

Off. of Spec. Educ. and Rehab. Services, Education

§ 361.55

agreement or mechanism pursuant to paragraph (d)(3)(ii) of this section.

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

(Authority: Sections 12(c) and 101(a)(8) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 721(a)(8))

§ 361.54 Participation of individuals in cost of services based on financial need.

(a) *No Federal requirement.* There is no Federal requirement that the financial need of individuals be considered in the provision of vocational rehabilitation services.

(b) *State unit requirements.* (1) The State unit may choose to consider the financial need of eligible individuals or individuals who are receiving services through trial work experiences under § 361.42(e) for purposes of determining the extent of their participation in the costs of vocational rehabilitation services, other than those services identified in paragraph (b)(3) of this section.

(2) If the State unit chooses to consider financial need—

(i) It must maintain written policies—

(A) Explaining the method for determining the financial need of an eligible individual; and

(B) Specifying the types of vocational rehabilitation services for which the unit has established a financial needs test;

(ii) The policies must be applied uniformly to all individuals in similar circumstances;

(iii) The policies may require different levels of need for different geographic regions in the State, but must be applied uniformly to all individuals within each geographic region; and

(iv) The policies must ensure that the level of an individual's participation in the cost of vocational rehabilitation services is—

(A) Reasonable;

(B) Based on the individual's financial need, including consideration of any disability-related expenses paid by the individual; and

(C) Not so high as to effectively deny the individual a necessary service.

(3) The designated State unit may not apply a financial needs test, or re-

quire the financial participation of the individual—

(i) As a condition for furnishing the following vocational rehabilitation services:

(A) Assessment for determining eligibility and priority for services under § 361.48(b)(1), except those non-assessment services that are provided to an individual with a significant disability during either an exploration of the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences under § 361.42(e).

(B) Assessment for determining vocational rehabilitation needs under § 361.48(b)(2).

(C) Vocational rehabilitation counseling and guidance under § 361.48(b)(3).

(D) Referral and other services under § 361.48(b)(4).

(E) Job-related services under § 361.48(b)(12).

(F) Personal assistance services under § 361.48(b)(14).

(G) Any auxiliary aid or service (*e.g.*, interpreter services under § 361.48(b)(10), reader services under § 361.48(b)(11)) that an individual with a disability requires under section 504 of the Act (29 U.S.C. 794) or the Americans with Disabilities Act (42 U.S.C. 12101, *et seq.*), or regulations implementing those laws, in order for the individual to participate in the vocational rehabilitation program as authorized under this part; or

(ii) As a condition for furnishing any vocational rehabilitation service if the individual in need of the service has been determined eligible for Social Security benefits under titles II or XVI of the Social Security Act.

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

§ 361.55 Semi-annual and annual review of individuals in extended employment and other employment under special certificate provisions of the Fair Labor Standards Act.

(a) The vocational rehabilitation services portion of the Unified or Combined State Plan must assure that the designated State unit conducts a semi-annual review and reevaluation for the first two years of such employment and annually thereafter, in accordance