

## DEPARTMENT OF EDUCATION

RIN 1820-ZA11

**Systems-Change Projects To Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support**

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice of a final priority and definitions for fiscal year (FY) 1998 and subsequent years.

**SUMMARY:** The Secretary announces a final priority and definitions for Systems-Change Projects To Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support. The Secretary may use this priority and these definitions for competitions in FY 1998 and subsequent fiscal years. The Secretary takes this action to focus attention on an area of national need. The priority is intended to enhance collaboration in existing systems to increase competitive employment opportunities for individuals with disabilities who are participants in public support programs funded by Federal, State, and local agencies.

**EFFECTIVE DATE:** This priority and definitions take effect August 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Pedro Romero, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3316, MES Building, Washington, D.C. 20202-2650. Telephone: (202) 205-9797. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

**SUPPLEMENTARY INFORMATION:** This notice contains a final priority and definitions for Systems-Change Projects To Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support. The authority for these projects is contained in section 12(a)(3) of the Rehabilitation Act of 1973, as amended (the Act) (29 U.S.C. 762(b)(3)). Under this competition the Secretary makes awards to consortiums consisting of, at a minimum, the State vocational

rehabilitation agency, the State welfare agency, the State educational agency, the State agency responsible for administering the Medicaid program, and an agency administering an employment or employment training program supported by the U.S. Department of Labor.

On May 20, 1998, the Secretary published a notice of a proposed priority and definitions for this program in the **Federal Register** (63 FR 27806).

**Analysis of Comments and Changes**

In response to the Secretary's invitation in the notice of proposed priority and definitions, 14 parties submitted comments. An analysis of the comments and of the changes in the priority since publication of the notice of proposed priority and definitions follows. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

*Comment:* Two commenters stated that the priority should target specific sub-groups of individuals with disabilities. One commenter suggested that the priority specifically target adults with disabilities who are on public assistance but not eligible for assistance under Temporary Assistance to Needy Families (TANF). The other commenter recommended that the priority target hard-to-employ recipients of TANF.

*Discussion:* The Secretary believes that applicants should have the flexibility to identify the specific groups they wish to target under their proposed project as long as the targeted populations are comprised of individuals with disabilities who participate in public support programs funded by Federal, State, and local agencies.

*Changes:* None.

*Comment:* Two commenters stated that coordination between the Department of Education and both the Social Security Administration and the Department of Labor would enhance the priority. One of the commenters stated that there is a need for coordination between these projects and similar systems-change projects that will be funded by the Social Security Administration.

*Discussion:* The Office of Special Education and Rehabilitative Services, Department of Education (ED/OSERS), the Social Security Administration, Office of Disability (SSA/OD), the Department of Labor, and other Federal agencies are members of the Systems-Change Interagency Workgroup, which was established by ED/OSERS in

accordance with Executive Order 13078, to develop barrier removal strategies and assist in the preparation of this priority. Additionally, SSA/OD is using this same priority language in a SSA/OD priority to support similar systems-change projects. ED/OSERS, SSA/OD, Labor, and the other Interagency Workgroup members will provide both the ED/OSERS and SSA/OD projects with ongoing technical assistance to ensure their success. Finally, projects supported by either agency will be required to develop partnership agreements with the local district offices of SSA and must participate in meetings of the Federal Interagency Workgroup—activities that will foster further coordination and collaboration between the projects and the Federal agencies.

*Changes:* None.

*Comment:* Two commenters suggested that educational institutions be involved in project activities.

*Discussion:* The Secretary agrees that input provided by the educational community is essential to any systems-change effort.

For that reason the priority as written requires that consortiums include a State's educational agency. In addition, consortiums have the discretion to include educational institutions as consortium members or partners, if those institutions would be able to effectively assist in removing barriers to employment for individuals with disabilities.

*Changes:* None.

*Comment:* One commenter stated that a consortium of non-profit organizations representing all individuals with disabilities should be empowered to lead projects funded under this priority.

*Discussion:* The Secretary believes that the State agencies administering public support programs and identified in this priority as required consortium members are most able to effectuate systems-change across State programs. Still, the Secretary encourages project participation by non-profit organizations that represent individuals with disabilities. Such organizations may assist consortiums, either as members or partners, in identifying systemic barriers and in developing and implementing strategies to remove those barriers.

*Changes:* None.

*Comment:* One commenter suggested that the Secretary clarify the reference to "employment and training organizations funded by the U.S. Department of Labor" under paragraph C(1) by requiring projects to develop partnership agreements specifically with community-based and other non-

profit employment and training organizations supported by the U.S. Department of Labor.

*Discussion:* The Secretary agrees that the suggested change is warranted.

*Changes:* The Secretary has revised paragraph C(1) by clarifying that projects may develop partnership agreements with community-based and other non-profit employment and training organizations funded by the U.S. Department of Labor.

*Comment:* Two commenters indicated that consumer involvement must be required in order to achieve meaningful and lasting results.

*Discussion:* The Secretary agrees that consumer involvement is essential to the success of projects funded under this priority and that the priority should better reflect the need for individuals with disabilities to participate in the development of project activities.

*Changes:* The Secretary has amended paragraph A to require that consortiums establish a Consumer Advisory Board consisting of individuals with disabilities and their representatives. This Board shall assist the consortiums in developing, implementing, and evaluating appropriate barrier-removal strategies.

*Comment:* One commenter expressed skepticism that the limited length of time that will likely be available for preparing project applications would allow for meaningful participation in the development of applications by Advisory Councils to consortium members.

*Discussion:* The Secretary agrees that meaningful participation in the development of the application by the Consortium members' Advisory Councils may be hindered by limited preparation time.

Nevertheless, the Secretary expects Advisory Councils to participate in developing applications to the extent possible and intends to facilitate their involvement by directly mailing applications to State agencies that have been identified as required consortium members once the final priority is published and by providing approximately two months for the development and submission of the application. Moreover, the final priority will require that Consumer Advisory Councils assist in developing barrier-removal strategies and in implementing and evaluating those strategies throughout the project period.

*Changes:* The Secretary has revised paragraph A(3) to require consortiums to seek consumer input during development of the application to the extent possible. In addition, paragraph

A(5) requires consortiums to establish a Consumer Advisory Board that will assist in the development, implementation, and evaluation of barrier-removal strategies.

*Comment:* Two commenters believed that projects should be required to identify Federal-level barriers to employment and that the Federal Government should address these barriers to facilitate the projects' systems-change activities.

*Discussion:* Projects are not limited to identifying only State or local agency policies, practices, procedures, or rules that inhibit individuals with disabilities from becoming competitively employed. Pursuant to Executive Order 13078, members of the Systems-Change Interagency Workgroup will be working together to address Federal-level barriers, including those identified by funded projects. Thus, the Secretary encourages projects to identify Federal-level barriers to employment for people with disabilities and present relevant information to the Systems-Change Interagency Workgroup. Nevertheless, the priority requires that projects focus on those policies and practices with which the project can readily effectuate systems-change, *i.e.*, State or local policies within the control of consortium members.

*Changes:* None.

*Comment:* One commenter indicated that, although multiple State involvement may be feasible in some regions, submissions should not be given preference based on the number of States included in a given proposal.

*Discussion:* The Secretary does not propose to give preference to applications that serve multiple States.

*Changes:* None.

*Comment:* One commenter stated that the projects' focus on "employment" should include self-employment and small business ownership for adults and youths.

*Discussion:* The Secretary emphasizes that projects are expected to focus on increasing "competitive employment" opportunities for individuals with disabilities. Accordingly, projects may assist individuals with disabilities to achieve self-employment and small business employment outcomes, as long as those outcomes would be considered competitive, *i.e.*, the individual earns at least minimum wage and works in an integrated setting. The Secretary also believes that the priority should be amended to better reflect the required emphasis on competitive employment.

*Changes:* The Secretary has clarified the priority to require that projects focus on increasing competitive employment

opportunities for individuals with disabilities. In addition the Secretary has added the term competitive employment, as defined in 34 CFR 361.5(b)(10), to the definition section of the priority.

*Comment:* One commenter stated that the external evaluation of funded projects needs to focus intently on improvements in practices by State agency staff.

*Discussion:* Projects funded under this priority must participate in an external evaluation at the Federal level that, among other things, will examine the effect of specific innovative systems-change approaches and strategies on State or local agency policies, practices, including staff practices across involved programs, and rules affecting the employment of individuals with disabilities.

*Changes:* None.

**Note:** This notice of final priority does not solicit applications. In any year in which the Secretary chooses to use this priority, the Secretary invites applications through a notice in the **Federal Register**. A notice inviting applications under this competition is published elsewhere in this issue of the **Federal Register**.

## Priority

### Background

According to the 1994 Harris Survey of Americans with Disabilities, two-thirds of individuals with disabilities between the ages of 16 and 64 are not working. Many of these individuals receive financial support or services through programs funded by Federal, State, and local agencies. Examples of these programs include Temporary Aid to Needy Families (TANF), Supplemental Security Income (SSI), Social Security Disability Income (SSDI), Medicaid (including Medicaid waiver programs), Medicare, subsidized housing, and food stamps.

Statistical data reveal that of the 32 percent of adult recipients of Aid to Families with Dependent Children (AFDC) who had a work or functional disability, 15 percent were able to work despite their functional limitations (National Health Interview Survey on Disability, U.S. Department of Health and Human Services, 1994). Studies conducted in Kansas and Washington indicate that up to 60 percent of the current TANF recipients in those States have some type of disability. At the same time, the TANF program requires recipients to work and also limits the length of TANF assistance—recent developments that further underscore the need to reduce barriers to employment confronted by individuals with disabilities on public support.

In addition, the proportion of individuals with disabilities receiving public support through SSI or SSDI continues to increase. Over the past decade, the total number of SSI and SSDI beneficiaries has doubled, and cash payments for these individuals increased to over \$55 billion (World Institute on Disability, 1996). Social Security recipients often do not work since they would lose their Social Security and Medicaid benefits if their earnings increased beyond a threshold level. Thus, few individuals leave the Social Security system. New adult SSI recipients receive benefits for an average of 10 years, whereas individuals who receive SSI benefits as children remain on the rolls for an average of approximately 27 years (Rupp and Scott, 1995).

Many individuals participating in public support programs, including the programs discussed previously, are unable to obtain the services or supports they need to become competitively employed and achieve economic independence. Employment training programs that serve the general population, as well as employers themselves, are often unable to meet the specialized needs of these individuals. In addition, individuals with disabilities who are not eligible for State vocational rehabilitation services, or who do not believe that they need a comprehensive rehabilitation program, are still unlikely to receive work-related services from employment training programs that serve the general population. Consequently, many individuals with disabilities who are capable of working essentially "fall between the cracks." The Secretary expects that the models developed under the priority will demonstrate how employment training and other related programs can more effectively coordinate services so that individuals with disabilities can obtain competitive employment.

Seventy-nine percent of unemployed individuals with disabilities have indicated that they would prefer to be working (Harris Survey, 1994). The combination of the high costs associated with living with a disability, work-related expenses, and the reduction in public supports available to persons once they become employed often dissuade individuals with disabilities from pursuing competitive work. Some of the specific barriers to the employment that individuals with disabilities commonly confront include—

- Lack of adequate health insurance (e.g., individuals' fear of losing public health care coverage, inability to obtain

private medical insurance, or limited access to treatment and prescription services)

- Underutilization of existing work incentives from Social Security and other State and local agencies (e.g., Plan for Achieving Self Support (PASS), and Impairment Related Work Expenses, section 1619 a and b of the Social Security Act)
- Lack of affordable, accessible housing and transportation
- Insufficient education and training services
- Lack of child care;
- Inadequate supports for employees with disabilities (e.g., onsite and offsite job accommodations and long-term follow-along services)
- Inadequate supports for employers (e.g., incentives for hiring, retaining, and promoting individuals with disabilities and technical assistance and follow-along consultation to assist employers in addressing the ongoing needs of employees with disabilities and to clarify employer misperceptions and misinformation).

Lack of information and coordination of public support programs can cause program-related barriers that inhibit individuals with disabilities from effectively using available services. In many instances, individuals with disabilities are simply unaware of existing employment-related programs, work incentives, or available services. Another common barrier is the lack of coordination between separate programs with separate eligibility criteria even though the same individuals often require services from each program. The Secretary expects projects to address these types of program-related barriers, as well as any other type of barrier that impedes individuals with disabilities from becoming employed and self-sufficient.

There is a critical need for greater coordination between multiple public programs that support individuals with disabilities that would foster increased economic self-sufficiency and a more efficient use of public resources. In an effort to address this need, the Secretary announces the following priority in order to provide a framework for assisting individuals with disabilities to reduce their reliance on various public support programs and obtain and maintain employment in the competitive labor market.

The requirements in the priority are designed to facilitate systems-change projects that eliminate barriers to employment for individuals with disabilities and are based on existing studies and reports, the experiences of

State vocational rehabilitation agencies in working with individuals participating in other public support programs, and on information provided by other Federal agencies that administer disability-related programs. These Federal agencies were particularly helpful in assisting the Secretary to identify the employment-related barriers confronted by individuals with disabilities that the Secretary is targeting through this priority and to identify the types of State agencies whose participation in the project would be most critical to eliminating those barriers. The identified State agencies serve as members of a consortium that the systems-change project establishes under paragraph (A) of the priority.

The Secretary emphasizes that the model systems-change projects supported under this priority are part of a larger effort on the part of the Federal Government to create a coordinated and aggressive national policy to reduce the unemployment rate of individuals with disabilities and to assist those individuals in obtaining competitive jobs. This effort is directly reflected in Executive Order 13078, signed on March 13, 1998, entitled "Increasing Employment of Adults With Disabilities" (63 FR 13111, March 18, 1998). For example, Executive Order 13078, in part, calls for an analysis of existing programs and policies to determine what modifications and innovations may be necessary to remove work-related barriers experienced by individuals with disabilities; the development and recommendation of options for eliminating barriers to health insurance coverage for those with disabilities; and an analysis of work-related youth programs and the outcomes of these programs for young people with disabilities. The Secretary announces the following priority as one means of addressing the purposes of Executive Order 13078. As other Federal agencies design and carry out activities in response to the Executive order, it is expected that many of those activities will complement the systems-change projects funded under this priority.

The Secretary also emphasizes the need for projects supported under this priority to begin implementing strategies for removing barriers early in the project period in order for the project to have a measurable effect on the rate by which individuals with disabilities become competitively employed. For that reason, the Secretary expects project recipients to work with Rehabilitation Services Administration staff to ensure that planning steps, including development of partnership

agreements and, if appropriate, submission of Medicaid waiver requests under paragraph (C) of the priority, are promptly completed and that projects begin implementing their barrier-removal strategies as soon as possible.

The purpose of the absolute priority is to establish five-year model demonstration projects that stimulate and advance systems change in order to expand competitive employment outcomes for individuals with mental or physical disabilities, or both, who are participants in Federal, State, and local public support programs (e.g., TANF, SSI, SSDI, Medicaid, Medicare, subsidized housing, and food stamps, etc.)

#### *Absolute Priority*

Under 34 CFR 75.105(c)(3) and section 12(a)(3) of the Act, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

#### A. General Requirements for Applicants

Applicants under this priority shall satisfy the following requirements:

(1) Applicants shall form a consortium of, at a minimum, the State vocational rehabilitation agency, the State welfare agency, the State educational agency, the State agency responsible for administering the Medicaid program, and an agency administering an employment or employment training program supported by the U.S. Department of Labor. Additional entities (e.g., public and private non-profit organizations) that could effectively assist in removing barriers to employment for individuals with disabilities also may be included as part of the consortium.

(2) The members of the consortium shall either designate one of their members to apply for the grant or establish a separate, eligible legal entity to apply for the grant. The designated applicant shall serve as the grantee and be legally responsible for the use of all grant funds, overall fiscal and programmatic oversight of the project, and for ensuring that the project is carried out by consortium members in accordance with Federal requirements.

(3) Consortium members shall be substantially involved in the development of the application. To the extent possible, consortiums also shall involve consumers in the development of the application.

(4) The members of the consortium shall enter into an agreement that details the activities that each member plans to perform and that binds each

member to the statements and assurances included in the application. Each member is legally responsible for carrying out the activities it agrees to perform and for using the funds that it receives under the agreement in accordance with Federal requirements that apply to the grant. The agreement must be submitted as part of the application.

(5) Consortiums shall establish a Consumer Advisory Board consisting of individuals with disabilities and, as appropriate, their representatives that will assist in the development, implementation, and evaluation of barrier-removal strategies.

(6) The application submitted under this priority also must identify the specific locality or region that would be served by the project.

#### B. Project Objectives

Projects supported under this priority must—

(1) Identify systemic barriers, including State or local agency policies, practices, procedures, or rules that inhibit individuals with disabilities who are participants in public support programs from becoming competitively employed.

(2) Develop and implement replicable strategies to remove identified barriers, including, at a minimum, strategies for—

(a) Establishing effective collaborative working relationships among project consortium members and their partners as described in paragraph (C)(1) of this priority (e.g., providing interagency staff training and technical assistance on program requirements and services or collaboratively using labor market and job vacancy information);

(b) Establishing coordinated service delivery systems (e.g., common intake and referral procedures, customer databases, and resource information) and developing innovative services and service approaches that address service gaps (e.g., developing employee and employer support networks);

(c) Improving access to health insurance for individuals with disabilities who become employed;

(d) Increasing the use of existing resources by State and local agencies (e.g., Medicaid waivers, Home Community Based Services waivers, Job Training Partnership Act income exemptions, and work incentive provisions such as Plan for Achieving Self Support);

(3) Design and implement an internal evaluation plan for which—

(a) The methods of evaluation are thorough, feasible, and appropriate to

the goals, objectives, and outcomes of the project;

(b) The methods of evaluation provide for examining the effectiveness of project implementation strategies;

(c) The methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

(d) The methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(e) The evaluation will provide guidance about effective strategies suitable for replication or testing in other settings; and

(4) Disseminate information on effective systems-change approaches developed under these projects to Federal, State, and local stakeholders and facilitate the use of systems-change models in other geographic areas. As examples, consortiums may make presentations before national, State, or local conferences, consult with and provide technical assistance to other States or localities, develop Internet web sites, and distribute project publications.

#### C. Project Requirements

In carrying out the priority, the projects must—

(1) Develop partnership agreements, as described under **DEFINITIONS**, with the local district offices of the Social Security Administration; the State agency or agencies responsible for mental retardation, developmental disabilities, and mental health services; existing transportation or paratransit service providers; and appropriate public and private sector employers. Partnerships also may be formed with other appropriate entities identified by the consortium, including but not limited to, Centers for Independent Living, consumer advocacy organizations, economic development councils, Private Industry Councils, Governor's committees on the employment of persons with disabilities, developmental disabilities councils, mental health centers, community rehabilitation programs, Indian Tribes, labor unions, and community-based and other non-profit employment and training organizations funded by the U.S. Department of Labor;

(2) Make timely, formal requests for Medicaid waivers if necessary for projects to be able to implement developed strategies;

(3) Implement, in a timely manner, the strategies developed by the project

to expand employment outcomes for individuals with mental or physical disabilities, or both;

(4) Participate, as appropriate, in meetings of a Federal Interagency Employment Initiative Workgroup and inform workgroup members of project activities; and

(5) Participate in, and provide data for, an external evaluation of the systems-change projects as directed by the Commissioner of the Rehabilitation Services Administration. The evaluation would examine—

(a) The effect of specific innovative systems-change approaches and strategies on State or local agency policies, practices, or rules affecting the employment of individuals with disabilities;

(b) The effect of specific innovative systems-change approaches and strategies on increasing the number of individuals with disabilities who obtain competitive employment, including job retention, promotion, and satisfaction, and wage growth; and

(c) The cost effectiveness of employment supports and services implemented by the project.

#### Definitions

**Competitive employment**, as defined in 34 CFR 361.5(b)(10), means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

**Consortium** means a group of eligible parties formed by the applicant seeking a Federal award under this priority. Members of the consortium shall enter into an agreement and carry out their responsibilities consistent with the requirements in paragraph (A) of the priority. Members of the consortium shall also ensure that project partners carry out their agreed-upon activities.

**Disability** with respect to an individual means a physical or mental impairment that substantially limits one or more of the major life activities of that individual, having a record of such an impairment, or being regarded as having such an impairment.

**Locality** means specific geographical areas within a State or States.

**Partner** means an entity with which the consortium has entered into an agreement to carry out specific activities, goals, and objectives of the project.

**Partnership agreement** means a written arrangement between a

consortium and its partners to carry out specific activities related to the project.

**Public support** means Federal, State, and local public programs that provide resources or services to individuals with disabilities. These programs include, but are not limited to, Temporary Aid to Needy Families (TANF), Supplemental Security Income (SSI), Social Security Disability Income (SSDI), Medicaid (including Medicaid waiver programs), Medicare, subsidized housing, and food stamps.

**Region** means two or more States participating in the project.

#### Selection Criteria

In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in § 75.210 of the Education Department General Administrative Regulations. The selection criteria to be used for this competition will be provided in the application package for this competition.

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**Note:** The official version of this document is the document published in the **Federal Register**.

#### Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

This final priority addresses the National Education Goal that every adult American, including individuals with disabilities, will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

#### Executive Order 12866

This final priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The Secretary has determined that there are no costs associated with this priority. Announcement of this priority will not result in costs to State and local governments, recipients of grant funds, or to individuals with disabilities and their families. The benefit from this priority will be to focus activities and Federal assistance on increasing competitive employment outcomes for individuals with disabilities who are participants in public support programs through enhanced collaboration and coordination.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

#### Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

**Program Authority:** 29 U.S.C. 762(b)(3).

(Catalog of Federal Domestic Assistance Number 84.811A, Systems-Change Projects to Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support)

Dated: July 1, 1998.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

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