

- (b) **Substitute agency matching share.** The Secretary does not make any payment to a substitute agency unless it has provided assurances that it will contribute the same matching share as the State would have been required to contribute if the State agency were carrying out the vocational rehabilitation program.

(Authority: Section 107(c)(3) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 727(c)(3))

§ 361.15 Local administration.

- (a) If the vocational rehabilitation services portion of the Unified or Combined State Plan provides for the administration of the plan by a local agency, the designated State agency must—
 - (1) Ensure that each local agency is under the supervision of the designated State unit and is the sole local agency as defined in § 361.5(c)(47) that is responsible for the administration of the program within the political subdivision that it serves; and
 - (2) Develop methods that each local agency will use to administer the vocational rehabilitation program, in accordance with the vocational rehabilitation services portion of the Unified or Combined State Plan.
- (b) A separate local agency serving individuals who are blind may administer that part of the plan relating to vocational rehabilitation of individuals who are blind, under the supervision of the designated State unit for individuals who are blind.

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

(Authority: Sections 7(24) and 101(a)(2)(A) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(24) and 721(a)(2)(A))

§ 361.16 Establishment of an independent commission or a State Rehabilitation Council.

- (a) **General requirement.** Except as provided in paragraph (b) of this section, the vocational rehabilitation services portion of the Unified or Combined State Plan must contain one of the following two assurances:
 - (1) An assurance that the designated State agency is an independent State commission that—
 - (i) Is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State and is primarily concerned with vocational rehabilitation or vocational and other rehabilitation services, in accordance with § 361.13(a)(1)(i);
 - (ii) Is consumer-controlled by persons who—
 - (A) Are individuals with physical or mental impairments that substantially limit major life activities; and
 - (B) Represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;
 - (iii) Includes family members, advocates, or other representatives of individuals with mental impairments; and
 - (iv) Conducts the functions identified in § 361.17(h)(4).
 - (2) An assurance that—

- (i) The State has established a State Rehabilitation Council (Council) that meets the requirements of § 361.17;
 - (ii) The designated State unit, in accordance with § 361.29, jointly develops, agrees to, and reviews annually State goals and priorities and jointly submits to the Secretary annual reports of progress with the Council;
 - (iii) The designated State unit regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;
 - (iv) The designated State unit transmits to the Council—
 - (A) All plans, reports, and other information required under this part to be submitted to the Secretary;
 - (B) All policies and information on all practices and procedures of general applicability provided to or used by rehabilitation personnel providing vocational rehabilitation services under this part; and
 - (C) Copies of due process hearing decisions issued under this part and transmitted in a manner to ensure that the identity of the participants in the hearings is kept confidential; and
 - (v) The vocational rehabilitation services portion of the Unified or Combined State Plan, and any revision to the vocational rehabilitation services portion of the Unified or Combined State Plan, includes a summary of input provided by the Council, including recommendations from the annual report of the Council, the review and analysis of consumer satisfaction described in § 361.17(h)(4), and other reports prepared by the Council, and the designated State unit's response to the input and recommendations, including its reasons for rejecting any input or recommendation of the Council.
- (b) **Exception for separate State agency for individuals who are blind.** In the case of a State that designates a separate State agency under § 361.13(a)(3) to administer the part of the vocational rehabilitation services portion of the Unified or Combined State Plan under which vocational rehabilitation services are provided to individuals who are blind, the State must either establish a separate State Rehabilitation Council for each agency that does not meet the requirements in paragraph (a)(1) of this section or establish one State Rehabilitation Council for both agencies if neither agency meets the requirements of paragraph (a)(1) of this section.

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

(Authority: Sections 101(a)(21) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 721(a)(21))

§ 361.17 Requirements for a State Rehabilitation Council.

If the State has established a Council under § 361.16(a)(2) or (b), the Council must meet the following requirements:

- (a) **Appointment.**

- (1) The members of the Council must 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 part 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.
- (2) The appointing authority must select members of the Council 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 must consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

(b) **Composition** –

- (1) **General.** Except as provided in paragraph (b)(3) of this section, the Council must be composed of at least 15 members, including—
 - (i) At least one representative of the Statewide Independent Living Council, who must be the chairperson or other designee of the Statewide Independent Living Council;
 - (ii) At least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act;
 - (iii) At least one representative of the Client Assistance Program established under part 370 of this chapter, who must be the director of or other individual recommended by the Client Assistance Program;
 - (iv) At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the Council if employed by 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 groups that include a cross section of—
 - (A) Individuals with physical, cognitive, sensory, and mental disabilities; and
 - (B) Representatives of individuals with disabilities who have difficulty 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 121 of the Act (American Indian Vocational Rehabilitation Services), at least one representative of the directors of the projects 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 part and part B of the Individuals with Disabilities Education Act;
 - (xi) At least one representative of the State workforce development board; and
 - (xii) The director of the designated State unit as an ex officio, nonvoting member of the Council.

- (b) **Substitute agency matching share.** The Secretary does not make any payment to a substitute agency unless it has provided assurances that it will contribute the same matching share as the State would have been required to contribute if the State agency were carrying out the vocational rehabilitation program.

(Authority: Section 107(c)(3) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 727(c)(3))

§ 361.15 Local administration.

- (a) If the vocational rehabilitation services portion of the Unified or Combined State Plan provides for the administration of the plan by a local agency, the designated State agency must—
 - (1) Ensure that each local agency is under the supervision of the designated State unit and is the sole local agency as defined in § 361.5(c)(47) that is responsible for the administration of the program within the political subdivision that it serves; and
 - (2) Develop methods that each local agency will use to administer the vocational rehabilitation program, in accordance with the vocational rehabilitation services portion of the Unified or Combined State Plan.
- (b) A separate local agency serving individuals who are blind may administer that part of the plan relating to vocational rehabilitation of individuals who are blind, under the supervision of the designated State unit for individuals who are blind.

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

(Authority: Sections 7(24) and 101(a)(2)(A) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(24) and 721(a)(2)(A))

§ 361.16 Establishment of an independent commission or a State Rehabilitation Council.

- (a) **General requirement.** Except as provided in paragraph (b) of this section, the vocational rehabilitation services portion of the Unified or Combined State Plan must contain one of the following two assurances:
 - (1) An assurance that the designated State agency is an independent State commission that—
 - (i) Is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State and is primarily concerned with vocational rehabilitation or vocational and other rehabilitation services, in accordance with § 361.13(a)(1)(i);
 - (ii) Is consumer-controlled by persons who—
 - (A) Are individuals with physical or mental impairments that substantially limit major life activities; and
 - (B) Represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;
 - (iii) Includes family members, advocates, or other representatives of individuals with mental impairments; and
 - (iv) Conducts the functions identified in § 361.17(h)(4).
 - (2) An assurance that—

- (i) The State has established a State Rehabilitation Council (Council) that meets the requirements of § 361.17;
 - (ii) The designated State unit, in accordance with § 361.29, jointly develops, agrees to, and reviews annually State goals and priorities and jointly submits to the Secretary annual reports of progress with the Council;
 - (iii) The designated State unit regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;
 - (iv) The designated State unit transmits to the Council—
 - (A) All plans, reports, and other information required under this part to be submitted to the Secretary;
 - (B) All policies and information on all practices and procedures of general applicability provided to or used by rehabilitation personnel providing vocational rehabilitation services under this part; and
 - (C) Copies of due process hearing decisions issued under this part and transmitted in a manner to ensure that the identity of the participants in the hearings is kept confidential; and
 - (v) The vocational rehabilitation services portion of the Unified or Combined State Plan, and any revision to the vocational rehabilitation services portion of the Unified or Combined State Plan, includes a summary of input provided by the Council, including recommendations from the annual report of the Council, the review and analysis of consumer satisfaction described in § 361.17(h)(4), and other reports prepared by the Council, and the designated State unit's response to the input and recommendations, including its reasons for rejecting any input or recommendation of the Council.
- (b) **Exception for separate State agency for individuals who are blind.** In the case of a State that designates a separate State agency under § 361.13(a)(3) to administer the part of the vocational rehabilitation services portion of the Unified or Combined State Plan under which vocational rehabilitation services are provided to individuals who are blind, the State must either establish a separate State Rehabilitation Council for each agency that does not meet the requirements in paragraph (a)(1) of this section or establish one State Rehabilitation Council for both agencies if neither agency meets the requirements of paragraph (a)(1) of this section.

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

(Authority: Sections 101(a)(21) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 721(a)(21))

§ 361.17 Requirements for a State Rehabilitation Council.

If the State has established a Council under § 361.16(a)(2) or (b), the Council must meet the following requirements:

- (a) **Appointment.**

- (1) The members of the Council must 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 part 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.
- (2) The appointing authority must select members of the Council 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 must consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

(b) **Composition** –

- (1) **General.** Except as provided in paragraph (b)(3) of this section, the Council must be composed of at least 15 members, including—
 - (i) At least one representative of the Statewide Independent Living Council, who must be the chairperson or other designee of the Statewide Independent Living Council;
 - (ii) At least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act;
 - (iii) At least one representative of the Client Assistance Program established under part 370 of this chapter, who must be the director of or other individual recommended by the Client Assistance Program;
 - (iv) At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the Council if employed by 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 groups that include a cross section of—
 - (A) Individuals with physical, cognitive, sensory, and mental disabilities; and
 - (B) Representatives of individuals with disabilities who have difficulty 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 121 of the Act (American Indian Vocational Rehabilitation Services), at least one representative of the directors of the projects 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 part and part B of the Individuals with Disabilities Education Act;
 - (xi) At least one representative of the State workforce development board; and
 - (xii) The director of the designated State unit as an ex officio, nonvoting member of the Council.

- (5) Prepare and submit to the Governor and to the Secretary no later than 90 days after the end of the Federal fiscal year an annual report on the status of vocational rehabilitation programs operated within the State and make the report available to the public through appropriate modes of communication;
- (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 chapter 1, title VII of the Act, the advisory panel established under section 612(a)(21) of the Individuals with Disabilities Education Act, the State Developmental Disabilities Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, the State mental health planning council established under section 1914(a) of the Public Health Service Act, and the State workforce development board, and with the activities of entities carrying out programs under the Assistive Technology Act of 1998;
- (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 other comparable functions, consistent with the purpose of this part, as the Council determines to be appropriate, that are comparable to the other functions performed by the Council.

(i) **Resources.**

- (1) The Council, in conjunction with the designated State unit, must prepare a plan for the provision of resources, including staff and other personnel, that may be necessary and sufficient for the Council to carry out its functions under this part.
- (2) The resource plan must, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.
- (3) Any disagreements between the designated State unit and the Council regarding the amount of resources necessary to carry out the functions of the Council must be resolved by the Governor, consistent with paragraphs (i)(1) and (2) of this section.
- (4) The Council must, consistent with State law, supervise and evaluate the staff and personnel that are necessary to carry out its functions.
- (5) Those staff and personnel that are assisting the Council in carrying out its functions may 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.

(j) **Meetings.** The Council must—

- (1) Convene at least four meetings a year in locations determined by the Council to be necessary to conduct Council business. The meetings must be publicly announced, open, and accessible to the general public, including individuals with disabilities, unless there is a valid reason for an executive session; and
- (2) Conduct forums or hearings, as appropriate, that are publicly announced, open, and accessible to the public, including individuals with disabilities.

(k) **Compensation.** Funds appropriated under title I of the Act, except funds to carry out sections 112 and 121 of the Act, may be used to compensate and reimburse the expenses of Council members in accordance with section 105(g) of the Act.