

## Subpart B—State Plan and Other Requirements for Vocational Rehabilitation Services

### § 361.10 Submission, approval, and disapproval of the State plan.

(a) *Purpose.* (1) To be eligible to receive funds under this part for a fiscal year, a State must submit, and have approved, a vocational rehabilitation services portion of a Unified or Combined State Plan in accordance with section 102 or 103 of the Workforce Innovation and Opportunity Act.

(2) The vocational rehabilitation services portion of the Unified or Combined State Plan must satisfy all requirements set forth in this part.

(b) *Separate part relating to the vocational rehabilitation of individuals who are blind.* If a separate State agency administers or supervises the administration of a separate part of the vocational rehabilitation services portion of the Unified or Combined State Plan relating to the vocational rehabilitation of individuals who are blind, that part of the vocational rehabilitation services portion of the Unified or Combined State Plan must separately conform to all applicable requirements under this part.

(c) *Public participation.* Prior to the adoption of any substantive policies or procedures specific to the provision of vocational rehabilitation services under the vocational rehabilitation services portion of the Unified or Combined State Plan, including making any substantive amendment to those policies and procedures, the designated State agency must conduct public meetings throughout the State, in accordance with the requirements of § 361.20.

(d) *Submission, approval, disapproval, and duration.* All requirements regarding the submission, approval, disapproval, and duration of the vocational rehabilitation services portion of the Unified or Combined State Plan are governed by regulations set forth in subpart D of this part.

(e) *Submission of policies and procedures.* The State is not required to submit policies, procedures, or descriptions required under this part that have been previously submitted to the Secretary and that demonstrate that

the State meets the requirements of this part, including any policies, procedures, or descriptions submitted under this part that are in effect on July 22, 2014.

(f) *Due process.* If the Secretary disapproves the vocational rehabilitation services portion of the Unified or Combined State Plan, the Secretary will follow these procedures:

(1) *Informal resolution.* Prior to disapproving the vocational rehabilitation services portion of the Unified or Combined State Plan, the Secretary attempts to resolve disputes informally with State officials.

(2) *Notice.* If, after reasonable effort has been made to resolve the dispute, no resolution has been reached, the Secretary provides notice to the State agency of the intention to disapprove the vocational rehabilitation services portion of the Unified or Combined State Plan and of the opportunity for a hearing.

(3) *State plan hearing.* If the State agency requests a hearing, the Secretary designates one or more individuals, either from the Department or elsewhere, not responsible for or connected with the administration of this program, to conduct a hearing in accordance with the provisions of 34 CFR part 81, subpart A.

(4) *Initial decision.* The hearing officer issues an initial decision in accordance with 34 CFR 81.41.

(5) *Petition for review of an initial decision.* The State agency may seek the Secretary's review of the initial decision in accordance with 34 CFR part 81.

(6) *Review by the Secretary.* The Secretary reviews the initial decision in accordance with 34 CFR 81.43.

(7) *Final decision of the Department.* The final decision of the Department is made in accordance with 34 CFR 81.44.

(8) *Judicial review.* A State may appeal the Secretary's decision to disapprove the vocational rehabilitation services portion of the Unified or Combined State Plan by filing a petition for review with the United States Court of Appeals for the circuit in

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which the State is located, in accordance with section 107(d) of the Act.

(Approved by the Office of Management and Budget under control number 1205-0522)

(Authority: Sections 101(a) and (b) and 107(d) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 721(a) and (b) and 727(d); and 20 U.S.C. 1231g(a))

[81 FR 55741, Aug. 19, 2016, as amended at 81 FR 55779, Aug. 19, 2016]

### § 361.11 Withholding of funds.

(a) *Basis for withholding.* The Secretary may withhold or limit payments under section 111 or 603(a) of the Act, as provided by section 107(c) of the Act, if the Secretary determines that—

(1) The vocational rehabilitation services portion of the Unified or Combined State Plan, including the supported employment supplement, has been so changed that it no longer conforms with the requirements of this part or part 363; or

(2) In the administration of the vocational rehabilitation services portion of the Unified or Combined State Plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106 of the Act.

(b) *Informal resolution.* Prior to withholding or limiting payments in accordance with this section, the Secretary attempts to resolve disputed issues informally with State officials.

(c) *Notice.* If, after reasonable effort has been made to resolve the dispute, no resolution has been reached, the Secretary provides notice to the State agency of the intention to withhold or limit payments and of the opportunity for a hearing.

(d) *Withholding hearing.* If the State agency requests a hearing, the Secretary designates one or more individuals, either from the Department or elsewhere, not responsible for or connected with the administration of this program, to conduct a hearing in accordance with the provisions of 34 CFR part 81, subpart A.

(e) *Initial decision.* The hearing officer issues an initial decision in accordance with 34 CFR 81.41.

(f) *Petition for review of an initial decision.* The State agency may seek the

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Secretary's review of the initial decision in accordance with 34 CFR 81.42.

(g) *Review by the Secretary.* The Secretary reviews the initial decision in accordance with 34 CFR 81.43.

(h) *Final decision of the Department.* The final decision of the Department is made in accordance with 34 CFR 81.44.

(i) *Judicial review.* A State may appeal the Secretary's decision to withhold or limit payments by filing a petition for review with the United States Court of Appeals for the circuit in which the State is located, in accordance with section 107(d) of the Act.

(Authority: Sections 12(c), 101(b), and 107(c) and (d) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 721(b) and 727(c) and (d))

## ADMINISTRATION

### § 361.12 Methods of administration.

The vocational rehabilitation services portion of the Unified or Combined State Plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

(Approved by the Office of Management and Budget under control number 1205-0522)

(Authority: Sections 12(c) and 101(a)(6) and (a)(10)(A) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 721(a)(6) and (a)(10)(A))

### § 361.13 State agency for administration.

(a) *Designation of State agency.* The vocational rehabilitation services portion of the Unified or Combined State Plan must designate a State agency as the sole State agency to administer the vocational rehabilitation services portion of the Unified or Combined State Plan, or to supervise its administration in a political subdivision of the State by a sole local agency, in accordance with the following requirements:

(1) *General.* Except as provided in paragraphs (a)(2) and (3) of this section, the vocational rehabilitation services