been made, the Secretary shall make a grant to a protection and advocacy system within each State in an amount bearing the same ratio to the remaining funds as the population of the State bears to the population of all States.

**(3) Minimums**

Subject to the availability of appropriations, the amount of a grant to a protection and advocacy system under paragraph (2) for a fiscal year shall—

(A) in the case of a protection and advocacy system located in American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, not be less than \$30,000; and

(B) in the case of a protection and advocacy system located in a State not described in subparagraph (A), not be less than \$50,000.

**(4) Payment to the system serving the American Indian Consortium**

**(A) In general**

The Secretary shall make grants to the protection and advocacy system serving the American Indian Consortium to provide services in accordance with this section.

**(B) Amount of grants**

The amount of such grants shall be the same as the amount provided under paragraph (3)(A).

**(c) Direct payment**

Notwithstanding any other provision of law, the Secretary shall pay directly to any protection and advocacy system that complies with this section, the total amount of the grant made for such system under this section, unless the system provides otherwise for payment of the grant amount.

**(d) Certain States**

**(1) Grant to lead agency**

Notwithstanding any other provision of this section, with respect to a State that, on November 12, 1998, was described in section 2212(f)(1)<sup>1</sup> of this title, the Secretary shall pay the amount of the grant described in subsection (a), and made under subsection (b), to the lead agency designated under section 3003(c)(1) of this title for the State.

**(2) Distribution of funds**

A lead agency to which a grant amount is paid under paragraph (1) shall determine the

manner in which funds made available through the grant will be allocated among the entities that were providing protection and advocacy services in that State on the date described in such paragraph, and shall distribute funds to such entities. In distributing such funds, the lead agency shall not establish any additional eligibility or procedural requirements for an entity in the State that supports protection and advocacy services through a protection and advocacy system. Such an entity shall comply with the same requirements (including reporting and enforcement requirements) as any other entity that receives funding under this section.

**(3) Application of provisions**

Except as provided in this subsection, the provisions of this section shall apply to the grant in the same manner, and to the same extent, as the provisions apply to a grant to a system.

**(e) Carryover**

Any amount paid to an eligible system for a fiscal year under this section that remains unobligated at the end of such fiscal year shall remain available to such system for obligation during the subsequent fiscal year. Program income generated from such amount shall remain available for 2 additional fiscal years after the year in which such amount was paid to an eligible system and may only be used to improve the awareness of individuals with disabilities about the accessibility of assistive technology and assist such individuals in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

**(f) Report to Secretary**

An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report that contains such information as the Secretary may require, including documentation of the progress of the entity in—

(1) conducting consumer-responsive activities, including activities that will lead to increased access, for individuals with disabilities, to funding for assistive technology devices and assistive technology services;

(2) engaging in informal advocacy to assist in securing assistive technology devices and assistive technology services for individuals with disabilities;

(3) engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology devices and assistive technology services for individuals with disabilities;

(4) developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this chapter;

(5) coordinating activities with protection and advocacy services funded through sources other than this chapter, and coordinating ac-

<sup>1</sup> See References in Text note below.

tivities with the capacity building and advocacy activities carried out by the lead agency; and

(6) effectively allocating funds made available under this section to improve the awareness of individuals with disabilities about the accessibility of assistive technology and assist such individuals in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

**(g) Reports and updates to State agencies**

An entity that receives a grant under this section shall prepare and submit to the lead agency of the State designated under section 3003(c)(1) of this title the report described in subsection (f) and quarterly updates concerning the activities described in subsection (f).

**(h) Coordination**

On making a grant under this section to an entity in a State, the Secretary shall solicit and consider the opinions of the lead agency of the State with respect to efforts at coordination of activities, collaboration, and promoting outcomes between the lead agency and the entity that receives the grant under this section.

(Pub. L. 105-394, § 5, as added Pub. L. 108-364, § 2, Oct. 25, 2004, 118 Stat. 1725.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (a)(2), is Pub. L. 106-402, Oct. 30, 2000, 114 Stat. 1677, as amended. Subtitle C of title I of the Act is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

Section 2212 of this title, referred to in subsec. (d)(1), was repealed by Pub. L. 105-394, title IV, § 401, Nov. 13, 1998, 112 Stat. 3661.

**§ 3005. National activities**

**(a) In general**

In order to support activities designed to improve the administration of this chapter, the Secretary, under subsection (b)—

(1) may award, on a competitive basis, grants, contracts, and cooperative agreements to entities to support activities described in paragraphs (1) and (2) of subsection (b); and

(2) shall award, on a competitive basis, grants, contracts, and cooperative agreements to entities to support activities described in paragraphs (3), (4), and (5) of subsection (b).

**(b) Authorized activities**

**(1) National public-awareness toolkit**

**(A) National public-awareness toolkit**

The Secretary may award a 1-time grant, contract, or cooperative agreement to an eligible entity to support a training and technical assistance program that—

(i) expands public-awareness efforts to reach targeted individuals and entities;

(ii) contains appropriate accessible multimedia materials to reach targeted individuals and entities, for dissemination to State assistive technology programs; and

(iii) in coordination with State assistive technology programs, provides meaningful

and up-to-date information to targeted individuals and entities about the availability of assistive technology devices and assistive technology services.

**(B) Eligible entity**

To be eligible to receive the grant, contract, or cooperative agreement, an entity shall develop a partnership that—

(i) shall consist of—

(I) a lead agency or implementing entity for a State assistive technology program or an organization or association that represents implementing entities for State assistive technology programs;

(II) a private or public entity from the media industry;

(III) a private entity from the assistive technology industry; and

(IV) a private employer or an organization or association that represents private employers;

(ii) may include other entities determined by the Secretary to be necessary; and

(iii) may include other entities determined by the applicant to be appropriate.

**(2) Research and development**

**(A) In general**

The Secretary may award grants, contracts, or cooperative agreements to eligible entities to carry out research and development of assistive technology that consists of—

(i) developing standards for reliability and accessibility of assistive technology, and standards for interoperability (including open standards) of assistive technology with information technology, telecommunications products, and other assistive technology; or

(ii) developing assistive technology that benefits individuals with disabilities or developing technologies or practices that result in the adaptation, maintenance, servicing, or improvement of assistive technology devices.

**(B) Eligible entities**

Entities eligible to receive a grant, contract, or cooperative agreement under this paragraph shall include—

(i) providers of assistive technology services and assistive technology devices;

(ii) institutions of higher education, including University Centers for Excellence in Developmental Disabilities Education, Research, and Service authorized under subtitle D of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15061 et seq.), or such institutions offering rehabilitation engineering programs, computer science programs, or information technology programs;

(iii) manufacturers of assistive technology devices; and

(iv) professionals, individuals, organizations, and agencies providing services or employment to individuals with disabilities.

**(C) Collaboration**

An entity that receives a grant, contract, or cooperative agreement under this paragraph shall, in developing and implementing the project carried out through the grant, contract, or cooperative agreement coordinate activities with the lead agency for the State assistive technology program (or a national organization that represents such programs) and the State advisory council described in section 3003(c)(2) of this title (or a national organization that represents such councils).

**(3) State training and technical assistance****(A) Training and technical assistance efforts**

The Secretary shall award a grant, contract, or cooperative agreement to an entity to support a training and technical assistance program that—

(i) addresses State-specific information requests concerning assistive technology from entities funded under this chapter and public entities not funded under this chapter, including—

(I) requests for information on effective approaches to Federal-State coordination of programs for individuals with disabilities, related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages;

(II) requests for state-of-the-art, or model, Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services;

(III) requests for information on effective approaches to developing, implementing, evaluating, and sustaining activities described in sections 3003 and 3004 of this title and related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages, and requests for assistance in developing corrective action plans;

(IV) requests for examples of policies, practices, procedures, regulations, or judicial decisions that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

(V) requests for information on effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services; and

(VI) other requests for training and technical assistance from entities funded under this chapter and public and private entities not funded under this chapter;

(ii) assists targeted individuals and entities by disseminating information about—

(I) Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion in society for individuals with disabilities of all ages; and

(II) technical assistance activities undertaken under clause (i);

(iii) provides State-specific, regional, and national training and technical assistance concerning assistive technology to entities funded under this chapter, other entities funded under this chapter, and public and private entities not funded under this chapter, including—

(I) annually providing a forum for exchanging information concerning, and promoting program and policy improvements in, required activities of the State assistive technology programs;

(II) facilitating onsite and electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that affect State assistive technology programs;

(III) convening experts from State assistive technology programs to discuss and make recommendations with regard to national emerging issues of importance to individuals with assistive technology needs;

(IV) sharing best practice and evidence-based practices among State assistive technology programs;

(V) maintaining an accessible website that includes a link to State assistive technology programs, appropriate Federal departments and agencies, and private associations and developing a national toll-free number that links callers from a State with the State assistive technology program in their State;

(VI) developing or utilizing existing (as of the date of the award involved) model cooperative volume-purchasing mechanisms designed to reduce the financial costs of purchasing assistive technology for required and discretionary activities identified in section 3003 of this title, and reducing duplication of activities among State assistive technology programs; and

(VII) providing access to experts in the areas of banking, microlending, and finance, for entities funded under this chapter, through site visits, teleconferences, and other means, to ensure access to information for entities that are carrying out new programs or programs that are not making progress in achieving the objectives of the programs; and

(iv) includes such other activities as the Secretary may require.

**(B) Eligible entities**

To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall have (directly or through grant or contract)—

- (i) experience and expertise in administering programs, including developing, implementing, and administering the required and discretionary activities described in sections 3003 and 3004 of this title, and providing technical assistance; and
- (ii) documented experience in and knowledge about banking, finance, and micro-lending.

**(C) Collaboration**

In developing and providing training and technical assistance under this paragraph, including activities identified as priorities, a recipient of a grant, contract, or cooperative agreement under this paragraph shall collaborate with other organizations, in particular—

- (i) organizations representing individuals with disabilities;
- (ii) national organizations representing State assistive technology programs;
- (iii) organizations representing State officials and agencies engaged in the delivery of assistive technology;
- (iv) the data-collection and reporting providers described in paragraph (5); and
- (v) other providers of national programs or programs of national significance funded under this chapter.

**(4) National information Internet system****(A) In general**

The Secretary shall award a grant, contract, or cooperative agreement to an entity to renovate, update, and maintain the National Public Internet Site established under this chapter (as in effect on the day before October 25, 2004).

**(B) Features of Internet site**

The National Public Internet Site shall contain the following features:

**(i) Availability of information at any time**

The site shall be designed so that any member of the public may obtain information posted on the site at any time.

**(ii) Innovative automated intelligent agent**

The site shall be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate assistive technology devices and assistive technology services resources.

**(iii) Resources****(I) Library on assistive technology**

The site shall include access to a comprehensive working library on assistive technology for all environments, including home, workplace, transportation, and other environments.

**(II) Information on accommodating individuals with disabilities**

The site shall include access to evidence-based research and best practices

concerning how assistive technology can be used to accommodate individuals with disabilities in the areas of education, employment, health care, community living, and telecommunications and information technology.

**(III) Resources for a number of disabilities**

The site shall include resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills.

**(iv) Links to private-sector resources and information**

To the extent feasible, the site shall be linked to relevant private-sector resources and information, under agreements developed between the recipient of the grant, contract, or cooperative agreement and cooperating private-sector entities.

**(v) Links to public-sector resources and information**

To the extent feasible, the site shall be linked to relevant public-sector resources and information, such as the Internet sites of the Office of Special Education and Rehabilitation Services of the Department of Education, the Office of Disability Employment Policy of the Department of Labor, the Small Business Administration, the Architectural and Transportation Barriers Compliance Board, the National Institute of Standards and Technology, the Jobs Accommodation Network funded by the Office of Disability Employment Policy of the Department of Labor, and other relevant sites.

**(vi) Minimum library components**

At a minimum, the site shall maintain updated information on—

- (I) State assistive technology program demonstration sites where individuals may try out assistive technology devices;
- (II) State assistive technology program device loan program sites where individuals may borrow assistive technology devices;
- (III) State assistive technology program device reutilization program sites;
- (IV) alternative financing programs or State financing systems operated through, or independently of, State assistive technology programs, and other sources of funding for assistive technology devices; and
- (V) various programs, including programs with tax credits, available to employers for hiring or accommodating employees who are individuals with disabilities.

**(C) Eligible entity**

To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall be a nonprofit organization, for-profit organization, or institution of higher education, that—

- (i) emphasizes research and engineering;

(ii) has a multidisciplinary research center; and

(iii) has demonstrated expertise in—

(I) working with assistive technology and intelligent agent interactive information dissemination systems;

(II) managing libraries of assistive technology and disability-related resources;

(III) delivering to individuals with disabilities education, information, and referral services, including technology-based curriculum-development services for adults with low-level reading skills;

(IV) developing cooperative partnerships with the private sector, particularly with private-sector computer software, hardware, and Internet services entities; and

(V) developing and designing advanced Internet sites.

#### **(5) Data-collection and reporting assistance**

##### **(A) In general**

The Secretary shall award grants, contracts, and cooperative agreements to entities to assist the entities in carrying out State assistive technology programs in developing and implementing effective data-collection and reporting systems that—

(i) focus on quantitative and qualitative data elements;

(ii) measure the outcomes of the required activities described in section 3003 of this title that are implemented by the States and the progress of the States toward achieving the measurable goals described in section 3003(d)(3) of this title;

(iii) provide States with the necessary information required under this chapter or by the Secretary for reports described in section 3003(f)(2) of this title; and

(iv) help measure the accrued benefits of the activities to individuals who need assistive technology.

##### **(B) Eligible entities**

To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall have personnel with—

(i) documented experience and expertise in administering State assistive technology programs;

(ii) experience in collecting and analyzing data associated with implementing required and discretionary activities;

(iii) expertise necessary to identify additional data elements needed to provide comprehensive reporting of State activities and outcomes; and

(iv) experience in utilizing data to provide annual reports to State policymakers.

##### **(c) Application**

To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

##### **(d) Input**

With respect to the activities described in subsection (b) to be funded under this section, in-

cluding the national and regionally based training and technical assistance efforts carried out through the activities, in designing the activities the Secretary shall consider, and in providing the activities providers shall include, input of the directors of comprehensive statewide programs of technology-related assistance, directors of alternative financing programs, and other individuals the Secretary determines to be appropriate, especially—

(1) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services;

(2) family members, guardians, advocates, and authorized representatives of such individuals;

(3) individuals employed by protection and advocacy systems funded under section 3004 of this title;

(4) relevant employees from Federal departments and agencies, other than the Department of Education;

(5) representatives of businesses; and

(6) vendors and public and private researchers and developers.

(Pub. L. 105-394, § 6, as added Pub. L. 108-364, § 2, Oct. 25, 2004, 118 Stat. 1727; amended Pub. L. 110-69, title III, § 3002(c)(7), Aug. 9, 2007, 121 Stat. 587.)

#### **REFERENCES IN TEXT**

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (b)(2)(B)(ii), is Pub. L. 106-402, Oct. 30, 2000, 114 Stat. 1677, as amended. Subtitle D of title I of the Act is classified generally to part D (§ 15061 et seq.) of subchapter I of chapter 144 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

#### **AMENDMENTS**

2007—Subsec. (b)(4)(B)(v). Pub. L. 110-69 substituted “the National Institute of Standards and Technology,” for “the Technology Administration of the Department of Commerce,”.

### **§ 3006. Administrative provisions**

#### **(a) General administration**

##### **(1) In general**

Notwithstanding any other provision of law, the Assistant Secretary for Special Education and Rehabilitative Services of the Department of Education, acting through the Rehabilitation Services Administration, shall be responsible for the administration of this chapter.

##### **(2) Collaboration**

The Assistant Secretary for Special Education and Rehabilitative Services shall consult with the Office of Special Education Programs, the Rehabilitation Services Administration, and the National Institute on Disability and Rehabilitation Research in the Office of Special Education and Rehabilitative Services, and appropriate Federal entities in the administration of this chapter.

##### **(3) Administration**

In administering this chapter, the Rehabilitation Services Administration shall ensure that programs funded under this chapter will



address the needs of individuals with disabilities of all ages, whether the individuals will use the assistive technology to obtain or maintain employment, to obtain education, or for other reasons.

**(4) Orderly transition**

**(A) In general**

The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to, and implementation of, programs authorized by this chapter, from programs authorized by this chapter, as in effect on the day before October 25, 2004.

**(B) Cessation of effectiveness**

Subparagraph (A) ceases to be effective on the date that is 6 months after October 25, 2004.

**(b) Review of participating entities**

**(1) In general**

The Secretary shall assess the extent to which entities that receive grants under this chapter are complying with the applicable requirements of this chapter and achieving measurable goals that are consistent with the requirements of the grant programs under which the entities received the grants.

**(2) Provision of information**

To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including the information required under subsection (d).

**(c) Corrective action and sanctions**

**(1) Corrective action**

If the Secretary determines that an entity that receives a grant under this chapter fails to substantially comply with the applicable requirements of this chapter, or to make substantial progress toward achieving the measurable goals described in subsection (b)(1) with respect to the grant program, the Secretary shall assist the entity, through technical assistance funded under section 3005 of this title or other means, within 90 days after such determination, to develop a corrective action plan.

**(2) Sanctions**

If the entity fails to develop and comply with a corrective action plan described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective actions selected by the Secretary:

(A) Partial or complete termination of funding under the grant program, until the entity develops and complies with such a plan.

(B) Ineligibility to participate in the grant program in the following year.

(C) Reduction in the amount of funding that may be used for indirect costs under section 3003 of this title for the following year.

(D) Required redesignation of the lead agency designated under section 3003(c)(1) of this title or an entity responsible for administering the grant program.

**(3) Appeals procedures**

The Secretary shall establish appeals procedures for entities that are determined to be in noncompliance with the applicable requirements of this chapter, or have not made substantial progress toward achieving the measurable goals described in subsection (b)(1).

**(4) Secretarial action**

As part of the annual report required under subsection (d), the Secretary shall describe each such action taken under paragraph (1) or (2) and the outcomes of each such action.

**(5) Public notification**

The Secretary shall notify the public, by posting on the Internet website of the Department of Education, of each action taken by the Secretary under paragraph (1) or (2). As a part of such notification, the Secretary shall describe each such action taken under paragraph (1) or (2) and the outcomes of each such action.

**(d) Annual report to Congress**

**(1) In general**

Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities funded under this chapter to improve the access of individuals with disabilities to assistive technology devices and assistive technology services.

**(2) Contents**

Such report shall include—

(A) a compilation and summary of the information provided by the States in annual progress reports submitted under section 3003(f) of this title; and

(B) a summary of the State applications described in section 3003(d) of this title and an analysis of the progress of the States in meeting the measurable goals established in State applications under section 3003(d)(3) of this title.

**(e) Construction**

Nothing in this section shall be construed to affect the enforcement authority of the Secretary, another Federal officer, or a court under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.) or other applicable law.

**(f) Effect on other assistance**

This chapter may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility for a benefit or service, under any other Federal law.

**(g) Rule**

This chapter (as in effect on the day before October 25, 2004) shall apply to funds appropriated under this chapter for fiscal year 2004.

(Pub. L. 105-394, §7, as added Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1734.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (e), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81

Stat. 814, as amended. Part D of the Act is classified generally to subchapter IV (§1234 et seq.) of chapter 31 of Title 20, Education. For complete classification of this Act to the Code, see section 1221 of Title 20 and Tables.

#### CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### § 3007. Authorization of appropriations

#### (a) State grants for assistive technology and national activities

##### (1) In general

There are authorized to be appropriated to carry out sections 3003 and 3005 of this title such sums as may be necessary for each of fiscal years 2005 through 2010.

##### (2) Reservation

##### (A) Definition

In this paragraph, the term “higher appropriation year” means a fiscal year for which the amount appropriated under paragraph (1) and made available to carry out section 3003 of this title is at least \$665,000 greater than the amount that—

(i) was appropriated under section 3015 of this title (as in effect on October 1, 2003) for fiscal year 2004; and

(ii) was not reserved for grants under section 3012 or 3014 of this title (as in effect on such date) for fiscal year 2004.

##### (B) Amount reserved for national activities

Of the amount appropriated under paragraph (1) for a fiscal year—

(i) not more than \$1,235,000 may be reserved to carry out section 3005 of this title, except as provided in clause (ii); and

(ii) for a higher appropriation year—

(I) not more than \$1,900,000 may be reserved to carry out section 3005 of this title; and

(II) of the amount so reserved, the portion exceeding \$1,235,000 shall be used to carry out paragraphs (1) and (2) of section 3005(b) of this title.

#### (b) State grants for protection and advocacy services related to assistive technology

There are authorized to be appropriated to carry out section 3004 of this title \$4,419,000 for fiscal year 2005 and such sums as may be necessary for each of fiscal years 2006 through 2010.

(Pub. L. 105-394, §8, as added Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1736.)

#### REFERENCES IN TEXT

Sections 3012, 3014, and 3015 of this title, referred to in subsec. (a)(2)(A), were omitted in the general amendment of this chapter by Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1707.

### §§ 3011 to 3015. Omitted

Sections, comprising subchapter I of this chapter “State Grant Programs”, were omitted in the general

amendment of this chapter by Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1707.

Section 3011, Pub. L. 105-394, title I, §101, Nov. 13, 1998, 112 Stat. 3635, provided for continuity grants for States that received funding for a limited period for technology-related assistance.

Section 3012, Pub. L. 105-394, title I, §102, Nov. 13, 1998, 112 Stat. 3644; Pub. L. 106-402, title IV, §401(b)(4)(B), Oct. 30, 2000, 114 Stat. 1738, provided for State grants for protection and advocacy related to assistive technology.

Section 3013, Pub. L. 105-394, title I, §103, Nov. 13, 1998, 112 Stat. 3646, related to administrative provisions.

Section 3014, Pub. L. 105-394, title I, §104, Nov. 13, 1998, 112 Stat. 3648, related to a technical assistance program.

Section 3015, Pub. L. 105-394, title I, §105, Nov. 13, 1998, 112 Stat. 3651, authorized appropriations.

### §§ 3031 to 3037. Omitted

Sections, comprising subchapter II of this chapter, “National Activities”, were omitted in the general amendment of this chapter by Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1707.

Section 3031, Pub. L. 105-394, title II, §211, Nov. 13, 1998, 112 Stat. 3654, related to small business incentives.

Section 3032, Pub. L. 105-394, title II, §212, Nov. 13, 1998, 112 Stat. 3654, related to technology transfer and universal design.

Section 3033, Pub. L. 105-394, title II, §213, Nov. 13, 1998, 112 Stat. 3655, related to universal design in products and the built environment.

Section 3034, Pub. L. 105-394, title II, §214, Nov. 13, 1998, 112 Stat. 3655, related to assistive technology outreach programs.

Section 3035, Pub. L. 105-394, title II, §215, Nov. 13, 1998, 112 Stat. 3656, related to training pertaining to rehabilitation engineers and technicians.

Section 3036, Pub. L. 105-394, title II, §216, Nov. 13, 1998, 112 Stat. 3656, related to the President’s Committee on Employment of People With Disabilities.

Section 3037, Pub. L. 105-394, title II, §217, Nov. 13, 1998, 112 Stat. 3657, authorized appropriations.

### §§ 3051 to 3058. Omitted

Sections, comprising subchapter III of this chapter, “Alternative Financing Mechanisms”, were omitted in the general amendment of this chapter by Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1707.

Section 3051, Pub. L. 105-394, title III, §301, Nov. 13, 1998, 112 Stat. 3657, related to the general authority of the Secretary.

Section 3052, Pub. L. 105-394, title III, §302, Nov. 13, 1998, 112 Stat. 3657, related to the amount of grants.

Section 3053, Pub. L. 105-394, title III, §303, Nov. 13, 1998, 112 Stat. 3658, related to grant applications and procedures.

Section 3054, Pub. L. 105-394, title III, §304, Nov. 13, 1998, 112 Stat. 3659, related to contracts with community-based organizations.

Section 3055, Pub. L. 105-394, title III, §305, Nov. 13, 1998, 112 Stat. 3660, related to grant administration requirements.

Section 3056, Pub. L. 105-394, title III, §306, Nov. 13, 1998, 112 Stat. 3660, related to grant information and technical assistance.

Section 3057, Pub. L. 105-394, title III, §307, Nov. 13, 1998, 112 Stat. 3660, related to annual reports.

Section 3058, Pub. L. 105-394, title III, §308, Nov. 13, 1998, 112 Stat. 3661, authorized appropriations.