

“(A) the director of the designated State unit; and
 “(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.”

Subsec. (a)(3)(A). Pub. L. 113–128, §474(1)(C)(i), substituted “independent living services in the State” for “State independent living services”.

Subsec. (a)(3)(C). Pub. L. 113–128, §474(1)(C)(ii), added subpar. (C) and struck out former subpar. (C) which read as follows:

“(C) working relationships between—

“(i) programs providing independent living services and independent living centers; and

“(ii) the vocational rehabilitation program established under subchapter I of this chapter, and other programs providing services for individuals with disabilities.”

Subsec. (a)(4). Pub. L. 113–128, §474(1)(D), substituted “Administrator” for “Commissioner” in two places.

Subsec. (a)(5). Pub. L. 113–128, §474(1)(E), added par. (5).

Subsec. (c). Pub. L. 113–128, §474(2)(A), (B), substituted “entity” for “unit” in heading and “a State entity of such State (referred to in this subchapter as the ‘designated State entity’)” for “the designated State unit of such State” in introductory provisions.

Subsec. (c)(3), (4). Pub. L. 113–128, §474(2)(C), substituted “Administrator” for “Commissioner”.

Subsec. (c)(5). Pub. L. 113–128, §474(2)(D)–(F), added par. (5).

Subsec. (i). Pub. L. 113–128, §474(3), added pars. (1) to (4) and struck out former pars. (1) and (2) which read as follows:

“(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

“(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.”

Subsec. (m)(4), (5). Pub. L. 113–128, §474(4), substituted “Administrator” for “Commissioner” wherever appearing.

Subsec. (o). Pub. L. 113–128, §474(5), added subsec. (o).

§ 796d. Statewide Independent Living Council

(a) Establishment

To be eligible to receive financial assistance under this part, each State shall establish and maintain a Statewide Independent Living Council (referred to in this section as the “Council”). The Council shall not be established as an entity within a State agency.

(b) Composition and appointment

(1) 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.

(2) Composition

The Council shall include—

(A) among its voting members, at least 1 director of a center for independent living chosen by the directors of centers for independent living within the State;

(B) among its voting members, for a State in which 1 or more centers for independent living are run by, or in conjunction with, the governing bodies of American Indian tribes located on Federal or State reservations, at least 1 representative of the directors of such centers; and

(C) as ex officio, nonvoting members, a representative of the designated State entity, and representatives from State agencies that provide services for individuals with disabilities.

(3) Additional members

The Council may include—

(A) other representatives from centers for independent living;

(B) individuals with disabilities;

(C) parents and guardians of individuals with disabilities;

(D) advocates of and for individuals with disabilities;

(E) representatives from private businesses;

(F) representatives from organizations that provide services for individuals with disabilities; and

(G) other appropriate individuals.

(4) Qualifications

(A) In general

The Council shall be composed of members—

(i) who provide statewide representation;

(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

(iii) who are knowledgeable about centers for independent living and independent living services; and

(iv) a majority of whom are persons who are—

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

(II) not employed by any State agency or center for independent living.

(B) Voting members

A majority of the voting members of the Council shall be—

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

(ii) not employed by any State agency or center for independent living.

(5) Chairperson

(A) In general

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

(B) Designation by chief executive officer

In States in which the Governor does not have veto power pursuant to State law, the appointing authority described in paragraph (1) shall designate a voting member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a voting member.

(6) Terms of appointment**(A) Length of term**

Each member of the Council shall serve for a term of 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 paragraph (2)(A) if there is only one center for independent living within the State, 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 voting members of the Council after making the original appointment.

(c) Functions**(1) Duties**

The Council shall—

(A) develop the State plan as provided in section 796c(a)(2) of this title;

(B) monitor, review, and evaluate the implementation of the State plan;

(C) meet regularly, and ensure that such meetings of the Council are open to the public and sufficient advance notice of such meetings is provided;

(D) submit to the Administrator such periodic reports as the Administrator may reasonably request, and keep such records, and afford such access to such records, as the Administrator finds necessary to verify the information in such reports; and

(E) as appropriate, coordinate activities with other entities in the State that provide services similar to or complementary to independent living services, such as entities that facilitate the provision of or provide long-term community-based services and supports.

(2) Authorities

The Council may, consistent with the State plan described in section 796c of this title, unless prohibited by State law—

(A) in order to improve services provided to individuals with disabilities, work with

centers for independent living to coordinate services with public and private entities;

(B) conduct resource development activities to support the activities described in this subsection or to support the provision of independent living services by centers for independent living; and

(C) perform such other functions, consistent with the purpose of this part and comparable to other functions described in this subsection, as the Council determines to be appropriate.

(3) Limitation

The Council shall not provide independent living services directly to individuals with significant disabilities or manage such services.

(d) 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.

(e) Plan**(1) In general**

The Council shall prepare, in conjunction with the designated State entity, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this part, and under section 730 of this title (consistent with section 721(a)(18) of this title), and from other public and private sources. 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) 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 the functions of the Council under this section.

(3) 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 entity or any other agency or office of the State, that would create a conflict of interest.

(f) Compensation and expenses

The Council may use available resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (such as personal assistance services), and to pay reasonable 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 Council duties.

(Pub. L. 93-112, title VII, § 705, as added Pub. L. 105-220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1220; amended Pub. L. 105-277, div. A, § 101(f) [title VIII, § 402(c)(7)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416; Pub. L. 113-128, title IV, § 475, July 22, 2014, 128 Stat. 1687.)

Editorial Notes

PRIOR PROVISIONS

A prior section 796d, Pub. L. 93-112, title VII, §705, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4446; amended Pub. L. 103-73, title I, §114(c), Aug. 11, 1993, 107 Stat. 728, related to Statewide Independent Living Councils, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796d, Pub. L. 93-112, title VII, §705, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 2997; amended Pub. L. 99-506, title I, §103(d)(2)(B), (C), (h)(2), title VIII, §802, title X, §1001(g)(3), Oct. 21, 1986, 100 Stat. 1810, 1811, 1837, 1843; Pub. L. 100-630, title II, §208(d), Nov. 7, 1988, 102 Stat. 3314; Pub. L. 102-119, §26(e), Oct. 7, 1991, 105 Stat. 607, related to State plans for providing comprehensive services for independent living, prior to repeal by Pub. L. 102-569, §701(1).

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-128, §475(1), inserted “and maintain” after “shall establish”.

Subsec. (b)(2)(A). Pub. L. 113-128, §475(2)(A)(i), inserted “among its voting members,” before “at least” and substituted “1” for “one”.

Subsec. (b)(2)(B), (C). Pub. L. 113-128, §475(2)(A)(ii), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

“(B) as ex officio, nonvoting members—

“(i) a representative from the designated State unit; and

“(ii) representatives from other State agencies that provide services for individuals with disabilities; and

“(C) 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)(3)(B). Pub. L. 113-128, §475(2)(B)(ii), struck out “parents and guardians of” before “individuals”.

Subsec. (b)(3)(C) to (G). Pub. L. 113-128, §475(2)(B)(i), (iii), added subpar. (C) and redesignated former subpars. (C) to (F) as (D) to (G), respectively.

Subsec. (b)(5)(B). Pub. L. 113-128, §475(2)(C), substituted “paragraph (1)” for “paragraph (3)”.

Subsec. (b)(6)(B). Pub. L. 113-128, §475(2)(D), inserted “, other than a representative described in paragraph (2)(A) if there is only one center for independent living within the State,” after “the Council”.

Subsec. (c). Pub. L. 113-128, §475(3), added subsec. (c) and struck out former subsec. (c) which related to duties of the Council.

Subsec. (e)(1). Pub. L. 113-128, §475(4)(A), substituted “prepare, in conjunction with the designated State entity, a plan” for “prepare, in conjunction with the designated State unit, a plan”.

Subsec. (e)(3). Pub. L. 113-128, §475(4)(B), substituted “State entity” for “State agency”.

Subsec. (f). Pub. L. 113-128, §475(5), substituted “available resources” for “such resources” and “(such as personal assistance services), and to pay reasonable compensation” for “(including child care and personal assistance services), and to pay compensation”.

1998—Subsec. (b)(1). Pub. L. 105-277, §101(f) [title VIII, §402(c)(7)(A)], in first sentence, substituted “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” for “by the Governor” and, in second sentence, substituted “The appointing authority” for “The Governor”.

Subsec. (b)(5)(B). Pub. L. 105-277, §101(f) [title VIII, §402(c)(7)(B)], 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)(7)(C)], substituted “appointing authority described in paragraph (3)” for “Governor”.

§ 796d-1. Responsibilities of the Administrator**(a) Approval of State plans****(1) In general**

The Administrator shall approve any State plan submitted under section 796c of this title that the Administrator determines meets the requirements of section 796c of this title, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Administrator shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

(2) Procedures**(A) In general**

Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 727 of this title shall apply to any State plan submitted to the Administrator under section 796c of this title.

(B) Application

For purposes of the application described in subparagraph (A), all references in such provisions—

(i) to the Secretary or the Commissioner shall be deemed to be references to the Administrator;

(ii) to the State agency shall be deemed to be references to the designated State entity; and

(iii) to section 721 of this title shall be deemed to be references to section 796c of this title.

(b) Indicators

Not later than 1 year after July 22, 2014, the Administrator shall develop and publish in the Federal Register indicators of minimum compliance for centers for independent living (consistent with the standards set forth in section 796f-4 of this title), and indicators of minimum compliance for Statewide Independent Living Centers.

(c) Onsite compliance reviews**(1) Reviews**

The Administrator shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 796f-1 of this title and shall periodically conduct such a review of each such center. The Administrator shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 796f-2 of this title, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 796f-2 of this title, centers that receive funding under section 796f-2 of this title in such State.

(2) Qualifications of employees conducting reviews

The Administrator shall—

(A) to the maximum extent practicable, carry out a review described in paragraph (1) by using employees of the Department of Health and Human Services who are knowl-