

UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES  
REHABILITATION SERVICES ADMINISTRATION  
WASHINGTON, DC 20202

INFORMATION MEMORANDUM  
RSA-IM-01-20  
DATE: January 19, 2001

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)  
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)  
STATE REHABILITATION ADVISORY COUNCILS  
CLIENT ASSISTANCE PROGRAMS  
REGIONAL REHABILITATION CONTINUING EDUCATION PROGRAMS  
AMERICAN INDIAN VOCATIONAL REHABILITATION PROGRAMS  
RSA SENIOR MANAGEMENT TEAM

SUBJECT: INFORMATION ON THE TITLE I STATE PLAN FOR VOCATIONAL  
REHABILITATION SERVICES

CONTENT: This provides information on the title I State plan for vocational rehabilitation  
(VR) services under title I of the Rehabilitation Act of 1973, as amended ("the  
Act"). The information encompasses a discussion of:

- Changes in the title I State plan requirements pending the effective date of  
the final regulations implementing the 1998 Amendments to title I of the Act;
- Annual State plan updates required by the Act; and
- Requirements related to State plan amendments.
- Proposed initiatives of the Department of Labor (DOL) with respect to State  
unified plans submitted under title V of the Workforce Investment Act of  
1998 (WIA); and,
- Other matters pertaining to the processing of title I State plan materials.

**Changes in State Plan Requirements Pending the Effective Date of the Final  
VR Regulations**

Pending the effective date of the final regulations implementing the 1998  
Amendments to the Act that were published January 17, 2001, *all* State plan  
provisions (assurances and/or descriptions) that had been previously required  
*solely* by regulation have been deleted. The *Background and Section-by-  
Section Summary* of the preamble discussion to the February 28, 2000, Notice of  
Proposed Rulemaking identify the State plan provisions that are deleted.

The deletion of these regulatory State plan requirements is designed to reduce administrative burden on  
the States to better focus resources on the employment needs and choices of individuals with disabilities,  
particularly individuals with significant disabilities. This deletion of the regulatory-based State plan

needs and choices of individuals with disabilities, particularly individuals with significant disabilities. This deletion of the regulatory-based State plan requirements is also intended to more closely align the VR State plan with the State plans of other WIA partner programs since the components of those plans are purely statutory thus facilitating the development of a State unified plan under title V of WIA, if the State elects to do so.

*Since most of the underlying regulatory requirements related to the deleted State plan provisions are considered by RSA as being essential to the proper and efficient administration of the VR program, they have been retained in the final regulations as program requirements even though they are no longer required components of the title I State plan, e.g., 34 CFR 361.13(c) identifying the non-delegable functions of the designated State unit and 34 CFR 361.57 requiring the designated State unit to develop and implement due process procedures.*

The title I State plan content (assurances and descriptions) provisions that remain in the final regulations are those that are required solely by section 101(a) of the Act. Since all of the title I State plans that were submitted and approved during the past year addressed all of the State plan provisions of section 101(a) of the Act, consistent with section 101(a)(1)(B) of the Act, ***States need not submit a new State plan preprint or State plan descriptions***, other than those descriptive attachments required as annual State plan updates (See 101(a)(23) of the Act), or assurances and descriptions that reflect amendments to the plan (See 34 CFR §76.140.)

The following identifies previous State plan descriptions (attachments) that have been deleted. Also provided is the identification of both the previous and new regulatory citations associated with each previously required attachment.

**Attachment 4.5:** Local Administration (34 CFR §361.15 - 34 CFR §361.15)

**Attachment 4.7(b):** Shared Funding and Administration of Joint Program (34 CFR §361.27 - 34 CFR §361.27)

**Attachment 4.12(c)(2)(B):** Explanation To Support Decision Not To Establish An Order Of Selection (34 CFR §361.36(a)(1)(i) - 34 CFR §361.36(a)(2))

**Attachment 4.16(b)(2):** Due Process Procedures (34 CFR §361.57 - 34 CFR §361.57(a))

**Attachment 6.9(c)(2):** Services Subject to Financial Needs Test (34 CFR §361.54(b)(2)(ii) - 34 CFR §361.54(b)(2)(i)(B))

The following identifies previous State plan preprint assurances that have been deleted or substantially reduced. Also provided is the identification of both the previous and new regulatory citations (as appropriate) associated with each previously required assurance.

**2.2:** State review process (34 CFR Part 79)

- 4.1(b)(1)(E):** Non-delegable functions of the designated State unit (34 CFR §361.13(c) - 34 CFR §361.13(c))
- 4.8:** Third-party cooperative arrangements (34 CFR §361.28(a) - 34 CFR §361.28)
- 4.9(g):** Reciprocal referral services with a separate agency for individuals who are blind (34 CFR §361.23(c) - 34 CFR §361.24(d))
- 4.10(c):** Written standards for service providers (34 CFR §361.51(b)(1) and (c))
- 4.14:** State-imposed requirements (34 CFR §361.39 - 34 CFR §361.39)
- 4.15:** Protection, use, and release of personal information (34 CFR §361.38 - 34 CFR §361.38)
- 4.16:** Due process procedures (34 CFR §361.57 - 34 CFR §361.57(a))
- 5.1:** Scope of VR services for individuals with disabilities (34 CFR §361.48(a) - 34 CFR §361.48)
- 5.2:** Written policies on the provision of services to individuals with disabilities (34 CFR §361.50 - 34 CFR §361.50)
- 5.5:** Scope of VR services to groups of individuals with disabilities (34 CFR §361.49 - 34 CFR §361.49)
- 6.1:** Record of services (34 CFR §361.47 - 34 CFR §361.47(a))
- 6.2:** Referrals and applications (34 CFR §361.41 - 34 CFR §361.41)
- 6.5:** Assessment for determining eligibility and priority of services (34 CFR §361.42 - 34 CFR §361.42)
- 6.6:** Procedures for ineligibility determination (34 CFR §361.43 - 34 CFR §361.43)
- 6.7:** Closure without ineligibility determination (34 CFR §361.44 - 34 CFR §361.44)
- 6.9:** Participation of individuals in cost of services based on economic need (34 CFR §361.54(b)(2)(ii) and (3) - 34 CFR §361.54(b)(2)(i)(B) and (3))
- 6.10:** Development of the individualized plan for employment (34 CFR §361.45(b) - 34 CFR §361.45(b))
- 6.11:** Mandatory components of the individualized plan for employment (34 CFR §361.46 - 34 CFR §361.46)

**(Note:** The identifiers for the previously required State plan attachments and preprint provisions discussed in this memorandum reflect those contained in **Policy Directive (PD) 99-03**, dated February 12, 1999)

### **Annual State Plan Updates**

In general, the guidance in **PD 99-03** is still applicable taking into consideration the above discussion on the deletion/modification of the State plan provisions that were formerly required solely by the regulations. Thus, States still must submit annual updates in accordance with section 101(a)(23) of the Act and 34 CFR §361.10(g) of the new regulations regarding:

- **Attachment 4.11(b):** Comprehensive system of personnel development; and
- **Attachment 4.12:** Estimates; goals and priorities; strategies on achieving the State's goals and priorities and on the use of reserved title I funds for innovation and expansion activities; and, progress reports on achieving the goals and priorities, and how the reserved title I funds for innovation and expansion activities were used in the previous year.

In addition to the submission of these annual updates, States will also need to submit, as appropriate, those attachments identified on pages 16 and 17 of the instructions in **PD 99-03**, such as **Attachment 4.2(c)** for those State VR agencies that have State Rehabilitation Councils.

### **Amendments to the State Plan**

The guidance on pages 5 and 6 of the instructions in **PD 99-03** regarding amendments to the State plan is still applicable. (See 101(a)(1)(C) and 34 CFR §76.140)

### **Proposed DOL Initiatives Regarding Unified State Plans**

In the past few weeks, DOL has twice convened the Federal interagency workgroup on the State unified plan to discuss proposed initiatives and new strategies to encourage States that submitted separate plans under section 112 of WIA to amend their plans by submitting State unified plans under section 501 of WIA. In addition, DOL plans to encourage States that did submit unified plans under section 501 of WIA to submit amended plans that include more partner programs or reflect more active collaboration among the partners in the delivery of services in the One-Stop system.

### **Process Requirements for State Plan Materials**

The guidance on pages 2-5 of the instructions in **PD 99-03** regarding processing State plan materials is still, in general, effective. Since States submitted their title I VR State plans either concurrently with their separate plans under section 112 of WIA or when unified plans were submitted under section 501 of WIA, VR agencies should submit their annual VR State plan updates and/or amendments in sufficient time for Regional Offices to have adequate time to review the submissions and negotiate any needed changes prior to the effective date identified by the States.

Although the provision relating to the State review process has been removed from the State plan, the title I State plan and its title VI, part B supplement remain subject to the provisions of Executive Order 12372. In a State that has elected to subject the title I State plan to the State review process, that review is still required notwithstanding the deletion of the State plan provision in that regard. (See 34 CFR Part 79)

The "3 in 1" certification form (ED 80-0013) regarding lobbying; debarment, suspension and other responsibility matters; and drug-free workplace requirements is still required for *each program* for which Federal funds are requested. (See 34 CFR Parts 82 and 85)

For any needed technical assistance regarding the information in this memorandum, please contact your appropriate RSA Regional Office.

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Fredric K. Schroeder  
RSA Commissioner