

-CITE-

29 USC Sec. 3003

01/03/2007

-EXPCITE-

TITLE 29 - LABOR

CHAPTER 31 - ASSISTIVE TECHNOLOGY FOR INDIVIDUALS WITH DISABILITIES

-HEAD-

Sec. 3003. State grants for assistive technology

-STATUTE-

(a) Grants to States

The Secretary shall award grants under subsection (b) to States to maintain comprehensive statewide programs of technology-related assistance to support programs that are designed to maximize the ability of individuals with disabilities across the human lifespan and across the wide array of disabilities, and their family members, guardians, advocates, and authorized representatives, to obtain assistive technology, and that are designed to increase access to assistive technology.

(b) Amount of financial assistance

(1) In general

From funds made available to carry out this section, the Secretary shall award a grant to each eligible State and eligible outlying area from an allotment determined in accordance with paragraph (2).

(2) Calculation of State grants

(A) Base year

Except as provided in subparagraphs (B) and (C), the Secretary shall allot to each State and outlying area for a fiscal year an amount that is not less than the amount the State or outlying area received under the grants provided under section 3011 of this title (as in effect on the day before October 25, 2004) for fiscal year 2004.

(B) Ratable reduction

(i) In general

If funds made available to carry out this section for any fiscal year are insufficient to make the allotments required for each State and outlying area under subparagraph (A) for such fiscal year, the Secretary shall ratably reduce the allotments for such fiscal year.

(ii) Additional funds

If, after the Secretary makes the reductions described in clause (i), additional funds become available to carry out this section for the fiscal year, the Secretary shall ratably increase the allotments, until the Secretary has allotted the entire base year amount.

(C) Higher appropriation years

Except as provided in subparagraph (D), for a fiscal year for which the amount of funds made available to carry out this section is greater than the base year amount, the Secretary shall -

(i) make the allotments described in subparagraph (A);

(ii) from a portion of the remainder of the funds after the Secretary makes the allotments described in clause (i), the Secretary shall -

(I) from 50 percent of the portion, allot to each State

or outlying area an equal amount; and

(II) from 50 percent of the portion, allot to each State or outlying area an amount that bears the same relationship to such 50 percent as the population of the State or outlying area bears to the population of all States and outlying areas,

until each State has received an allotment of not less than \$410,000 and each outlying area has received an allotment of \$125,000 under clause (i) and this clause;

(iii) from the remainder of the funds after the Secretary makes the allotments described in clause (ii), the Secretary shall -

(I) from 80 percent of the remainder allot to each State an amount that bears the same relationship to such 80 percent as the population of the State bears to the population of all States; and

(II) from 20 percent of the remainder, allot to each State an equal amount.

(D) Special rule for fiscal year 2005

Notwithstanding subparagraph (C), if the amount of funds made available to carry out this section for fiscal year 2005 is greater than the base year amount, the Secretary may award grants on a competitive basis for periods of 1 year to States or outlying areas in accordance with the requirements of subchapter III of this chapter (!1) (as in effect on the day before October 25, 2004) to develop, support, expand, or administer an alternative financing program.

(E) Base year amount

In this paragraph, the term "base year amount" means the total amount received by all States and outlying areas under the grants described in subparagraph (A) for fiscal year 2004.

(c) Lead agency, implementing entity, and advisory council

(1) Lead agency and implementing entity

(A) Lead agency

(i) In general

The Governor of a State shall designate a public agency as a lead agency -

(I) to control and administer the funds made available through the grant awarded to the State under this section; and

(II) to submit the application described in subsection (d) on behalf of the State, to ensure conformance with Federal and State accounting requirements.

(ii) Duties

The duties of the lead agency shall include -

(I) preparing the application described in subsection (d) and carrying out State activities described in that application, including making programmatic and resource allocation decisions necessary to implement the comprehensive statewide program of technology-related assistance;

(II) coordinating the activities of the comprehensive statewide program of technology-related assistance among public and private entities, including coordinating efforts related to entering into interagency agreements, and

maintaining and evaluating the program; and

(III) coordinating efforts related to the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out through the grant.

(B) Implementing entity

The Governor may designate an agency, office, or other entity to carry out State activities under this section (referred to in this section as the "implementing entity"), if such implementing entity is different from the lead agency. The implementing agency shall carry out responsibilities under this chapter through a subcontract or another administrative agreement with the lead agency.

(C) Change in agency or entity

(i) In general

On obtaining the approval of the Secretary, the Governor may redesignate the lead agency, or the implementing entity, if the Governor shows to the Secretary good cause why the entity designated as the lead agency, or the implementing entity, respectively, should not serve as that agency or entity, respectively. The Governor shall make the showing in the application described in subsection (d).

(ii) Construction

Nothing in this paragraph shall be construed to require the Governor of a State to change the lead agency or implementing entity of the State to an agency other than the lead agency or implementing entity of such State as of October 25, 2004.

(2) Advisory council

(A) In general

There shall be established an advisory council to provide consumer-responsive, consumer-driven advice to the State for, planning of, implementation of, and evaluation of the activities carried out through the grant, including setting the measurable goals described in subsection (d)(3).

(B) Composition and representation

(i) Composition

The advisory council shall be composed of -

(I) individuals with disabilities that use assistive technology or the family members or guardians of the individuals;

(II) a representative of the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) and the State agency for individuals who are blind (within the meaning of section 101 of that Act (29 U.S.C. 721)), if such agency is separate;

(III) a representative of a State center for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

(IV) a representative of the State workforce investment board established under section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821);

(V) a representative of the State educational agency, as defined in section 7801 of title 20; and

(VI) representatives of other State agencies, public agencies, or private organizations, as determined by the

State.

(ii) Majority

(I) In general

A majority, not less than 51 percent, of the members of the advisory council, shall be members appointed under clause (i)(I).

(II) Representatives of agencies

Members appointed under subclauses (II) through (VI) of clause (i) shall not count toward the majority membership requirement established in subclause (I).

(iii) Representation

The advisory council shall be geographically representative of the State and reflect the diversity of the State with respect to race, ethnicity, types of disabilities across the age span, and users of types of services that an individual with a disability may receive.

(C) Expenses

The members of the advisory council shall receive no compensation for their service on the advisory council, but shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties for the advisory council.

(D) Period

The members of the State advisory council shall be appointed not later than 120 days after October 25, 2004.

(E) Impact on existing statutes, rules, or policies

Nothing in this paragraph shall be construed to affect State statutes, rules, or official policies relating to advisory bodies for State assistive technology programs or require changes to governing bodies of incorporated agencies who carry out State assistive technology programs.

(d) Application

(1) In general

Any State that desires to receive a grant under this section shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

(2) Lead agency and implementing entity

The application shall contain information identifying and describing the lead agency referred to in subsection (c)(1)(A). The application shall contain information identifying and describing the implementing entity referred to in subsection (c)(1)(B), if the Governor of the State designates such an entity.

(3) Measurable goals

The application shall include -

(A) measurable goals, and a timeline for meeting the goals, that the State has set for addressing the assistive technology needs of individuals with disabilities in the State related to -

(i) education, including goals involving the provision of assistive technology to individuals with disabilities who receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(ii) employment, including goals involving the State vocational rehabilitation program carried out under title I

of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);
(iii) telecommunication and information technology; and
(iv) community living; and

(B) information describing how the State will quantifiably measure the goals to determine whether the goals have been achieved.

(4) Involvement of public and private entities

The application shall describe how various public and private entities were involved in the development of the application and will be involved in the implementation of the activities to be carried out through the grant, including -

(A) in cases determined to be appropriate by the State, a description of the nature and extent of resources that will be committed by public and private collaborators to assist in accomplishing identified goals; and

(B) a description of the mechanisms established to ensure coordination of activities and collaboration between the implementing entity, if any, and the State.

(5) Implementation

The application shall include a description of -

(A) how the State will implement each of the required activities described in subsection (e), except as provided in subsection (e)(6)(A); and

(B) how the State will allocate and utilize grant funds to implement the activities, including describing proposed budget allocations and planned procedures for tracking expenditures for activities described in paragraphs (2) and (3) of subsection (e).

(6) Assurances

The application shall include assurances that -

(A) the State will annually collect data related to the required activities implemented by the State under this section in order to prepare the progress reports required under subsection (f);

(B) funds received through the grant -

(i) will be expended in accordance with this section; and

(ii) will be used to supplement, and not supplant, funds available from other sources for technology-related assistance, including the provision of assistive technology devices and assistive technology services;

(C) the lead agency will control and administer the funds received through the grant;

(D) the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for the funds received through the grant;

(E) the physical facility of the lead agency and implementing entity, if any, meets the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding accessibility for individuals with disabilities;

(F) a public agency or an individual with a disability holds title to any property purchased with funds received under the grant and administers that property;

(G) activities carried out in the State that are authorized under this chapter, and supported by Federal funds received under this chapter, will comply with the standards established

by the Architectural and Transportation Barriers Compliance Board under section 508 of the Rehabilitation Act of 1973 (20 (12) U.S.C. 794d); and

(H) the State will -

(i) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this chapter; and

(ii) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this subparagraph.

(7) State support

The application shall include a description of the activities described in paragraphs (2) and (3) of subsection (e) that the State will support with State funds.

(e) Use of funds

(1) In general

(A) Required activities

Except as provided in subparagraph (B) and paragraph (6), any State that receives a grant under this section shall use a portion of the funds made available through the grant to carry out activities described in paragraphs (2) and (3).

(B) State or non-Federal financial support

A State shall not be required to use a portion of the funds made available through the grant to carry out the category of activities described in subparagraph (A), (B), (C), or (D) of paragraph (2) if, in that State -

(i) financial support is provided from State or other non-Federal resources or entities for that category of activities; and

(ii) the amount of the financial support is comparable to, or greater than, the amount of the portion of the funds made available through the grant that the State would have expended for that category of activities, in the absence of this subparagraph.

(2) State-level activities

(A) State financing activities

The State shall support State financing activities to increase access to, and funding for, assistive technology devices and assistive technology services (which shall not include direct payment for such a device or service for an individual with a disability but may include support and administration of a program to provide such payment), including development of systems to provide and pay for such devices and services, for targeted individuals and entities described in section 3002(16)(A) of this title, including -

(i) support for the development of systems for the purchase, lease, or other acquisition of, or payment for, assistive technology devices and assistive technology services; or

(ii) support for the development of State-financed or privately financed alternative financing systems of subsidies (which may include conducting an initial 1-year feasibility study of, improving, administering, operating, providing capital for, or collaborating with an entity with respect to, such a system) for the provision of assistive technology

devices, such as -

- (I) a low-interest loan fund;
- (II) an interest buy-down program;
- (III) a revolving loan fund;
- (IV) a loan guarantee or insurance program;
- (V) a program providing for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or
- (VI) another mechanism that is approved by the Secretary.

(B) Device reutilization programs

The State shall directly, or in collaboration with public or private entities, carry out assistive technology device reutilization programs that provide for the exchange, repair, recycling, or other reutilization of assistive technology devices, which may include redistribution through device sales, loans, rentals, or donations.

(C) Device loan programs

The State shall directly, or in collaboration with public or private entities, carry out device loan programs that provide short-term loans of assistive technology devices to individuals, employers, public agencies, or others seeking to meet the needs of targeted individuals and entities, including others seeking to comply with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(D) Device demonstrations

(i) In general

The State shall directly, or in collaboration with public and private entities, such as one-stop partners, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801), demonstrate a variety of assistive technology devices and assistive technology services (including assisting individuals in making informed choices regarding, and providing experiences with, the devices and services), using personnel who are familiar with such devices and services and their applications.

(ii) Comprehensive information

The State shall directly, or through referrals, provide to individuals, to the extent practicable, comprehensive information about State and local assistive technology vendors, providers, and repair services.

(3) State leadership activities

(A) In general

A State that receives a grant under this section shall use a portion of not more than 40 percent of the funds made available through the grant to carry out the activities described in subparagraph (B). From that portion, the State shall use at least 5 percent of the portion for activities described in subparagraph (B)(i)(III).

(B) Required activities

(i) Training and technical assistance

(I) In general

The State shall directly, or provide support to public or private entities with demonstrated expertise in collaborating with public or private agencies that serve individuals with disabilities, to develop and disseminate

training materials, conduct training, and provide technical assistance, for individuals from local settings statewide, including representatives of State and local educational agencies, other State and local agencies, early intervention programs, adult service programs, hospitals and other health care facilities, institutions of higher education, and businesses.

(II) Authorized activities

In carrying out activities under subclause (I), the State shall carry out activities that enhance the knowledge, skills, and competencies of individuals from local settings described in subclause (I), which may include -

(aa) general awareness training on the benefits of assistive technology and the Federal, State, and private funding sources available to assist targeted individuals and entities in acquiring assistive technology;

(bb) skills-development training in assessing the need for assistive technology devices and assistive technology services;

(cc) training to ensure the appropriate application and use of assistive technology devices, assistive technology services, and accessible technology for e-government functions;

(dd) training in the importance of multiple approaches to assessment and implementation necessary to meet the individualized needs of individuals with disabilities; and

(ee) technical training on integrating assistive technology into the development and implementation of service plans, including any education, health, discharge, Olmstead, employment, or other plan required under Federal or State law.

(III) Transition assistance to individuals with disabilities

The State shall directly, or provide support to public or private entities to, develop and disseminate training materials, conduct training, facilitate access to assistive technology, and provide technical assistance, to assist -

(aa) students with disabilities, within the meaning of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), that receive transition services; and

(bb) adults who are individuals with disabilities maintaining or transitioning to community living.

(ii) Public-awareness activities

(I) In general

The State shall conduct public-awareness activities designed to provide information to targeted individuals and entities relating to the availability, benefits, appropriateness, and costs of assistive technology devices and assistive technology services, including -

(aa) the development of procedures for providing direct communication between providers of assistive technology and targeted individuals and entities, which may include partnerships with entities in the statewide and local workforce investment systems established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et

seq.), State vocational rehabilitation centers, public and private employers, or elementary and secondary public schools;

(bb) the development and dissemination, to targeted individuals and entities, of information about State efforts related to assistive technology; and

(cc) the distribution of materials to appropriate public and private agencies that provide social, medical, educational, employment, and transportation services to individuals with disabilities.

(II) Collaboration

The State shall collaborate with entities that receive awards under paragraphs (1) and (3) of section 3005(b) of this title to carry out public-awareness activities focusing on infants, toddlers, children, transition-age youth, employment-age adults, seniors, and employers.

(III) Statewide information and referral system

(aa) In general

The State shall directly, or in collaboration with public or private (such as nonprofit) entities, provide for the continuation and enhancement of a statewide information and referral system designed to meet the needs of targeted individuals and entities.

(bb) Content

The system shall deliver information on assistive technology devices, assistive technology services (with specific data regarding provider availability within the State), and the availability of resources, including funding through public and private sources, to obtain assistive technology devices and assistive technology services. The system shall also deliver information on the benefits of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities of all ages to perform activities of daily living.

(iii) Coordination and collaboration

The State shall coordinate activities described in paragraph (2) and this paragraph, among public and private entities that are responsible for policies, procedures, or funding for the provision of assistive technology devices and assistive technology services to individuals with disabilities, service providers, and others to improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State.

(4) Indirect costs

Not more than 10 percent of the funds made available through a grant to a State under this section may be used for indirect costs.

(5) Prohibition

Funds made available through a grant to a State under this section shall not be used for direct payment for an assistive technology device for an individual with a disability.

(6) State flexibility

(A) In general

Notwithstanding paragraph (1)(A) and subject to subparagraph (B), a State may use funds that the State receives under a

grant awarded under this section to carry out any 2 or more of the activities described in paragraph (2).

(B) Special rule

Notwithstanding paragraph (3)(A), any State that exercises its authority under subparagraph (A) -

(i) shall carry out each of the required activities described in paragraph (3)(B); and

(ii) shall use not more than 30 percent of the funds made available through the grant to carry out the activities described in paragraph (3)(B).

(f) Annual progress reports

(1) Data collection

States shall participate in data collection as required by law, including data collection required for preparation of the reports described in paragraph (2).

(2) Reports

(A) In general

Each State shall prepare and submit to the Secretary an annual progress report on the activities funded under this chapter, at such time, and in such manner, as the Secretary may require.

(B) Contents

The report shall include data collected pursuant to this section. The report shall document, with respect to activities carried out under this section in the State -

(i) the type of State financing activities described in subsection (e)(2)(A) used by the State;

(ii) the amount and type of assistance given to consumers of the State financing activities described in subsection (e)(2)(A) (who shall be classified by type of assistive technology device or assistive technology service financed through the State financing activities, and geographic distribution within the State), including -

(I) the number of applications for assistance received;

(II) the number of applications approved and rejected;

(III) the default rate for the financing activities;

(IV) the range and average interest rate for the financing activities;

(V) the range and average income of approved applicants for the financing activities; and

(VI) the types and dollar amounts of assistive technology financed;

(iii) the number, type, and length of time of loans of assistive technology devices provided to individuals with disabilities, employers, public agencies, or public accommodations through the device loan program described in subsection (e)(2)(C), and an analysis of the individuals with disabilities who have benefited from the device loan program;

(iv) the number, type, estimated value, and scope of assistive technology devices exchanged, repaired, recycled, or reutilized (including redistributed through device sales, loans, rentals, or donations) through the device reutilization program described in subsection (e)(2)(B), and an analysis of the individuals with disabilities that have benefited from the device reutilization program;

(v) the number and type of device demonstrations and

referrals provided under subsection (e)(2)(D), and an analysis of individuals with disabilities who have benefited from the demonstrations and referrals;

(vi)(I) the number and general characteristics of individuals who participated in training under subsection (e)(3)(B)(i) (such as individuals with disabilities, parents, educators, employers, providers of employment services, health care workers, counselors, other service providers, or vendors) and the topics of such training; and

(II) to the extent practicable, the geographic distribution of individuals who participated in the training;

(vii) the frequency of provision and nature of technical assistance provided to State and local agencies and other entities;

(viii) the number of individuals assisted through the public-awareness activities and statewide information and referral system described in subsection (e)(3)(B)(ii);

(ix) the outcomes of any improvement initiatives carried out by the State as a result of activities funded under this section, including a description of any written policies, practices, and procedures that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices, and assistive technology services, in the contexts of education, health care, employment, community living, and information technology and telecommunications, including e-government;

(x) the source of leveraged funding or other contributed resources, including resources provided through subcontracts or other collaborative resource-sharing agreements, from and with public and private entities to carry out State activities described in subsection (e)(3)(B)(iii), the number of individuals served with the contributed resources for which information is not reported under clauses (i) through (ix) or clause (xi) or (xii), and other outcomes accomplished as a result of such activities carried out with the contributed resources; and

(xi) the level of customer satisfaction with the services provided.

-SOURCE-

(Pub. L. 105-394, Sec. 4, as added Pub. L. 108-364, Sec. 2, Oct. 25, 2004, 118 Stat. 1714.)

-REFTEXT-

REFERENCES IN TEXT

Section 3011 of this title, referred to in subsec. (b)(2)(A), was omitted in the general amendment of this chapter by Pub. L. 108-364, Sec. 2, Oct. 25, 2004, 118 Stat. 1707.

Subchapter III of this chapter, referred to in subsec. (b)(2)(D), which consisted of sections 3051 to 3058 of this title, was omitted in the general amendment of this chapter by Pub. L. 108-364, Sec. 2, Oct. 25, 2004, 118 Stat. 1707.

The Rehabilitation Act of 1973, referred to in subsecs. (c)(2)(B)(i)(III) and (d)(3)(A)(ii), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended. Title I of the Act is classified generally to subchapter I (Sec. 720 et seq.) of chapter 16 of this title. Part C of title VII of the Act is classified generally to

subpart 3 (Sec. 796f et seq.) of part A of subchapter VII of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsecs. (d)(3)(A)(i) and (e)(2)(C), (3)(B)(i)(III)(aa), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (Sec. 1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsecs. (d)(6)(E) and (e)(2)(C), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (Sec. 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (e)(3)(B)(ii)(I)(aa), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

-FOOTNOTE-

(!1) See References in Text note below.

(!2) So in original. Probably should be "(29".

-End-