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## Title 34 – Education

### Subtitle B – Regulations of the Offices of the Department of Education

#### Chapter III – Office of Special Education and Rehabilitative Services, Department of Education

#### Part 361 – State Vocational Rehabilitation Services Program

#### Subpart B – State Plan and Other Requirements for Vocational Rehabilitation Services

#### Administration

**Authority:** Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c); Pub. L. 111-256, 124 Stat. 2643; unless otherwise noted.

**Source:** 81 FR 55741, Aug. 19, 2016, unless otherwise noted.

### § 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))