

84.250 AMERICAN INDIANS WITH DISABILITIES  
34 CFR PART 371

[Code of Federal Regulations]  
[Title 34, Volume 2]  
[Revised as of July 1, 2006]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 34CFR371.1]  
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CHAPTER III--OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES,  
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Subpart A\_General

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Authority: 29 U.S.C. 711(c) and 750, unless otherwise noted.

Source: 46 FR 5423, Jan. 19, 1981, unless otherwise noted.

This program is designed to provide vocational rehabilitation  
services to American Indians with disabilities who reside on Federal or  
State reservations, consistent with their individual strengths,  
resources, priorities, concerns, abilities, capabilities, and informed  
choice, so that they may prepare for and engage in gainful employment.  
(Authority: Secs. 100(a)(2) and 130(a) of the Act; 29 U.S.C. 720(a)(2)  
and 750(a))

[60 FR 58137, Nov. 24, 1995]

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Subpart A\_General

Sec. 371.2 Who is eligible for assistance under this program?

Applications may be made only by the governing bodies of Indian tribes and consortia of those governing bodies located on Federal and State reservations.

(Authority: Sec. 130(a) of the Act; 29 U.S.C. 750(a))  
[46 FR 5423, Jan. 19, 1981, as amended at 52 FR 30555, Aug. 14, 1987]

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Subpart A\_General

Sec. 371.3 What regulations apply to this program?

The following regulations apply to this program--

- (a) 34 CFR part 369;
- (b) The regulations in this part 371.

(Authority: Sec. 130 of the Act; 29 U.S.C. 750)

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Subpart A\_General

Sec. 371.4 What definitions apply to this program?

- (a) The definitions in 34 CFR part 369 apply to this program;
- (b) The following definitions also apply specifically to this program--

American Indian means a person who is a member of an Indian tribe.

(Authority: Secs. 12(c) and 130 of the Act; 29 U.S.C. 711(c) and 750)

Consortium means two or more eligible governing bodies of Indian tribes that make application as a single applicant under an agreement whereby

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each governing body is legally responsible for carrying out all of the activities in the application.

(Authority: Secs. 12(c) and 130 of the Act; 29 U.S.C. 711(c) and 750)

Governing bodies of Indian tribes means those duly elected or appointed representatives of an Indian tribe or of an Alaskan native village. These representatives must have the authority to enter into contracts, agreements, and grants on behalf of their constituency.

(Authority: Secs. 12(c) and 130 of the Act; 29 U.S.C. 711(c) and 750)

Indian tribe means any Federal or State Indian band, rancheria, pueblo, colony, and community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).

(Authority: Secs. 12(c) and 130 of the Act; 29 U.S.C. 711(c) and 750)

Reservation means a Federal or State Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated Native groups, regional corporations and village corporations under the provisions of the Alaska Native Claims Settlement Act.

(Authority: Secs. 12(c) and 130(c) of the Act; 29 U.S.C. 711(c) and 750(c))

[46 FR 5423, Jan. 19, 1981, as amended at 52 FR 30555, Aug. 14, 1987; 59 FR 8338, Feb. 18, 1994]

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##### Subpart A\_General

Sec. 371.5 What is the length of the project period under this program?

(a) The Secretary approves a project period of up to three years.

(b) The Secretary may extend a grant for up to two additional years if the grantee includes in its extension request--

(1) An assurance that the project is in compliance with all applicable program requirements; and

(2) Satisfactory evidence that--

(i) The project has made substantial and measurable progress in meeting the needs of American Indians with disabilities on the reservation or reservations it serves;

(ii) American Indians with disabilities who have received project services have achieved employment outcomes consistent with their strengths, resources, priorities, concerns, abilities, capabilities, and informed choice; and

(iii) There is a continuing need for the project.  
(Approved by the Office of Management and Budget under control number  
1820-0018)  
(Authority: Section 130(b)(3) of the Act; 29 U.S.C. 750(b)(3))  
[60 FR 58137, Nov. 24, 1995]

[Code of Federal Regulations]  
[Title 34, Volume 2]  
[Revised as of July 1, 2006]  
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#### Subpart B\_What Kinds of Activities Does the Department of Education Assist Under This Program?

Sec. 371.10 What types of projects are authorized under this program?

The Vocational Rehabilitation Service Program for American Indians  
with Disabilities provides financial assistance for the establishment  
and operation of tribal vocational rehabilitation service programs for  
American Indians with disabilities who reside on Federal or State  
reservations.

(Authority: Sec. 130(a) of the Act; 29 U.S.C. 750(a))  
[59 FR 8338, Feb. 18, 1994]

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[Revised as of July 1, 2006]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 34CFR371.20]  
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#### Subpart C\_How Does One Apply for a Grant?

Sec. 371.20 What are the application procedures for this program?

In the development of an application, a governing body or consortium  
is required to consult with the designated State unit or the designated  
State units of the State or States in which vocational rehabilitation  
services are to be provided.

(Authority: Sec. 130(b) of the Act; 29 U.S.C. 750(b))  
[46 FR 5423, Jan. 19, 1981, as amended at 52 FR 30555, Aug. 14, 1987]

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[Revised as of July 1, 2006]  
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[CITE: 34CFR371.21]

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Subpart C\_How Does One Apply for a Grant?

Sec. 371.21 What are the special application requirements related to  
the State plan program?

Each applicant under this program must provide evidence that--  
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(a) Effort will be made to provide a broad scope of vocational  
rehabilitation services in a manner and at a level of quality at least  
comparable to those services provided by the designated State unit under  
34 CFR part 361.

(Authority: Sec. 12(c) of the Act; 29 U.S.C. 711(c))

(b) All decisions affecting eligibility for and the nature and scope  
of vocational rehabilitation services to be provided, and the provision  
of these services, will be made by the tribal vocational rehabilitation  
program through its vocational rehabilitation unit and will not be  
delegated to another agency or individual.

(Authority: Secs. 12(c) and 101(a) of the Act; 29 U.S.C. 711(c) and  
721(a))

(c) Priority in the delivery of vocational rehabilitation service  
will be given to those American Indians with disabilities who are the  
most severely disabled.

(Authority: Secs. 12(c) and 101(a)(5) of the Act; 29 U.S.C. 711(c) and  
721(a)(5))

(d) An order of selection of individuals with disabilities to be  
served under the program will be specified if services cannot be  
provided to all eligible American Indians with disabilities who apply.

(Authority: Secs. 12(c) and 101(a)(5) of the Act; 29 U.S.C. 711(c) and  
721(a)(5))

(e) All vocational rehabilitation services will be provided  
according to an individualized written rehabilitation program which has  
been developed jointly by the representative of the service providing  
organization and each American Indian with disabilities being served.

(Authority: Secs. 12(c) and 101(a)(9) of the Act; 29 U.S.C. 711(c) and  
721(a)(9))

(f) American Indians with disabilities living on Federal or State  
reservations where service programs are being carried out under this  
part will have an opportunity to participate in matters of general  
policy development and implementation affecting vocational  
rehabilitation service delivery on the reservation.

(Authority: Secs. 12(c) and 101(a)(18) of the Act; 29 U.S.C. 711(c) and  
721(a)(18))

(g) Cooperative working arrangements will be developed with the  
designated State unit, or designated State units, as appropriate, which  
are providing vocational rehabilitation services to other individuals  
with disabilities who reside in the State or States being served.

(Authority: Secs. 12(c) and 101(a)(11) of the Act; 29 U.S.C. 711(c) and  
721(a)(11))

(h) Any similar benefits available to American Indians with

disabilities under any other program which might meet in whole or in part the cost of any vocational rehabilitation service will be fully considered in the provision of vocational rehabilitation services in accordance with 34 CFR part 361.

(Authority: Secs. 12(c) and 101(a)(8) of the Act; 29 U.S.C. 711(c) and 721(a)(8))

(i) Any American Indian with disabilities who is an applicant or recipient of services, and who is dissatisfied with a determination made by a counselor or coordinator under this program and files a request for a review, will be afforded a review under procedures developed by the grantee comparable to those under the provisions of section 102(d) (1)-(3) of the Act.

(Authority: Secs. 12(c) and 102(d) of the Act; 29 U.S.C. 711(c) and 722(d))

(j) Minimum standards will be established for community rehabilitation programs and providers of service which will be comparable to the standards set by the designated State unit or designated State units in the State or States in which the program is to be provided; and

(Authority: Secs. 12(c) and 101(a) (6) and (7) of the Act; 29 U.S.C. 711(c) and 721(a) (6) and (7))

(k) Maximum use will be made of public or other vocational or technical

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training facilities or other appropriate community resources.

(Authority: Secs. 12(c) and 101(a)(12) of the Act; 29 U.S.C. 711(c) and 721(a)(12))

[46 FR 5423, Jan. 19, 1981, as amended at 52 FR 30555, Aug. 14, 1987; 59 FR 8337, 8338, Feb. 18, 1994]

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[Revised as of July 1, 2006]

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##### Subpart C\_How Does One Apply for a Grant?

Sec. 371.21 What are the special application requirements related to the State plan program?

Each applicant under this program must provide evidence that--  
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(a) Effort will be made to provide a broad scope of vocational rehabilitation services in a manner and at a level of quality at least comparable to those services provided by the designated State unit under 34 CFR part 361.

(Authority: Sec. 12(c) of the Act; 29 U.S.C. 711(c))

(b) All decisions affecting eligibility for and the nature and scope

of vocational rehabilitation services to be provided, and the provision of these services, will be made by the tribal vocational rehabilitation program through its vocational rehabilitation unit and will not be delegated to another agency or individual.

(Authority: Secs. 12(c) and 101(a) of the Act; 29 U.S.C. 711(c) and 721(a))

(c) Priority in the delivery of vocational rehabilitation service will be given to those American Indians with disabilities who are the most severely disabled.

(Authority: Secs. 12(c) and 101(a)(5) of the Act; 29 U.S.C. 711(c) and 721(a)(5))

(d) An order of selection of individuals with disabilities to be served under the program will be specified if services cannot be provided to all eligible American Indians with disabilities who apply.

(Authority: Secs. 12(c) and 101(a)(5) of the Act; 29 U.S.C. 711(c) and 721(a)(5))

(e) All vocational rehabilitation services will be provided according to an individualized written rehabilitation program which has been developed jointly by the representative of the service providing organization and each American Indian with disabilities being served.

(Authority: Secs. 12(c) and 101(a)(9) of the Act; 29 U.S.C. 711(c) and 721(a)(9))

(f) American Indians with disabilities living on Federal or State reservations where service programs are being carried out under this part will have an opportunity to participate in matters of general

policy development and implementation affecting vocational rehabilitation service delivery on the reservation.

(Authority: Secs. 12(c) and 101(a)(18) of the Act; 29 U.S.C. 711(c) and 721(a)(18))

(g) Cooperative working arrangements will be developed with the designated State unit, or designated State units, as appropriate, which are providing vocational rehabilitation services to other individuals with disabilities who reside in the State or States being served.

(Authority: Secs. 12(c) and 101(a)(11) of the Act; 29 U.S.C. 711(c) and 721(a)(11))

(h) Any similar benefits available to American Indians with disabilities under any other program which might meet in whole or in part the cost of any vocational rehabilitation service will be fully considered in the provision of vocational rehabilitation services in accordance with 34 CFR part 361.

(Authority: Secs. 12(c) and 101(a)(8) of the Act; 29 U.S.C. 711(c) and 721(a)(8))

(i) Any American Indian with disabilities who is an applicant or recipient of services, and who is dissatisfied with a determination made by a counselor or coordinator under this program and files a request for a review, will be afforded a review under procedures developed by the grantee comparable to those under the provisions of section 102(d) (1)-(3) of the Act.

(Authority: Secs. 12(c) and 102(d) of the Act; 29 U.S.C. 711(c) and 722(d))

(j) Minimum standards will be established for community rehabilitation programs and providers of service which will be comparable to the standards set by the designated State unit or designated State units in the State or States in which the program is to

be provided; and  
(Authority: Secs. 12(c) and 101(a) (6) and (7) of the Act; 29 U.S.C. 711(c) and 721(a) (6) and (7))

(k) Maximum use will be made of public or other vocational or technical

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training facilities or other appropriate community resources.

(Authority: Secs. 12(c) and 101(a)(12) of the Act; 29 U.S.C. 711(c) and 721(a)(12))

[46 FR 5423, Jan. 19, 1981, as amended at 52 FR 30555, Aug. 14, 1987; 59 FR 8337, 8338, Feb. 18, 1994]

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[Revised as of July 1, 2006]

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[CITE: 34CFR371.31]

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#### Subpart D\_How Does the Secretary Make a Grant?

#### Sec. 371.31 How are grants awarded?

To the extent that funds have been appropriated under this program, the Secretary approves all applications which meet acceptable standards of program quality. If any application is not approved because of deficiencies in proposed program standards, the Secretary provides technical assistance to the applicant Indian tribe with respect to any areas of the proposal which were judged to be deficient.

(Authority: Secs. 12(c) and 130 of the Act; 29 U.S.C. 711(c) and 750)

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[Revised as of July 1, 2006]

From the U.S. Government Printing Office via GPO Access

[CITE: 34CFR371.40]

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#### Subpart E\_What Conditions Apply to a Grantee Under This Program?

#### Sec. 371.40 What are the matching requirements?

(a) Federal share. Except as provided in paragraph (c) of this section, the Federal share may not be more than 90 percent of the total cost of the project.

(b) Non-Federal share. The non-Federal share of the cost of the project may be in cash or in kind, fairly valued.

(c) Waiver of non-Federal share. In order to carry out the purposes of the program, the Secretary may waive the non-Federal share



requirement, in part or in whole, only if the applicant demonstrates that it does not have sufficient resources to contribute the non-Federal share of the cost of the project.

(Authority: Secs. 12(c) and 130(a) of the Act; 29 U.S.C. 711(c) and 750(a))

[52 FR 30556, Aug. 14, 1987]

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Subpart E\_What Conditions Apply to a Grantee Under This Program?

Sec. 371.41\_What are allowable costs?

(a) In addition to those allowable costs established in EDGAR Sec. Sec. 75.530-75.534, the following items are allowable costs under this program--

(1) Expenditures for the provision of vocational rehabilitation services and for the administration, including staff development, of a program of vocational rehabilitation services.

(2) Expenditures for services reflecting the cultural background of the American Indians being served, including treatment provided by native healing practitioners who are recognized as such by the tribal

vocational rehabilitation program when the services are necessary to assist an individual with disabilities to achieve his or her vocational rehabilitation objective.

(b) Expenditures may not be made under this program to cover the costs of providing vocational rehabilitation services to individuals with disabilities not residing on Federal or State reservations.

(Authority: Secs. 12(c) and 130(a) of the Act; 29 U.S.C. 711(c) and 750(a))

[46 FR 5423, Jan. 19, 1981, as amended at 52 FR 30555, Aug. 14, 1987; 59 FR 8337, Feb. 18, 1994]

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[Revised as of July 1, 2006]

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[CITE: 34CFR371.42]

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Subpart E\_What Conditions Apply to a Grantee Under This Program?

Sec. 371.42\_How are services to be administered under this program?

(a) Directly or by contract. A grantee under this part may provide the vocational rehabilitation services directly or it may contract or otherwise enter into an agreement with a designated State unit, a community rehabilitation program, or another agency to assist in the implementation of the vocational rehabilitation service program for American Indians with disabilities.

(b) Inter-tribal agreement. A grantee under this part may enter into an inter-tribal arrangement with governing bodies of other Indian tribes for carrying out a project that serves more than one Indian tribe.

(c) Comparable service program. To the maximum extent feasible, services provided by a grantee under this part must be comparable to rehabilitation service provided under this title to other individuals with disabilities residing in the State.

(Authority: Secs. 12(c) and 130 of the Act; 29 U.S.C. 711(c) and 750)  
[52 FR 30556, Aug. 14, 1987, as amended at 59 FR 8337, 8338, Feb. 18, 1994]

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[CITE: 34CFR371.43]

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Subpart E\_What Conditions Apply to a Grantee Under This Program?

Sec. 371.43 What other special conditions apply to this program?

(a) Any American Indian with disabilities who is eligible for service under this program but who wishes to be provided service by the designated State unit must be referred to the State unit for such services.

(b) Preference in employment in connection with the provision of vocational rehabilitation services under this section must be given to American Indians, with a special priority being given to American Indians with disabilities.

(c) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act also apply under this program. These provisions relate to grant reporting and audit requirements, maintenance of records, access to records, availability of required reports and information to Indian people served or represented, repayment of unexpended Federal funds, criminal activities involving grants, penalties, wage and labor standards, preference requirements for American Indians in the conduct and administration of the grant, and requirements affecting requests of tribal organizations to enter into contracts. For purposes of applying these requirements to this program, the Secretary carries out those responsibilities assigned to the

Secretary of Interior.

(Authority: Secs. 12(c) and 130(b)(2) of the Act; 29 U.S.C. 711(c) and 750(b)(2))

[46 FR 5423, Jan. 19, 1981, as amended at 52 FR 30555, Aug. 14, 1987; 59 FR 8337, Feb. 18, 1994]