

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Developmental Disabilities

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TO:

nond p.Directors, State Planning Councils 10 10 10 10 10 11 group Directors, Designated State Agencies of Asher to property Chairpersons, a State Planning Councilis and the Supplies a comment of the supplier of the reveal when the cold of the senting of

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Carrie was a training and the month of the paragraph of the accordance of the contract of the RELATED (a) the effect of the end of the end

REFERENCES: Developmental Disabilities Assistance and Bill of Rights Act of 1990, ("the Act") as amended by Public Law 101-496 of two schar has and resulted from

> 45 CFR 1386, Developmental Disabilities Final glading Rules dated November 20,5 1989 and as by 1985 Andre Nie General von der Franke in der Betreiten bei der Andre An

CONTENT:

Course was able to the and like which is being to be bright a boxe. In this Public Law 101-496 was signed October 31, 1990. Among the new requirements were provisions that require immediate State attention.

handwark a This issuance provides instructions to States don read about compliance with several of the additional results and decorrequirements imposed on States by Sections 102, eatr .v122 and 124 of the Act. of Itais being provided in one order to minimize any disruption in the Basic: State Grant Program. The requirements set forth in this instruction are in addition to other requirements of the Act.

Please note that new requirements and changes are highlighted in bold print.

These new requirements are:

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Section 102(5)

The term "developmental disability" means a severe, chronic disability of a person five years of age or older which --

(E)... except that such term, when applied to infants and young children means an individual from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

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The definition of "developmental disability" has been amended to more accurately include infants and young children with developmental disabilities. Infants and young children may have substantial and recognizable developmental delay from birth or conditions which place them at high risk for developmental disabilities which may not be manifested by functional limitation in three or more areas listed in the definition.

Of the seven major life areas, only three major life areas apply to infants and young children from birth to age five; receptive and expressive language, learning, and mobility. Four of the functional areas self care, self-direction capacity for independent living and economic self-sufficiency do not apply, or are very limited in their application to infants and young children.

Section (122 (b) (1):(B) for the state by a part of the ellipse of

The plan must designate the State agency which, on behalf of the State, shall receive, account for, and disburse funds based on the State plan required in section 122, and shall provide accurate assurances and other administrative support services.

State agency with respect to basic State grant funds has been delineated to clarify the relationship between the Planning Council and the designated State agency. The responsibilities of the designated State agency are

expressly limited to ensuring that expenditures are made in a manner consistent with the State law regarding grants and contracts, proper accounting, bookkeeping, and other fiscal controls, the provision of assurances, and the provision of administrative support services for the program? With the exception of "administrative funds" designated under Section 122 (d)(1), the designated State agency is to implement the Planning Council's decisions regarding the operation of the Council and its staff, implementation of the approved State plan, planning, coordination, advocacy, and administration of priority area activities. The State Planning Council must maintain the right to direct the expenditures of the Basic State Grant funds to the priorities and the intended activities designated in the State plan so long as it is consistent with State law. and Educa From much grateria is copied and abund strent

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Section 124 (a) when we have a first Change odd and a whole when a

Each State which receives assistance under this part shall establish a State Planning Council to serve as an advocate for all persons with vend priority area activities.

copsection 122 (b) (2) (c) so now at well-or dome hod cutobeen wally describe (and provide for the review annually to compliand revision of the description not less often than once every three years) (i) the extent and scope of services, supports and other assistance being provided, or to be provided, and to persons with developmental disabilities under such other State plans, or policies affecting, federally assisted State programs The that the State conducts and in which persons with developmental disabilities are or may be eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical dassistance, social services, child welfare, maternal and child health, aging, programs for children with special health care needs, housing, transportation, technology, comprehensive health and mental health, and such other programs as the Secretary may specify, (ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration

County Congression to be come of builting concentrate into the community for persons with developmental. disabilities, and (iii) how funds allotted to the State in accordance with section 125 will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities and their families who are eligible for Federal assistance under such other State The world programs: ... Comments and the second and the second and the second

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The mandated review of State programs has been clarified and broadened. Three new program areas are included in the list for required review. Not all federally assisted State programs that provide services which benefit persons with developmental disabilities are required to develop a State plan. In those instances where an agency does not publish a State plan, the Council must review relevant policy documents, reports, and programs which pertain to that agency and take into consideration the findings and conclusions in the development of goals, objectives and strategies. Councils should specify in their State plans which federal assisted programs without State plans they will review, based on which State plan objectives, and describe how such review is seen as a component of a larger strategy of investigation into the operation of the service delivery system on behalf of all persons with developmental disabilities. (i) to be send when when whi

Section 122(b) (2) (D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal

alkanings a Councils should as a part of their planning process, review their findings and report on the current status with respect to those findings and use these findings to address issues of concern which were identified by their analysis. Councils do not have to conduct a comprehensive review, analysis and written report, similar to the "1990 Report" each year, but should consider their findings as they develop their State plans and to report on progress made in reaching the recommendations in their annual report.

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Section 122(b)(5)(B)(iii)

an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;...

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Section 122(b)(5)(B)(iv)

consideration of the report conducted pursuant to subsection (f);....

During the development of the State plan, the Councils should, as a part of their planning process, review the findings of the "1990 Report" on the current status with respect to those findings and use these findings to address issues of concern which were identified by their analysis. This review should consider all subpopulations of persons with developmental disabilities including the unserved and underserved.

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Section 122(b)(5)(D)(i)

The plan must provide that not less than 65 maintain percent of the amount available to the State under section 125 will be expended for activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the sens (three other Federal priority areas and a State was a priority area, the conduct of the analyses specified in clauses (1) through (v) of subparagraph (B) the implementation of notice paragraph (3) and subsection (f) and greene activities which address the implementation of vertical recommendations made in the report described in 100 subsection (f), including recommendations which address unserved and underserved A Case populations; . . Administration of the methodological action was even emply opach and to prefer tomer member with but

Section 122(d)(1)

At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient exercise of the functions of the State designated agency approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or \$50,000, whichever is less, shall be available for the total expenditures for such purpose by the

State agency designated under subsection (b)(1)(B).
Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine. State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.

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Funding for "administration of the State plan" has been eliminated and replaced by funding limited to the "administrative support functions of the designated State agency". States may use all State contributions in calculating their portion of the required non-Federal match. The match required for the "functions of the designated agency" may simultaneously be used in the aggregate match for projects funded under part B as required in section 103.

Section 122(e)(5)

After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor.

A new provision has been included on redesignation. The Councils are allowed, at their initiation, to request that the Governor review the designated State agency, for purposes of determining the appropriateness of such designation. The determination is initiated by the Planning Council and is made at the Governor's discretion. However, the Governor must make an independent assessment of the impact the current designation has on the ability of the Council to serve as an advocate for persons with developmental disabilities. Before a decision is made the Governor must consider the comments of the general public and non-agency members of the State Planning Council.

Section: 124(c)(1) 1003 A REPORT YOU TO AT IN

Each State Planning Council shall prepare and approve a budget using amounts paid to the State under this part to fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the State Planning Council determines to be necessary to carry out its functions under this part.

Section 124(c)(2)

Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council.

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The State Planning Council is now required to prepare and approve its own budget for Part B funds. Councils now have the authority to hire staff or fill staff vacancies when such staff are paid from funds allotted under Part B, even when the State has invoked a freeze on State hiring. Adequate staff must be available to the Councils in order to carry out the responsibilities of the Councils in a timely and effective manner. The Director of the State Planning Council is responsible for informing the designated State agency of Council practices and ensuring that they are consistent with State law and administrative code.

Section 124(d)(1)

Each State Planning Council shall -(1) develop and submit after consultation with
the State agency designated under section
122(b)(1)(B) the State Plan required by this
part, including the specification of Federal
and State priority area activities under
section 122(b)(5)(D)(i); ...

INSTRUCTION:

The designated State agency is responsible for providing the assurances required by the Act persuant to Section 122(b)(1)(B). The Governor or designated State official is to sign the acknowledgement of the new requirements for the Developmental Disabilities Basic State Grant States are advised that all requirements are in effect as of October 1, 1990. No later than June 15, 1991, each State must submit to the appropriate Regional Office the attached acknowledgement that it will implement the new requirements. requirements must be addressed through either amendments to the current State Plan, the new Three Year State Plan for Fiscal Years 1992 through 1994, or other appropriate action by the State.

EFFECTIVE DATE: Date of Issuance

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CT, ME, MA, NH, RI, VT Region I

Mr. A. Kenton Williams Regional Administrator, HDS John F. Kennedy Federal Building Room 400

Boston, Massachusetts 02203 Telephone: (617) 565-1101

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Mr. Thomas DePippo Regional Administrator, HDS 26 Federal Plaza, Room 4149 New York, New York 10278 Telephone: (212) 264-3472

Region III

Mr. Richard Spitzborg Regional Administrator, HDS 3535 Market Street P.O. Box 13716 Philadelphia, Pennsylvania 19101 Telephone: (215) 596-0351

AL, FL, GA, KY, MS, NC, SC. T. Region IV

Ms. Nell Ryan Regional Administrator, HDS 101 Marietta Tower, Suite 903 Atlanta, Georgia 30323 Telephone: (404) 331-2398

IL, IN, MI, MN, OH, WI Region V STATES:

Ms. Kay Willmoth Regional Administrator, HDS 105 West Adams Street, 21st Floor Chicago, Illinois 60603 Telephone: (312) 353-8322

AK, LA, NM, OK, TX Region VI Mr. Marvin Layne Regional Administrator, HDS 1200 Main Tower Building, Room 1050 Dallas, Texas 75202 Telephone: (214) 767-4540 Washite Routing A 114 and 2011 Tendinatoraland Lineathers Period in the corporate Manager 2 to 1900 IA KS, MO NB THE PROPERTY OF Region VII STATES: Ms. Linda J. Carson 10 (the Cod (thi) : 10 coders is Regional Administrator, HDS 601 E. 12th Street Federal Building, Room 384 Kansas City, Missouri 64106 Telephone: (816) 426-3981 Conglished Carolin 1986 POH caop windalor of marty by took mook jarahta daarami os CO, MT, ND, Sp, UT, WY and word Region VIII . STATES: Mr. David Chapa Regional Administrator, HDS Federal Office Building, Room 924 1961 Stout Street Denver, Colorado, 80294 Telephone: (303) 844-2622 J. W. Stand TRANSPORT HYSHOLD CAN Bull - Bourselaining September **ずのtrait等** はいはat X としこる DEFECT SIME LOUD AZ, CA, HI, NV, GU, PU, AS Region IX Mr. Roy Fleischer Regional Administrator, HDS 50 United Nations Plaza, Room 450 San Francisco, California 94102 Telephone: (415) 556-7828 W. Calenda WANT LEAST . I Mar Consertateland Constant - Of the stand is the Roll of the stand of the AK, ID, OR, WALDERED COTTO AA Region X STATES: Mr. Edward Singler Regional Administrator, HDS Blanchard Plaza, Mail Stop RX 30 2201 6th Avenue

Seattle, Washington 98121 Telephone: (206) 442-2430

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