local agencies, among local agencies, and between State and local agencies and private entities (such as managed care providers), that are involved or are eligible to be involved in carrying out activities under this chapter;

(F) increase the awareness and facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

(G) increase awareness and knowledge of the benefits of assistive technology devices and assistive technology services among targeted individuals and entities and the general population; and

(2) to provide States with financial assistance that supports programs designed to maximize the ability of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to obtain assistive technology devices and assistive technology services.

(Pub. L. 105–394, § 2, Nov. 13, 1998, 112 Stat. 3628; Pub. L. 108–364, § 2, Oct. 25, 2004, 118 Stat. 1707.)

REFERENCES IN TEXT

The Help America Vote Act of 2002, referred to in subsec. (a)(8), is Pub. L. 107–252, Oct. 29, 2002, 116 Stat. 1666, which is classified principally to chapter 146 (§ 15301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15301 of Title 42 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(8), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The No Child Left Behind Act of 2001, referred to in subsec. (a)(8), is Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1425, as amended. For complete classification of this Act to the Code, see Short Title of 2002 Amendment note set out under section 6301 of Title 20, Education, and Tables.

AMENDMENTS

2004—Pub. L. 108–364 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) and (b) relating to findings and purposes.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–364, § 1, Oct. 25, 2004, 118 Stat. 1707, provided that: ''This Act [enacting sections 3003 to 3007 of this title, amending this section, sections 763, 781, 792, and 3002 of this title, and sections 15024, 15025, 15043, and 15064 of Title 42, The Public Health and Welfare, omitting sections 3011 to 3015, 3031 to 3037, and 3051 to 3058 of this title, and amending provisions set out as a note under this section] may be cited as the 'Assistive Technology Act of 2004'.''

SHORT TITLE

Pub. L. 105–394, § 1(a), Nov. 13, 1998, 112 Stat. 3627, as amended by Pub. L. 108–364, § 2, Oct. 25, 2004, 118 Stat. 1707, provided that: ''This Act [enacting this chapter] may be cited as the 'Assistive Technology Act of 1998'.''

§ 3002. Definitions

In this chapter:

(1) Adult service program

The term ''adult service program'' means a program that provides services to, or is otherwise substantially involved with the major life functions of, individuals with disabilities. Such term includes—

(A) a program providing residential, supportive, or employment services, or employment-related services, to individuals with disabilities;

(B) a program carried out by a center for independent living, such as a center described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

(C) a program carried out by an employment support agency connected to adult vocational rehabilitation, such as a one-stop partner, as defined in section 2801 of this title; and

(D) a program carried out by another organization or vender licensed or registered by the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705).

(2) American Indian consortium

The term ''American Indian consortium'' means an entity that is an American Indian Consortium (as defined in section 102 of Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), and that is established to provide protection and advocacy services for purposes of receiving funding under subtitle C of title I of such Act (42 U.S.C. 15041 et seq.).

(3) Assistive technology

The term ''assistive technology'' means technology designed to be utilized in an assistive technology device or assistive technology service.

(4) Assistive technology device

The term ''assistive technology device'' means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(5) Assistive technology service

The term ''assistive technology service'' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

(B) a service consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) a service consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, replacing, or donating assistive technology devices;

(D) coordination and use of necessary therapies, interventions, or services with

assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with a disability or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual;

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services and entities that manufacture or sell assistive technology devices), employers, providers of employment and training services, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities; and

(G) a service consisting of expanding the availability of access to technology, including electronic and information technology, to individuals with disabilities.

(6) Capacity building and advocacy activities

The term ''capacity building and advocacy activities'' means efforts that—

(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

(B) facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services, in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

(7) Comprehensive statewide program of technology-related assistance

The term ''comprehensive statewide program of technology-related assistance'' means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

(8) Consumer-responsive

The term ''consumer-responsive''—

(A) with regard to policies, means that the policies are consistent with the principles of—

(i) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(ii) respect for the privacy, rights, and equal access (including the use of accessible formats) of such individuals;

(iii) inclusion, integration, and full participation of such individuals in society;

(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

(v) support for individual and systems advocacy and community involvement; and

(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect capacity building and advocacy activities.

(9) Disability

The term ''disability'' means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this chapter or for the purposes of the law of the State in which the individual resides.

(10) Individual with a disability; individuals with disabilities

(A) Individual with a disability

The term ''individual with a disability'' means any individual of any age, race, or ethnicity—

(i) who has a disability; and

(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

(B) Individuals with disabilities

The term ''individuals with disabilities'' means more than 1 individual with a disability.

(11) Institution of higher education

The term ''institution of higher education'' has the meaning given such term in section 1001(a) of title 20, and includes a community college receiving funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(12) Protection and advocacy services

The term ''protection and advocacy services'' means services that—

(A) are described in subtitle C of title I of the Developmental Disabilities Assistance

and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

(13) Secretary

The term ''Secretary'' means the Secretary of Education.

(14) State

(A) In general

Except as provided in subparagraph (B), the term ''State'' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(B) Outlying areas

In section 3003(b) of this title:

(i) Outlying area

The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(ii) State

The term ''State'' does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(15) State assistive technology program

The term ''State assistive technology program'' means a program authorized under section 3003 of this title.

(16) Targeted individuals and entities

The term ''targeted individuals and entities'' means—

(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

(B) underrepresented populations, including the aging workforce;

(C) individuals who work for public or private entities (including centers for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), insurers, or managed care providers) that have contact, or provide services to, with individuals with disabilities;

(D) educators at all levels (including providers of early intervention services, elementary schools, secondary schools, community colleges, and vocational and other institutions of higher education) and related services personnel;

(E) technology experts (including web designers and procurement officials);

(F) health, allied health, and rehabilitation professionals and hospital employees (including discharge planners);

(G) employers, especially small business employers, and providers of employment and training services;

(H) entities that manufacture or sell assistive technology devices;

(I) entities that carry out community programs designed to develop essential community services in rural and urban areas; and

(J) other appropriate individuals and entities, as determined for a State by the State.

(17) Technology-related assistance

The term ''technology-related assistance'' means assistance provided through capacity building and advocacy activities that accomplish the purposes described in section 3001(b) of this title.

(18) Underrepresented population

The term ''underrepresented population'' means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited English proficiency, older individuals, or persons from rural areas.

(19) Universal design

The term ''universal design'' means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

(Pub. L. 105–394, § 3, Nov. 13, 1998, 112 Stat. 3631; Pub. L. 106–402, title IV, § 401(b)(4)(A), Oct. 30, 2000, 114 Stat. 1738; Pub. L. 108–364, § 2, Oct. 25, 2004, 118 Stat. 1709; Pub. L. 110–315, title IX, § 941(k)(2)(K), Aug. 14, 2008, 122 Stat. 3467.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in pars. (1)(B) and (16)(C), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355. Part C of title VII of the Act is classified generally to subpart 3 (§ 796f et seq.) of part A of subchapter VII of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in pars. (2) and (12)(A), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of title I of the Act is classified generally to part C (§ 15041 et seq.) of subchapter I of chapter 144 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in par. (11), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Protection and Advocacy for Individuals with Mental Illness Act, referred to in par. (12)(A), is Pub. L. 99–319, May 23, 1986, 100 Stat. 478, which is classified generally to chapter 114 (§ 10801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of Title 42 and Tables.

AMENDMENTS

2008—Par. (11). Pub. L. 110–315 substituted ''the Tribally Controlled Colleges and Universities Assistance Act of 1978'' for ''the Tribally Controlled College or University Assistance Act of 1978''.

2004—Pub. L. 108–364 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) and (b) relating to definitions and references.

2000—Subsec. (a)(11)(A). Pub. L. 106–402 substituted ''subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000'' for ''part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.)''.

§ 3003. State grants for assistive technology

(a) Grants to States

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

(b) Amount of financial assistance

(1) In general

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

(2) Calculation of State grants

(A) Base year

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

(B) Ratable reduction

(i) In general

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

(ii) Additional funds

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

(C) Higher appropriation years

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

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

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

(I) from 50 percent of the portion, allot to each State or outlying area an equal amount; and

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

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

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

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

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

(D) Special rule for fiscal year 2005

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

(E) Base year amount

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

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

(1) Lead agency and implementing entity

(A) Lead agency

(i) In general

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

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

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

(ii) Duties

The duties of the lead agency shall include—

(I) preparing the application described in subsection (d) and carrying out State activities described in that application,

[1] See References in Text note below.