

seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Assistive Technology Act of 1998, referred to in subsec. (b)(8), is Pub. L. 105-394, Nov. 13, 1998, 112 Stat. 3627, which is classified principally to chapter 31 (§ 3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 723, Pub. L. 93-112, title I, § 103, Sept. 26, 1973, 87 Stat. 368; Pub. L. 95-602, title I, § 104, Nov. 6, 1978, 92 Stat. 2960; Pub. L. 99-506, title I, § 103(d)(2), title II, § 204, Oct. 21, 1986, 100 Stat. 1810, 1817; Pub. L. 100-630, title II, § 202(d), Nov. 7, 1988, 102 Stat. 3305; Pub. L. 102-569, title I, §§ 102(p)(9), 124, Oct. 29, 1992, 106 Stat. 4357, 4379; Pub. L. 103-73, title I, § 107(c), Aug. 11, 1993, 107 Stat. 721, related to scope of vocational rehabilitation services, prior to the general amendment of this subchapter by Pub. L. 105-220.

#### AMENDMENTS

2014—Subsec. (a)(13). Pub. L. 113-128, § 414(1)(A), substituted “workforce development system” for “workforce investment system”.

Subsec. (a)(15). Pub. L. 113-128, § 414(1)(B), added par. (15) and struck out former par. (15) which read as follows: “transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;”.

Subsec. (a)(17) to (20). Pub. L. 113-128, § 414(1)(C), (D), added pars. (17) and (18) and redesignated former pars. (17) and (18) as (19) and (20), respectively.

Subsec. (b)(2). Pub. L. 113-128, § 414(2)(A), struck out subpar. (A) designation, substituted “Such programs shall be used to provide services described in this section that promote integration into the community and that prepare individuals with disabilities for competitive integrated employment, including supported employment and customized employment.” for “Such programs shall be used to provide services that promote integration and competitive employment.”, and struck out subpar. (B) which read as follows: “The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any 1 individual with a disability.”

Subsec. (b)(5). Pub. L. 113-128, § 414(2)(B), added par. (5) and struck out former par. (5) which read as follows: “Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.”

Subsec. (b)(6) to (9). Pub. L. 113-128, § 414(2)(C), added pars. (6) to (9) and struck out former par. (6) which read as follows: “Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.”

#### Statutory Notes and Related Subsidiaries

##### DEFINITIONS OF TERMS IN PUB. L. 113-128

Except as otherwise provided, definitions in section 3 of Pub. L. 113-128, which is classified to section 3102 of this title, apply to this section.

#### § 724. Non-Federal share for establishment of program or construction

For the purpose of determining the amount of payments to States for carrying out part B (or to an Indian tribe under part C), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the

Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program or construction of such a facility.

(Pub. L. 93-112, title I, § 104, as added Pub. L. 105-220, title IV, § 404, Aug. 7, 1998, 112 Stat. 1151.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 724, Pub. L. 93-112, title I, § 104, Sept. 26, 1973, 87 Stat. 370; Pub. L. 95-602, title I, § 122(b)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99-506, title II, § 205, Oct. 21, 1986, 100 Stat. 1817; Pub. L. 102-569, title I, § 125, Oct. 29, 1992, 106 Stat. 4381, related to non-Federal share for construction, prior to the general amendment of this subchapter by Pub. L. 105-220.

#### § 725. State Rehabilitation Council

##### (a) Establishment

###### (1) In general

Except as provided in section 721(a)(21)(A)(i) of this title, to be eligible to receive financial assistance under this subchapter a State shall establish a State Rehabilitation Council (referred to in this section as the “Council”) in accordance with this section.

###### (2) Separate agency for individuals who are blind

A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 721(a)(2)(A)(i) of this title may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

##### (b) Composition and appointment

###### (1) Composition

###### (A) In general

Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

(i) at least one representative of the Statewide Independent Living Council established under section 796d of this title, which representative may be the chairperson or other designee of the Council;

(ii) at least one representative of a parent training and information center established pursuant to section 671 of the Individuals with Disabilities Education Act [20 U.S.C. 1471];

(iii) at least one representative of the client assistance program established under section 732 of this title;

(iv) at least one qualified vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if

the counselor is an employee of the designated State agency;

(v) at least one representative of community rehabilitation program service providers;

(vi) four representatives of business, industry, and labor;

(vii) representatives of disability advocacy groups representing a cross section of—

(I) individuals with physical, cognitive, sensory, and mental disabilities; and

(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

(ix) in a State in which one or more projects are funded under section 741 of this title, at least one representative of the directors of the projects located in such State;

(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this subchapter and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.]; and

(xi) at least one representative of the State workforce development board.

#### **(B) Separate Council**

In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

(i) at least one representative described in subparagraph (A)(i);

(ii) at least one representative described in subparagraph (A)(ii);

(iii) at least one representative described in subparagraph (A)(iii);

(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

(v) at least one representative described in subparagraph (A)(v);

(vi) four representatives described in subparagraph (A)(vi);

(vii) at least one representative of a disability advocacy group representing individuals who are blind;

(viii) at least one individual's representative, of an individual who—

(I) is an individual who is blind and has multiple disabilities; and

(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

(ix) applicants or recipients described in subparagraph (A)(viii);

(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

(xi) at least one representative described in subparagraph (A)(x); and

(xii) at least one representative described in subparagraph (A)(xi).

#### **(C) Exception**

In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on October 29, 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

(ii) includes at least—

(I) one representative described in subparagraph (B)(vi); and

(II) one applicant or recipient described in subparagraph (B)(ix).

#### **(2) Ex officio member**

The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

#### **(3) Appointment**

Members of the Council shall be appointed by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the appointing authority shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

#### **(4) Qualifications**

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

A majority of Council members shall be persons who are—

(i) individuals with disabilities described in section 705(20)(B) of this title; and

(ii) not employed by the designated State unit.

##### **(B) Separate Council**

In the case of a separate Council established under subsection (a)(2), a majority of Council members shall be persons who are—

(i) blind; and

(ii) not employed by the designated State unit.

#### **(5) Chairperson**

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

Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

##### **(B) Designation by chief executive officer**

In States in which the chief executive officer does not have veto power pursuant to State law, the appointing authority described in paragraph (3) shall designate a member of the Council to serve as the chair-

person of the Council or shall require the Council to so designate such a member.

**(6) Terms of appointment**

**(A) Length of term**

Each member of the Council shall serve for a term of not more than 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority described in paragraph (3)) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

**(B) Number of terms**

No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

**(7) Vacancies**

**(A) In general**

Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

**(B) Delegation**

The appointing authority described in paragraph (3) may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

**(c) Functions of Council**

The Council shall, after consulting with the State workforce development board—

(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this subchapter, particularly responsibilities relating to—

(A) eligibility (including order of selection);

(B) the extent, scope, and effectiveness of services provided; and

(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this subchapter;

(2) in partnership with the designated State unit—

(A) develop, agree to, and review State goals and priorities in accordance with section 721(a)(15)(C) of this title; and

(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 721(a)(15)(E) of this title;

(3) advise the designated State agency and the designated State unit regarding activities

authorized to be carried out under this subchapter, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this subchapter;

(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

(A) the functions performed by the designated State agency;

(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this chapter; and

(C) employment outcomes achieved by eligible individuals receiving services under this subchapter, including the availability of health and other employment benefits in connection with such employment outcomes;

(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 796d of this title, the advisory panel established under section 612(a)(20) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(20)], the State Council on Developmental Disabilities established under section 15025 of title 42, the State mental health planning council established under section 300x-3(a) of title 42 and the State workforce development board, and with the activities of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.);

(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

(8) perform such other functions, consistent with the purpose of this subchapter, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

**(d) Resources**

**(1) Plan**

The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

**(2) Resolution of disagreements**

To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set

forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

### (3) Supervision and evaluation

Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

### (4) Personnel conflict of interest

While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

### (e) Conflict of interest

No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

### (f) Meetings

The Council shall convene at least four meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

### (g) Compensation and expenses

The Council may use funds allocated to the Council by the designated State unit under this subchapter (except for funds appropriated to carry out the client assistance program under section 732 of this title and funds reserved pursuant to section 730(c) of this title to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

### (h) Hearings and forums

The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

(Pub. L. 93-112, title I, §105, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1151; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §402(c)(6)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-415; Pub. L. 106-402, title IV, §401(b)(3)(A), Oct. 30, 2000, 114 Stat. 1737; Pub. L. 108-446, title III, §305(h)(2), (3), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 113-128, title IV, §415, July 22, 2014, 128 Stat. 1654.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(1)(A)(x), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part B of the Act is

classified generally to subchapter II (§1411 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Assistive Technology Act of 1998, referred to in subsec. (c)(6), is Pub. L. 105-394, Nov. 13, 1998, 112 Stat. 3627, which is classified principally to chapter 31 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 725, Pub. L. 93-112, title I, §105, as added Pub. L. 102-569, title I, §126(a), Oct. 29, 1992, 106 Stat. 4381; amended Pub. L. 103-73, title I, §107(d)(1), Aug. 11, 1993, 107 Stat. 721, related to State Rehabilitation Advisory Council, prior to the general amendment of this subchapter by Pub. L. 105-220.

#### AMENDMENTS

2014—Subsec. (b)(1)(A)(ix). Pub. L. 113-128, §415(1)(A), added cl. (ix) and struck out former cl. (ix) which read as follows: “in a State in which one or more projects are carried out under section 741 of this title, at least one representative of the directors of the projects;”.

Subsec. (b)(1)(A)(xi). Pub. L. 113-128, §415(1)(B), substituted “State workforce development board” for “State workforce investment board”.

Subsec. (c). Pub. L. 113-128, §415(2)(A), substituted “State workforce development board” for “State workforce investment board” in introductory provisions.

Subsec. (c)(6). Pub. L. 113-128, §415(2)(B), substituted “section 300x-3(a) of title 42 and the State workforce development board, and with the activities of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.);” for “section 300x-3(a) of title 42, and the State workforce investment board;”.

2004—Subsec. (b)(1)(A)(ii). Pub. L. 108-446, §305(h)(2), substituted “671 of the Individuals with Disabilities Education Act” for “682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17)”.

Subsec. (c)(6). Pub. L. 108-446, §305(h)(3), substituted “section 612(a)(20)” for “section 612(a)(21)” and “Individuals with” for “Individual with” and struck out “(as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17)” before “, the State Council”.

2000—Subsec. (c)(6). Pub. L. 106-402 substituted “the State Council on Developmental Disabilities established under section 15025 of title 42” for “the State Developmental Disabilities Council described in section 6024 of title 42”.

1998—Subsec. (b)(3). Pub. L. 105-277, §101(f) [title VIII, §402(c)(6)(A)], substituted “Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity” for “Governor” in first sentence and “appointing authority” for “Governor” in second and third sentences.

Subsec. (b)(4)(A)(i). Pub. L. 105-277, §101(f) [title VIII, §402(c)(6)(B)], substituted “section 705(20)(B)” for “section 705(20)(A)”.

Subsec. (b)(5)(B). Pub. L. 105-277, §101(f) [title VIII, §402(c)(6)(C)], substituted “chief executive officer” for “Governor” in heading and “appointing authority described in paragraph (3) shall” for “Governor shall” in text.

Subsec. (b)(6)(A)(ii), (7)(B). Pub. L. 105-277, §101(f) [title VIII, §402(c)(6)(D)], substituted “appointing authority described in paragraph (3)” for “Governor”.

#### Statutory Notes and Related Subsidiaries

##### DEFINITIONS OF TERMS IN PUB. L. 113-128

Except as otherwise provided, definitions in section 3 of Pub. L. 113-128, which is classified to section 3102 of this title, apply to this section.

## § 726. Evaluation standards and performance indicators

### (a) In general

#### (1) Standards and indicators

The evaluation standards and performance indicators for the vocational rehabilitation program carried out under this subchapter shall be subject to the performance accountability provisions described in section 3141(b) of this title.

#### (2) Additional performance accountability indicators

A State may establish and provide information on additional performance accountability indicators, which shall be identified in the State plan submitted under section 721 of this title.

### (b) Compliance

#### (1) State reports

In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

#### (2) Program improvement

##### (A) Plan

If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

##### (B) Review

The Commissioner shall—

(i) on a biannual basis, review the program improvement efforts of the State and, if the State has not improved its performance to acceptable levels, as determined by the Commissioner, direct the State to make further revisions to the plan to improve performance; and

(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

### (c) Withholding

If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 727 of this title, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

### (d) Report to Congress

Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the

Congress under section 710 of this title an analysis of program performance, including relative State performance, based on the standards and indicators.

(Pub. L. 93-112, title I, §106, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1156; amended Pub. L. 113-128, title IV, §416, July 22, 2014, 128 Stat. 1654.)

## Editorial Notes

### PRIOR PROVISIONS

A prior section 726, Pub. L. 93-112, title I, §106, as added Pub. L. 102-569, title I, §127(a), Oct. 29, 1992, 106 Stat. 4385, related to evaluation standards and performance indicators, prior to the general amendment of this subchapter by Pub. L. 105-220.

### AMENDMENTS

2014—Subsec. (a). Pub. L. 113-128, §416(1), added subsec. (a) and struck out former subsec. (a) which provided for the establishment, review, and revision of evaluation standards and performance indicators.

Subsec. (b)(2)(B)(i). Pub. L. 113-128, §416(2), substituted “on a biannual basis, review the program improvement efforts of the State and, if the State has not improved its performance to acceptable levels, as determined by the Commissioner, direct the State” for “review the program improvement efforts of the State on a biannual basis and, if necessary, request the State”.

## Statutory Notes and Related Subsidiaries

### DEFINITIONS OF TERMS IN PUB. L. 113-128

Except as otherwise provided, definitions in section 3 of Pub. L. 113-128, which is classified to section 3102 of this title, apply to this section.

## § 727. Monitoring and review

### (a) In general

#### (1) Duties

In carrying out the duties of the Commissioner under this subchapter, the Commissioner shall—

(A) provide for the annual review and periodic onsite monitoring of programs under this subchapter; and

(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 726 of this title.

#### (2) Procedures for reviews

In conducting reviews under this section the Commissioner shall consider, at a minimum—

(A) State policies and procedures;

(B) guidance materials;

(C) decisions resulting from hearings conducted in accordance with due process;

(D) State goals established under section 721(a)(15) of this title and the extent to which the State has achieved such goals;

(E) plans and reports prepared under section 726(b) of this title;

(F) consumer satisfaction reviews and analyses described in section 725(c)(4) of this title;

(G) information provided by the State Rehabilitation Council established under section 725 of this title, if the State has such a