

84.904 REHABILITATION SERVICES PROJECT HELEN KIKELLER
34 CFR PART 369
THE HELEN KELLER ACT

[Code of Federal Regulations]

[Title 34, Volume 2]

[Revised as of July 1, 2006]

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TITLE 34--EDUCATION

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SERVICES,

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Authority: 29 U.S.C. 711(c), 732, 750, 777(a)(1), 777b, 777f and 795g, unless otherwise noted.

Source: 46 FR 5417, Jan. 19, 1981, unless otherwise noted.

(a) These programs provide financial assistance for the support of special project activities for providing vocational rehabilitation services and related services to individuals with disabilities and other persons.

(b) The Secretary awards financial assistance through the following programs--

(1) Vocational Rehabilitation Service Projects for American Indians with Disabilities (34 CFR part 371).

(2) Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Disabilities.

(3) Vocational Rehabilitation Service Projects for Migratory Agricultural and Seasonal Farmworkers with Disabilities.

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(4) Special Projects and Demonstrations for Providing Transitional Rehabilitation Services to Youths with Disabilities (34 CFR part 376).

(5) Projects for Initiating Special Recreation Programs for Individuals with Disabilities.

(6) Projects with Industry (34 CFR part 379).

(Authority: Secs. 112, 130, 305, 308, 311a, 311(a)(3), 311(a)(4), 312, 316, and 621 of the Act; 29 U.S.C. 732, 750, 775, 776, 777(a)(1), 777(a)(3), 777(a)(4), 777(b), 777f, and 795g)

[46 FR 5417, Jan. 19, 1981, as amended at 50 FR 9962, Mar. 12, 1985; 51 FR 3895, Jan. 30, 1986; 53 FR 17142, 17143, May 13, 1988; 59 FR 8335, Feb. 18, 1994; 62 FR 10403, Mar. 6, 1997]

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Subpart A_General

Sec. 369.2 Who is eligible for assistance under these programs?

(a) Vocational rehabilitation service projects for American Indians with disabilities. Governing bodies of Indian tribes and consortia of those governing bodies located on Federal and State reservations are

eligible for assistance to support projects for providing vocational rehabilitation services to American Indians with disabilities.

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

(b) Special projects and demonstrations for providing vocational rehabilitation services to individuals with disabilities. States and public and other nonprofit agencies and organizations are eligible for expanding or otherwise improving vocational rehabilitation services to individuals with disabilities.

(Authority: Sec. 311(a)(1) of the Act; 29 U.S.C. 777(a)(1))

(c) Vocational rehabilitation service projects for migratory agricultural workers and seasonal farmworkers with disabilities. State vocational rehabilitation agencies, local agencies administering vocational rehabilitation programs under written agreements with State agencies, and nonprofit agencies working in collaboration with State vocational rehabilitation agencies are eligible for assistance to support projects for providing vocational rehabilitation services to migratory agricultural workers or seasonal farmworkers with disabilities.

(Authority: Sec. 312 of the Act; 29 U.S.C. 777(b))

(d) Projects for initiating special recreation programs for individuals with disabilities. State and other public agencies and private nonprofit agencies and organizations are eligible for assistance to support projects for initiating special recreation programs for individuals with disabilities.

(Authority: Sec. 316 of the Act; 29 U.S.C. 777(f))

(e) Projects with industry. Any designated State unit, labor union, community rehabilitation program provider, Indian tribe or tribal organization employer, trade association, or other agency or organization with the capacity to create and expand job and career opportunities for individuals with disabilities is eligible for assistance to support a project with industry.

(Authority: Sec. 621 of the Act; 29 U.S.C. 795(g))

(f) Special projects and demonstrations for providing transitional rehabilitation services to youths with disabilities. State and other public and nonprofit agencies and organizations are eligible for assistance under this program.

(Authority: Sec. 311(c) of the Act; 29 U.S.C. 777a(c))

[46 FR 5417, Jan. 19, 1981, as amended at 50 FR 9962, Mar. 12, 1985; 51 FR 3895, Jan. 30, 1986; 53 FR 17142, 17143, May 13, 1988; 59 FR 8335, Feb. 18, 1994; 62 FR 10403, Mar. 6, 1997]

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Subpart A_General

Sec. 369.3 What regulations apply to these programs?

The following regulations apply to the programs listed in Sec. 369.1(b):

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities); except the part 79 does not apply to the Vocational Rehabilitation Service Program for American Indians with Disabilities.

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(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act--Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 369.

(c) The regulations in 34 CFR parts 371, 372, 373, 374, 375, 376, 378, and 379, as appropriate.

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

[51 FR 3895, Jan. 30, 1986, as amended at 55 FR 21714, May 25, 1990; 59 FR 8335, Feb. 18, 1994]

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Subpart A_General

Sec. 369.4 What definitions apply to these programs?

(a) The following definitions in 34 CFR part 77 apply to the
programs under Vocational Rehabilitation Service Projects--

Applicant
Application
Award
Budget Period
Department
EDGAR
Nonprofit
Profit
Project Period
Public
Secretary
Work of Art

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

(b) The following definitions also apply to programs under
Vocational Rehabilitation Service Projects:

Act means the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), as
amended.

Community rehabilitation program means a program that provides
directly or facilitates the provision of vocational rehabilitation
services to individuals with disabilities, and that provides, singly or
in combination, for an individual with a disability to enable the
individual to maximize opportunities for employment, including career
advancement--

(1) Medical, psychiatric, psychological, social, and vocational
services that are provided under one management;

(2) Testing, fitting, or training in the use of prosthetic and
orthotic devices;

(3) Recreational therapy;

(4) Physical and occupational therapy;

(5) Speech, language and hearing therapy;

(6) Psychiatric, psychological and social services, including
positive behavior management;

(7) Assessment for determining eligibility and vocational
rehabilitation needs;

- (8) Rehabilitation technology;
- (9) Job development, placement, and retention services;
- (10) Evaluation or control of specific disabilities;
- (11) Orientation and mobility services for individuals who are blind;
- (12) Extended employment;
- (13) Psychosocial rehabilitation services;
- (14) Supported employment services and extended services;
- (15) Services to family members when necessary to the vocational rehabilitation of the individual;
- (16) Personal assistance services; or
- (17) Services similar to the services described in paragraphs (1) through (16) of this definition.

(Authority: Sec. 7(25) of the Act; 29 U.S.C. 706(25))

Employment outcome means entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market, the practice of a profession, self-employment, homemaking, farm or family work (including work for which payment is in kind rather than cash), extended employment in a community rehabilitation program, supported employment, or other gainful work.

(Authority: Sec 7(5) of the Act; 29 U.S.C. 706(5))

Individual who is blind means a person who is blind within the meaning of the

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law relating to vocational rehabilitation in each State.

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

Individual with a disability means any individual who--

- (1) Has a physical or mental impairment that for that individual constitutes or results in a substantial impediment to employment; and
- (2) Can benefit in terms of an employment outcome from vocational rehabilitation services provided under title I, III, VI, or VIII of the Act.

(Authority: Sec. 7(8)(A) of the Act; 29 U.S.C. 706(8)(A))

Individual with a severe disability means an individual with a disability--

- (1) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
- (2) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
- (3) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease,

hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, end-stage renal disease, or another disability or combination of disabilities determined to cause comparable substantial functional limitation.

(Authority: Sec. 7(15)(A) of the Act; 29 U.S.C. 706(15)(A))

Physical and mental restoration services means--

(1) Medical or corrective surgical treatment for the purpose of correcting or modifying substantially a physical or mental condition that is stable or slowly progressive and constitutes a substantial impediment to employment and that is likely, within a reasonable period of time, to be corrected or substantially modified as a result of the medical or surgical treatment;

(2) Diagnosis and treatment for mental or emotional disorders by qualified personnel in accordance with State licensure laws;

(3) Dentistry;

(4) Nursing services;

(5) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(6) Convalescent or nursing home care;

(7) Drugs and supplies;

(8) Prosthetic, orthotic, or other assistive devices, including hearing aids essential to obtaining or retaining employment;

(9) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids, prescribed by qualified persons under State licensure laws, that are selected by the individual;

(10) Podiatry;

(11) Physical therapy;

(12) Occupational therapy;

(13) Speech and hearing therapy;

(14) Psychological services;

(15) Therapeutic recreation services;

(16) Medical or medically related social work services;

(17) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services or that are inherent in the condition under treatment;

(18) Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

(19) Other medical or medically related rehabilitation services,

including art therapy, dance therapy, music therapy, and psychodrama.
(Authority: Sec. 103(a)(4) of the Act; 29 U.S.C. 723(a)(4))
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Physical or mental impairment means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's employment activities or vocational functioning.

(Authority: Sec. 7(8)(A) of the Act; 29 U.S.C. 706(8)(A))

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

State agency means the sole State agency designated to administer (or supervise local administration of) the State plan for vocational rehabilitation services. The term includes the State agency for the blind, if designated as the sole State agency with respect to that part of the plan relating to the vocational rehabilitation of individuals who are blind.

(Authority: Sec. 7(3)(A) and 101(a)(1)(A) of the Act; 29 U.S.C. 721(a)(1)(A))

State plan means the State plan for vocational rehabilitation services. (34 CFR part 361)

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

State unit, State vocational rehabilitation unit or designated State unit means either--

(1) The State agency vocational rehabilitation bureau, division, or other organizational unit that is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities and that is responsible for the administration of the vocational rehabilitation program of the State agency; or

(2) The independent State commission, board, or other agency that has vocational rehabilitation, or vocational and other rehabilitation as its primary function.

(Authority: Sec. 7(3) of the Act; 29 U.S.C. 706(3))

Substantial impediment to employment means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, and other related factors) significantly restricts an individual's occupational performance by preventing his preparing for, obtaining, or retaining employment consistent with his capacities and abilities.

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

Vocational rehabilitation services: (1) When provided to an individual, means any goods or services necessary to render an individual with a disability employable, including, but not limited to, the following--

(i) An assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(ii) Counseling, guidance, and work-related placement services for individuals with disabilities, including job search assistance, placement assistance, job retention services, personal assistance services, and follow-up, follow-along, and specific diagnosis services necessary to assist such individuals to maintain, regain, or advance in employment;

(iii) Vocational and other training services for individuals with disabilities, including personal and vocational adjustment, books, or other training materials;

(iv) Services to the families of such individuals with disabilities, if necessary to the adjustment or rehabilitation of such individuals;

(v) Physical and mental restoration services;

(vi) Maintenance for additional costs incurred while participating in rehabilitation;

(vii) Interpreter services and note-taking services for individuals who are deaf, including tactile interpreting for individuals who are deaf-blind;

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(viii) Reader services and note-taking services for those individuals who are determined to be blind after an examination by qualified personnel under State licensure laws;

(ix) Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety and law enforcement, and other appropriate service employment;

(x) Rehabilitation teaching services and orientation and mobility services for individuals who are blind;

(xi) Occupational licenses, tools, equipment, and initial stocks and supplies;

(xii) Transportation in connection with the rendering of any vocational rehabilitation service;

(xiii) Telecommunications, sensory, and other technological aids and devices;

(xiv) Rehabilitation technology services;

(xv) Referral and other services designed to assist individuals with disabilities in securing needed services from other agencies;

(xvi) Transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

(xvii) On-the-job or other related personal assistance services provided while an individual with a disability is receiving vocational rehabilitation services; and

(xviii) Supported employment services.

(Authority: Sec. 103(a) of the Act; 29 U.S.C. 723(a))

(2) When provided for the benefit of groups of individuals, Vocational rehabilitation services also means--

(i) In the case of any type of small business enterprise operated by individuals with the most severe disabilities under the supervision of the State unit, management services, and supervision and acquisition of vending facilities or other equipment, and initial stocks and supplies;

(ii) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a rehabilitation facility to provide services that promote integration and competitive employment;

(iii) The provision of services, including services provided at community rehabilitation programs, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized written rehabilitation program of any one individual with disabilities;

(iv) The use of existing telecommunications systems;

(v) The use of services providing recorded material for persons who are blind and captioned films or video cassettes for persons who are deaf; and

(vi) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 and that are seeking to employ individuals with disabilities.

(Authority: Sec. 103(b) of the Act; 29 U.S.C. 723(b))

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53 FR 17143, May 13, 1988; 59 FR 8335, Feb. 18, 1994]

Subpart B [Reserved]

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Subpart C_How Does One Apply for a Grant?

Sec. 369.20 What are the application procedures for these programs?

The Secretary gives the appropriate State vocational rehabilitation unit an opportunity to review and comment on applications submitted from within the State that it serves. The procedures to be followed by the applicant and the State are in EDGAR Sec. Sec. 75.155-75.159. (Authority: Sec. 12)(c) of the Act; 29 U.S.C. 711(c))

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Subpart C_How Does One Apply for a Grant?

Sec. 369.21 What application requirement applies to these programs?

Each applicant for a grant under a program covered by this part must include in its application a description of the manner in which it will address the

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needs of individuals with disabilities from minority backgrounds.

(Approved by the Office of Management and Budget under control number 1820-0018)

(Authority: Sec. 21(b)(5) of the Act; 29 U.S.C. 718b)

[59 FR 8337, Feb. 18, 1994, as amended at 62 FR 10403, Mar. 6, 1997]

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Subpart D_How Does the Secretary Make a Grant?

Sec. 369.30 How does the Secretary evaluate an application?

The Secretary evaluates an application under the procedures in 34 CFR part 75.

(Authority: 29 U.S.C. 711(c))

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Subpart D_How Does the Secretary Make a Grant?

Sec. 369.32 What other factors does the Secretary consider in reviewing an application?

In addition to the selection criteria used in accordance with the procedures in 34 CFR part 75, the Secretary, in making awards under these programs, considers such factors as--

(a) The geographical distribution of projects in each program category throughout the country; and

(b) The past performance of the applicant in carrying out similar activities under previously awarded grants, as indicated by such factors as compliance with grant conditions, soundness of programmatic and financial management practices and attainment of established project objectives.

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

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Sec. 369.42 What special requirements affect provision of services to individuals with disabilities?

(a) Vocational rehabilitation services provided in projects assisted under these programs must be provided in the same manner as services provided under the State plan for vocational rehabilitation services under 34 CFR part 361.

(b) Each grantee under a program covered by this part must advise applicants for or recipients of services under its project, or as appropriate, the parents, family members, guardians, advocates, or authorized representatives of those individuals, of the availability and purposes of the State's Client Assistance Program, including information on seeking assistance from that program.

(Authority: Secs. 20 and 306(h) of the Act; 29 U.S.C. 718a and 776(h))

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Sec. 369.43 What are the affirmative action plan requirements affecting grantees?

A recipient of Federal assistance must develop and implement an affirmative action plan to employ and advance in employment qualified individuals with disabilities. This plan must provide for specific action steps, timetables, and complaint and enforcement procedures necessary to assure affirmative action.

(Authority: Sec. 12(c) of the Act; 29 U.S.C. 711(c))
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Sec. 369.45 What are the special requirements pertaining to the
membership of project advisory committees?

If an advisory committee is established under a project, its
membership must include persons with disabilities
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or their representatives and other individuals to be assisted within the
project, providers of services, and other appropriate individuals.

(Authority: Sec. 12(c) of the Act; 29 U.S.C. 711(c))
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Sec. 369.46 What are the special requirements pertaining to the
protection, use, and release of personal information?

(a) All personal information about individuals served by any project
under this part, including lists of names, addresses, photographs, and

records of evaluation, must be held confidential.

(b) The use of information and records concerning individuals must be limited only to purposes directly connected with the project, including project evaluation activities. This information may not be disclosed, directly or indirectly, other than in the administration of the project unless the consent of the agency providing the information and the individual to whom the information applies, or his or her representative, have been obtained in writing. The Secretary or other Federal or State officials responsible for enforcing legal requirements have access to this information without written consent being obtained. The final product of the project may not reveal any personal identifying information without written consent of the individual or his or her representative.

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

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Sec. 369.47 What are the special requirements affecting the collection of data from State agencies?

If the collection of data is necessary either from individuals with disabilities being served by two or more State agencies or from employees of two or more of these agencies, the project director must Submit requests for the data to appropriate representatives of the affected agencies, as determined by the Secretary. This requirement also applies to employed project staff and individuals enrolled in courses of study supported under this part.

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

[46 FR 5417, Jan. 19, 1981, as amended at 53 FR 17144, May 13, 1988; 59 FR 8335, Feb. 18, 1994. Redesignated at 59 FR 8337, Feb. 18, 1994]

HELEN KELLER NATIONAL Center ACT

[TITLE 29](#) > [CHAPTER 21](#) > § 1901

§ 1901. Congressional findings

Congress finds that—

- (1) deaf-blindness is among the most severe of all forms of disabilities, and there is a great and continuing need for services and training to help individuals who are deaf-blind attain the highest possible level of development;
- (2) due to the rubella epidemic of the 1960's, the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing, and recent advances in medical technology that have sustained the lives of many severely disabled individuals, including individuals who are deaf-blind, who might not otherwise have survived, the need for services for individuals who are deaf-blind is even more pressing now than in the past;
- (3) helping individuals who are deaf-blind to become self-sufficient, independent, and employable by providing the services and training necessary to accomplish that end will benefit the Nation, both economically and socially;
- (4) the Helen Keller National Center for Youths and Adults who are Deaf-Blind is a vital national resource for meeting the needs of individuals who are deaf-blind and no State currently has the facilities or personnel to meet such needs;
- (5) the Federal Government has made a substantial investment in capital, equipment, and operating funds for such Center since it was established; and
- (6) it is in the national interest to continue to provide support for the Center, and it is a proper function of the Federal Government to be the primary source of such support.

[TITLE 29](#) > [CHAPTER 21](#) > § 1902

§ 1902. Continued operation of Center

a) Administration by Secretary of Education

The Secretary of Education shall continue to administer and support the Helen Keller National Center for Youths and Adults who are Deaf-Blind in the same manner as such Center was administered prior to February 22, 1984, to the extent

such manner of administration is not inconsistent with any purpose described in subsection (b) of this section or any other requirement of this chapter.

(b) Purposes of Center

The purposes of the Center are to—

- (1) provide specialized intensive services, or any other services, at the Center or anywhere else in the United States, which are necessary to encourage the maximum personal development of any individual who is deaf-blind;
- (2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;
- (3) train professionals and allied personnel at the Center or anywhere else in the United States to provide services to individuals who are deaf-blind; and
- (4) conduct applied research, development programs, and demonstrations with respect to communication techniques, teaching methods, aids and devices, and delivery of services.

[TITLE 29](#) > [CHAPTER 21](#) > § 1903

§ 1903. Audit; monitoring and evaluation

- (a) The books and accounts of the Center shall be audited annually by an independent auditor in the manner prescribed by the Secretary and a report on each such audit shall be submitted by the auditor to the Secretary within 15 days following the completion of the audit and acceptance of the audit by the Center.
- (b)
 - (1) The Secretary shall establish procedures for monitoring, on a regular basis, the services performed and the training conducted by the Center.
 - (2) The Secretary shall, in addition to the regular monitoring required under paragraph (1), conduct an evaluation of the operation of the Center at the end of each fiscal year. A written report of such evaluation shall be submitted to the President, the Clerk of the House of Representatives, and the Secretary of the Senate within one hundred and eighty days after the end of the fiscal year for which such evaluation was conducted. The first such report shall be submitted for fiscal year 1983.

[TITLE 29](#) > [CHAPTER 21](#) > § 1904

§ 1904. Authorization of appropriations

(a) There are authorized to be appropriated to carry out the provisions of this chapter such sums as may be necessary for each of the fiscal years 1999 through 2003. Such sums shall remain available until expended.

(b) Any appropriation Act containing any appropriation authorized by subsection (a) of this section shall contain a statement of the specific amount being made available to the Center.

[TITLE 29](#) > [CHAPTER 21](#) > § 1905

§ 1905. Definitions

For purposes of this chapter—

(1) the terms “Helen Keller National Center for Youths and Adults who are Deaf-Blind” and “Center” mean the Helen Keller National Center for Youths and Adults who are Deaf-Blind, and its affiliated network, operated pursuant to this chapter;

(2) the term “individual who is deaf-blind” means any individual—

(A)

(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

(C) meets such other requirements as the Secretary may prescribe by regulation; and

(3) the term “Secretary” means the Secretary of Education.

[TITLE 29](#) > [CHAPTER 21](#) > § 1906

§ 1906. Construction; effect on agreements

This chapter shall not be construed as modifying or affecting any agreement between the Department of Education or any other department or agency of the United States and the Helen Keller Services for the Blind, Incorporated, or any successor to or assignee of such corporation, with respect to the Center.

[TITLE 29](#) > [CHAPTER 21](#) > § 1907

§ 1907. Helen Keller National Center Federal Endowment Fund

a) Establishment

The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the “Endowment Fund”) in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) Federal payments

(1) In general

The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h) of this section, consistent with the provisions of this section.

(2) Amount of payment

Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

(c) Investments

(1) In general

The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person’s own business affairs.

(2) Limitations

(A) Federally insured investments and other investments

The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York.

(B) Real estate

The Endowment Fund corpus and income may not be invested in real estate.

(C) Conflict of interest

The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

(D) Encumbrances

The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

(d) Withdrawals and expenditures

(1) In general

For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

(2) Operational and commercial expenses

(A) In general

The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

(B) Limitation

The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

(3) Limitations and waiver of limitations

(A) In general

Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

(B) Exception

The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

- (i) a financial emergency, such as a pending insolvency or temporary liquidity problem;
- (ii) a life-threatening situation occasioned by a natural disaster or arson; or
- (iii) another unusual occurrence or exigent circumstance.

(e) Reporting requirements

(1) Financial records

The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

(2) Audit and report

(A) Audit

The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section [1903 \(a\)](#) of this title.

(B) Report

The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

(3) Annual report

Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

(f) Recovery of payments

After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

- (1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;
- (2) fails to comply with the investment standards and limitations under this section; or
- (3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

(g) Definitions

For the purposes of this section:

(1) Endowment fund

The term “endowment fund” means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

(2) Endowment Fund corpus

The term “Endowment Fund corpus” means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

(3) Endowment Fund income

The term “Endowment Fund income” means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1999 through 2003. Such sums shall remain available until expended.

TITLE 29 > CHAPTER 21 > § 1908

§ 1908. Registry

(a) In general

To assist the Center in providing services to individuals who are deaf-blind, the Center may establish and maintain registries of such individuals in each of the regional field offices of the network of the Center.

(b) Voluntary provision of information

No individual who is deaf-blind may be required to provide information to the Center for any purpose with respect to a registry established under subsection (a) of this section.

(c) Nondisclosure

The Center (including the network of the Center) may not disclose information contained in a registry established under subsection (a) of this section to any individual or organization that is not affiliated with the Center, unless the individual to whom the information relates provides specific written authorization for the Center to disclose the information.

(d) Privacy rights

The requirements of section [552a](#) of title [5](#) (commonly known as the “Privacy Act of 1974”) shall apply to personally identifiable information contained in the registries established by the Center under subsection (a) of this section, in the same manner and to the same extent as such requirements apply to a record of an agency.

(e) Removal of information

On the request of an individual, the Center shall remove all information relating to the individual from any registry established under subsection (a) of this section.