

a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity” for “Governor” in first sentence and “appointing authority” for “Governor” in second and third sentences.

Subsec. (b)(4)(A)(i). Pub. L. 105-277, §101(f) [title VIII, §402(c)(6)(B)], substituted “section 705(20)(B)” for “section 705(20)(A)”.

Subsec. (b)(5)(B). Pub. L. 105-277, §101(f) [title VIII, §402(c)(6)(C)], substituted “chief executive officer” for “Governor” in heading and “appointing authority described in paragraph (3) shall” for “Governor shall” in text.

Subsec. (b)(6)(A)(ii), (7)(B). Pub. L. 105-277, §101(f) [title VIII, §402(c)(6)(D)], substituted “appointing authority described in paragraph (3)” for “Governor”.

## § 726. Evaluation standards and performance indicators

### (a) Establishment

#### (1) In general

##### (A) Establishment of standards and indicators

The Commissioner shall, not later than July 1, 1999, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program carried out under this subchapter.

##### (B) Review and revision

Effective July 1, 1999, the Commissioner shall review and, if necessary, revise the evaluation standards and performance indicators every 3 years. Any revisions of the standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. Any revisions of the standards and indicators shall be subject to the publication, review, and comment provisions of paragraph (3).

##### (C) Bases

Effective July 1, 1999, to the maximum extent practicable, the standards and indicators shall be consistent with the core indicators of performance established under section 2871(b) of this title.

#### (2) Measures

The standards and indicators shall include outcome and related measures of program performance that facilitate the accomplishment of the purpose and policy of this subchapter.

#### (3) Comment

The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

### (b) Compliance

#### (1) State reports

In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

#### (2) Program improvement

##### (A) Plan

If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

##### (B) Review

The Commissioner shall—

(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

#### (c) Withholding

If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 727 of this title, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

#### (d) Report to Congress

Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 710 of this title an analysis of program performance, including relative State performance, based on the standards and indicators.

(Pub. L. 93-112, title I, §106, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1156.)

#### PRIOR PROVISIONS

A prior section 726, Pub. L. 93-112, title I, §106, as added Pub. L. 102-569, title I, §127(a), Oct. 29, 1992, 106 Stat. 4385, related to evaluation standards and performance indicators, prior to the general amendment of this subchapter by Pub. L. 105-220.

## § 727. Monitoring and review

### (a) In general

#### (1) Duties

In carrying out the duties of the Commissioner under this subchapter, the Commissioner shall—