

**PUBLIC LAW 98-527—OCT. 19, 1984**

**DEVELOPMENTAL DISABILITIES ACT  
OF 1984**

Public Law 98-527  
98th Congress

An Act

Oct. 19, 1984  
[H.R. 5603]

To revise and extend programs for persons with developmental disabilities.

Developmental  
Disabilities Act  
of 1984.  
42 USC 6000  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Developmental Disabilities Act of 1984".*

Sec. 2. Title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 is amended to read as follows:

Developmental  
Disabilities  
Assistance and  
Bill of Rights  
Act.

**"TITLE I—PROGRAMS FOR PERSONS WITH  
DEVELOPMENTAL DISABILITIES**

**"PART A—GENERAL PROVISIONS**

**"SHORT TITLE**

42 USC 6000  
note.

"SEC. 100. This title may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act'.

**"FINDINGS AND PURPOSES**

42 USC 6000.

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than other handicapped individuals who generally have had a normal developmental period on which to draw during the rehabilitation process;

"(3) persons with developmental disabilities often require specialized lifelong services to be provided by many agencies in a coordinated manner in order to meet the persons' needs;

"(4) generic service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services; and

"(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities.

"(b)(1) It is the overall purpose of this title to assist States to (A) assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community, and (B) establish and operate a system which coordinates, monitors, plans, and evaluates services which ensures the protection of the legal and human rights of persons with developmental disabilities.

"(2) The specific purposes of this title are—

“(A) to assist in the provision of comprehensive services to persons with developmental disabilities, with priority to those persons whose needs are not otherwise met under the Rehabilitation Act of 1973 or other health, education, or welfare programs;

29 USC 701 note.

“(B) to assist States in appropriate planning activities;

“(C) to make grants to States and public and private, non-profit agencies to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel with respect to providing services to persons with developmental disabilities;

Grants.

“(D) to make grants to university affiliated facilities to assist them in administering and operating demonstration facilities for the provision of services to persons with developmental disabilities and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and

Grants.

“(E) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities.

Grants.

“DEFINITIONS

“SEC. 102. For purposes of this title:

42 USC 6001.

“(1) The term ‘State’ includes Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

“(2) The term ‘facility for persons with developmental disabilities’ means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

“(3) The terms ‘nonprofit facility for persons with developmental disabilities’ and ‘nonprofit private institution of higher learning’ mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual. The term ‘nonprofit private agency or organization’ means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

“(4) The term ‘construction’ includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical, transportation, and recreation facilities); including architect’s fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

“(5) The term ‘cost of construction’ means the amount found by the Secretary to be necessary for the construction of a project.

“(6) The term ‘title’, when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

"(7) The term 'developmental disability' means a severe, chronic disability of a person which—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the person attains age twenty-two;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

"(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

"(8) The term 'independence' means the extent to which persons with developmental disabilities exert control and choice over their own lives.

"(9) The term 'productivity' means—

"(A) engagement in income-producing work by a person with developmental disabilities which is measured through improvements in income level, employment status, or job advancement, or

"(B) engagement by a person with developmental disabilities in work which contributes to a household or community.

"(10) The term 'integration' means—

"(A) the—

"(i) use by persons with developmental disabilities of the same community resources that are used by and available to other citizens, and

"(ii) participation by persons with developmental disabilities in the same community activities in which nonhandicapped citizens participate, together with regular contact with nonhandicapped citizens, and

"(B) the residence by persons with developmental disabilities in homes or in home-like settings which are in proximity to community resources, together with regular contact with nonhandicapped citizens in their communities.

"(11)(A) The term 'services for persons with developmental disabilities' means—

"(i) priority services; and

"(ii) any other specialized services or special adaptations of generic services for persons with developmental disabilities, including diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation and socialization, counseling of the person with such disability and the family of such person, protective and other social and sociolegal services, information and referral services, follow-along services, nonvocational social-developmental services, transportation services necessary to assure delivery of services to persons with developmental disabilities, and services to promote and coordinate activities to prevent developmental disabilities.

“(B) The term ‘service activities’ includes, with respect to a priority service or a service described in subparagraph (A)(ii)—

“(i) the provision of specialized services in the area which respond to unmet needs of persons with developmental disabilities;

“(ii) model service programs in the area;

“(iii) activities to increase the capacity of agencies to provide services in the area;

“(iv) the coordination of the provision of services in the area with the provision of other services;

“(v) outreach to individuals for the provision of services in the area;

“(vi) the training of personnel, including parents of persons with developmental disabilities, professionals, and volunteers, to provide services in the area; and

“(vii) similar activities designed to expand the use and availability of services in the area.

“(C) The term ‘priority services’ means alternative community living arrangement services, employment related activities, child development services, and case management services.

“(D) The term ‘alternative community living arrangement services’ means such services as will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements in the community, including in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, recreation and socialization services, and staff training, placement, and maintenance services.

“(E) The term ‘employment related activities’ means such services as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings, including such services as employment preparation and vocational training leading to supported employment, incentive programs for employers who hire persons with developmental disabilities, services to assist transition from special education to employment, and services to assist transition from sheltered work settings to supported employment settings or competitive employment.

“(F) The term ‘supported employment’ means paid employment which—

“(i) is for persons with developmental disabilities for whom competitive employment at or above the minimum wage is unlikely and who, because of their disabilities, need intensive ongoing support to perform in a work setting;

“(ii) is conducted in a variety of settings, particularly worksites in which persons without disabilities are employed; and

“(iii) is supported by any activity needed to sustain paid work by persons with disabilities, including supervision, training, and transportation.

“(G) The term ‘child development services’ means such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services, counseling and training of parents, early identification of developmental disabilities, and diagnosis and evaluation of such developmental disabilities.

“(H) The term ‘case management services’ means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, educational, and other services. Such term includes—

“(i) follow-along services which ensure, through a continuing relationship, lifelong if necessary, between an agency or provider and a person with a developmental disability and the person’s immediate relatives or guardians, that the changing needs of the person and the family are recognized and appropriately met; and

“(ii) coordination services which provide to persons with developmental disabilities support, access to (and coordination of) other services, information on programs and services, and monitoring of the persons’ progress.

“(12) The term ‘satellite center’ means a public or private nonprofit entity which—

“(A)(i) is affiliated with one or more university affiliated facilities;

“(ii) functions as a community or regional extension of such university affiliated facility or facilities in the delivery of services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available; and

“(iii) may engage in the activities described in subparagraph (A), (B), or (C) of paragraph (13); or

“(B) is affiliated with one or more university affiliated facilities and which provides for at least—

“(i) interdisciplinary training for personnel concerned with the provision of direct or indirect services to persons with developmental disabilities; and

“(ii) dissemination of findings relating to the provision of services to persons with developmental disabilities.

“(13) The term ‘university affiliated facility’ means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which provides for at least the following activities:

“(A) Interdisciplinary training for personnel concerned with developmental disabilities which is conducted at the facility and through outreach activities.

“(B) Demonstration of—

“(i) exemplary services relating to persons with developmental disabilities in settings which are integrated in the community; and

“(ii) technical assistance to generic and specialized agencies to provide services to increase the independence, productivity, and integration into the community of persons with developmental disabilities, such as the development and improvement of quality assurance mechanisms.

“(C)(i) Dissemination of findings relating to the provision of services under subparagraph (B) of this paragraph, and (ii) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research which would provide data and information that will assist in increasing the

independence, productivity, and integration into the community of persons with developmental disabilities.

“(14) The term ‘Secretary’ means the Secretary of Health and Human Services.

“(15) The term ‘State Planning Council’ means a State Planning Council established under section 124.

*Post*, p. 2675.

#### “FEDERAL SHARE

“SEC. 103. (a) The Federal share of all projects in a State supported by an allotment to the State under part B may not exceed 75 percent of the aggregate necessary costs of all such projects, as determined by the Secretary, except that in the case of projects located in urban or rural poverty areas, the Federal share of all such projects may not exceed 90 percent of the aggregate necessary costs of such projects, as determined by the Secretary.

Prohibition.  
42 USC 6002.  
*Post*, p. 2670.

“(b) The Federal share of any project to be provided through grants under part D may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined.

Prohibition.  
*Post*, p. 2681.

“(c) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

“(d) For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under part B or by a university affiliated facility or a satellite center, as the case may be, in the case of a project assisted under part D.

#### “RECORDS AND AUDIT

“SEC. 104. (a) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

42 USC 6003.

“(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this title that are pertinent to such assistance.

#### “RECOVERY

“SEC. 105. If any facility with respect to which funds have been paid under part B or D shall, at any time within twenty years after the completion of construction—

42 USC 6004.

“(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

“(2) cease to be a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by the Secretary, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities.

#### "STATE CONTROL OF OPERATIONS

42 USC 6005.

"SEC. 106. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this title.

#### "REPORTS

42 USC 6006.

"SEC. 107. (a) By January 1 of each year, the State Planning Council of each State shall prepare and transmit to the Secretary a report concerning activities carried out during the preceding fiscal year with funds paid to the State under part B for such fiscal year. Each such report shall be in a form prescribed by the Secretary by regulation and shall contain—

*Post*, p. 2670.

"(1) a description of such activities and the accomplishments resulting from such activities;

"(2) a comparison of such accomplishments with the goals, objectives, and proposed activities specified by the State in the State plan submitted under section 122 for such fiscal year; and

*Post*, p. 2670.

"(3) an accounting of the manner in which funds paid to a State under part B for a fiscal year were expended.

*Post*, p. 2679.

"(b) By January 1 of each year, each protection and advocacy system established in a State pursuant to part C shall prepare and transmit to the Secretary a report which describes the activities, accomplishments, and expenditures of the system during the preceding fiscal year.

"(c)(1) By April 1 of each year the Secretary shall prepare and transmit to the President, the Congress, and the National Council on the Handicapped a report which describes—

*Post*, pp. 2670, 2679, 2681, 2683.

"(A) the activities and accomplishments of programs supported under parts B, C, D, and E of this title; and

"(B) the progress made in States in improving the independence, productivity, and integration into the community of persons with developmental disabilities and any activities or services needed to improve such independence, productivity, and integration.

"(2) In preparing the report required by this subsection, the Secretary shall use and include information submitted to the Secre-



tary in the reports required under subsections (a) and (b) of this section.

**"RESPONSIBILITIES OF THE SECRETARY**

"SEC. 108. (a) The Secretary, not later than one hundred eighty days after the date of enactment of any Act amending the provisions of this title, shall promulgate such regulations as may be required for the implementation of such amendments.

Regulations.  
42 USC 6007.

"(b) Within ninety days after the date of enactment of the Developmental Disabilities Act of 1984, the Secretary of Health and Human Services and the Secretary of Education shall establish an interagency committee composed of representatives of the Administration for Developmental Disabilities of the Department of Health and Human Services, the Office of Special Education and Rehabilitative Services of the Department of Education, the Department of Labor, and such other Federal departments and agencies as the Secretary of Health and Human Services and the Secretary of Education consider appropriate. Such interagency committee shall meet regularly to coordinate and plan activities conducted by Federal departments and agencies for persons with developmental disabilities.

Interagency  
committee,  
establishment.

**"EMPLOYMENT OF HANDICAPPED INDIVIDUALS**

"SEC. 109. As a condition of providing assistance under this title, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

42 USC 6008.

29 USC 701 note.

**"RIGHTS OF THE DEVELOPMENTALLY DISABLED**

"SEC. 110. Congress makes the following findings respecting the rights of persons with developmental disabilities:

42 USC 6009.

"(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

"(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

"(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

"(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

"(B) does not meet the following minimum standards:

"(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

"(ii) Provision to such persons of appropriate and sufficient medical and dental services.

“(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

“(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

“(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

“(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

“(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

“(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

“(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

“(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.

The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.

“PART B—FEDERAL ASSISTANCE FOR PLANNING AND SERVICE ACTIVITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

“PURPOSE

“SEC. 121. The purpose of this part is to provide payments to States to plan for, and to conduct, activities which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

“STATE PLANS

“SEC. 122. (a) Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section.

Housing.

45 CFR 234, 248-250.

Housing.

42 USC 6021.

42 USC 6022.

"(b) In order to be approved by the Secretary under this section, a State plan for the provision of services for persons with developmental disabilities must meet the following requirements:

"(1)(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 124, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under this title, and for the identification of the personnel so assigned.

*Post, p. 2675.*

"(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise).

"(C) The plan must provide that each State agency designated under subparagraph (B) will keep such records and afford such access thereto as the Secretary or the State Planning Council finds necessary.

"(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

"(2) The plan must—

"(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

"(B) set forth the non-Federal share that will be required in carrying out each such objective and program;

"(C) describe (and provide for the review annually and revision of the description not less often than once every three years) (i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and (ii) how funds allotted to the State in accordance with section 125 will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities who are eligible for Federal assistance under such other State programs;

*Post, p. 2676.*

"(D) for each fiscal year, assess and describe the extent and scope of the priority services being or to be provided under the plan in the fiscal year; and

"(E) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

"(3) The plan must contain or be supported by assurances satisfactory to the Secretary that—

"(A) the funds paid to the State under section 125 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities through agencies in the various political subdivisions of the State;

"(B) part of such funds will be made available by the State to public or nonprofit private entities;

“(C) not more than 25 percent of such funds will be allocated to the agency or agencies designated under section 122(b)(1)(B) for the provision of services by such agency or agencies;

*Post*, p. 2676.

“(D) such funds paid to the State under section 125 will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds; and

“(E) there will be reasonable State financial participation in the cost of carrying out the State plan.

“(4)(A) The plan must provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four priority services.

“(B) The plan must provide for the development, not later than the second year in which funds are provided under the plan after the date of the enactment of the Developmental Disabilities Act of 1984, and the timely review and revision of, a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of services for persons with developmental disabilities as follows:

“(i)(I) Except as provided in subclause (II), the plan shall provide for the provision of at least one but not more than two priority services.

“(II) In fiscal year 1987, the plan may provide for the provision of three priority services.

*Post*, p. 2679.

“(ii) For any fiscal year after fiscal year 1986 for which the total appropriations under section 130 are at least \$50,250,000, the plan shall provide for the provision of employment related activities among the priority services to be provided under the plan.

“(iii) At the option of the State, the plan may provide for the provision of one or more additional services for persons with developmental disabilities from the services described in section 102(11)(A)(ii).

*Ante*, p. 2663.  
Regulations.

“(C) Notwithstanding the requirements of subparagraph (B), upon the application of a State, the Secretary, pursuant to regulations which the Secretary shall prescribe, may permit the portion of the funds which must otherwise be expended under the State plan for service activities in a limited number of services to be expended for service activities in additional services if the Secretary determines that the expenditures of the State on service activities in the initially specified services has reasonably met the need for those services in the State in comparison to the extent to which the need for such additional services has been met in such State. Such additional areas shall, to the maximum extent feasible, be areas within the priority services.

“(D) The plan must be developed after consideration of the data collected by the State education agency under section 618(b)(3) of the Education of the Handicapped Act.

20 USC 1418.  
Funds.

“(E)(i) The plan must provide that not less than 65 percent of the amount available to the State under section 125 will be expended for service activities in the priority services.

“(ii) The plan must provide that the remainder of the amount available to the State from allotments under section 125 (after making the expenditures required by clause (i) of this paragraph) shall be used for service activities for persons with developmental

disabilities, and the planning, coordination, and administration of, and the advocacy for, the provision of such services.

“(F) The plan must provide that special financial and technical assistance shall be given to agencies or entities providing services for persons with developmental disabilities who are residents of geographical areas designated as urban or rural poverty areas.

Rural areas.  
Urban areas.

“(5)(A)(i) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

“(ii) The plan must provide satisfactory assurances that buildings used in connection with the delivery of services assisted under the plan will meet standards adopted pursuant to the Act of August 12, 1968 (known as the Architectural Barriers Act of 1968).

42 USC 4152  
note.

“(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 123 (relating to habilitation plans).

Post, p. 2674.

“(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this part will be protected consistent with section 110 (relating to rights of the developmentally disabled).

Ante, p. 2669.  
Minorities.

“(D) The plan must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this title of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

“(E) The plan must provide assurances that the State will provide the State Planning Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State within 30 days after the completion of each such report or plan.

Report.

42 USC 1396a.

“(6)(A) The plan must provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

Volunteer  
services.  
42 USC 4951  
note.

“(B) The plan must provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions under the plan to provide alternative community living arrangement services, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

“(7) The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

“(c) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

“(d)(1) At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be

available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or \$50,000, whichever is less, shall be available for the total expenditures for such purpose by all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan. Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

"(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the previous fiscal year.

#### "HABILITATION PLANS

42 USC 6023.

"SEC. 123. (a) The Secretary shall require as a condition to a State's receiving an allotment under this part that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under this part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b), and (2) provides for an annual review, in accordance with subsection (c), of each such plan.

"(b) A habilitation plan for a person with developmental disabilities shall meet the following requirements:

"(1) The plan shall be in writing.

"(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (C) where appropriate, such person's parents or guardian or other representative.

"(3) The plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such goals should include the increase or support of independence, productivity, and integration into the community for the person. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

"(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the