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INTERESTED PARTY TESTIMONY
Sub. HB 144
December 4, 2017

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The abolishment of the Opportunities for Ohioans with Disabilities Commission, as currently drafted in Sub HB 144, conflicts with the mandates of CFR 361.13 and 361.16 regarding the administration of a state's vocational rehabilitation federal grant.

The elimination of the Commission without compliance with CFR 361.16 jeopardizes over \$400 million over the biennium in federal vocational rehabilitation funding.

§361.13 State agency for administration.

The CFR sets forth two types of **state agencies** that may be designated for the administration of vocational rehabilitation services:

- 1) An independent commission
- 2) A designated state unit (DSU)

In either arrangement, commission or state unit, the entity is "the sole State agency to administer the vocational rehabilitation services portion of the Unified or Combined State Plan" (CFR §361.13(a))

The Unified or Combined State Plan must provide that the designated State agency is one of the following types of agencies:

(i) A State agency that is **primarily concerned with vocational rehabilitation** or vocational and other rehabilitation of individuals with disabilities; or

(ii) A State agency **that includes a vocational rehabilitation unit** as provided in paragraph (b) of this section

Given that OOD's operating budget in totality is primarily funded to administer Vocational Rehabilitation Services, it is an agency "**primarily concerned with vocational rehabilitation**".

(ii) **The designated State unit**, in accordance with §361.29, jointly develops, agrees to, and reviews annually State goals and priorities and jointly submits to the Secretary annual reports of progress with the Council;

(iii) **The designated State unit** regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

(iv) **The designated State** (2) An assurance that—

(i) **The State has established a State Rehabilitation Council** (Council) that meets the requirements of §361.17;

(ii) **The designated State unit**, in accordance with §361.29, jointly develops, agrees to, and reviews annually State goals and priorities and jointly submits to the Secretary annual reports of progress with the Council;

(iii) **The designated State unit** regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

(iv) **The designated State unit** transmits to the Council—

(A) All plans, reports, and other information required under this part to be submitted to the Secretary;

(B) All policies and information on all practices and procedures of general applicability provided to or used by rehabilitation personnel providing vocational rehabilitation services under this part; and

(C) Copies of due process hearing decisions issued under this part and transmitted in a manner to ensure that the identity of the participants in the hearings is kept confidential; and

(v) The vocational rehabilitation services portion of the Unified or Combined State Plan, and any revision to the vocational rehabilitation services portion of the Unified or Combined State Plan, includes a summary of input provided by the Council, including recommendations from the annual report of the Council, the review and analysis of consumer satisfaction described in §361.17(h)(4), and other reports prepared by the Council, and the designated State unit's response to the input and recommendations, including its reasons for rejecting any input or recommendation of the Council.transmits to the Council—

(A) All plans, reports, and other information required under this part to be submitted to the Secretary;

(B) All policies and information on all practices and procedures of general applicability provided to or used by rehabilitation personnel providing vocational rehabilitation services under this part; and

(C) Copies of due process hearing decisions issued under this part and transmitted in a manner to ensure that the identity of the participants in the hearings is kept confidential; and

(v) The vocational rehabilitation services portion of the Unified or Combined State Plan, and any revision to the vocational rehabilitation services portion of the Unified or Combined State Plan, includes a summary of input provided by the Council, including recommendations from the annual report of the Council, the review and analysis of consumer satisfaction described in §361.17(h)(4), and other reports prepared by the Council, and the designated State unit's response to the input and recommendations, including its reasons for rejecting any input or recommendation of the Council.

Thank you for the opportunity to provide input on HB 144.

In addition OOD is not a unit of another state agency providing vocational rehabilitation services.

§361.16 Establishment of an independent commission or a State Rehabilitation Council.

CFR §361.16 directs states on whether the state shall establish an independent commission or a State Rehabilitation Council.

(a) *General requirement.* Except as provided in paragraph (b) of this section, the vocational rehabilitation services portion of the Unified or Combined State Plan must contain one of the following two assurances:

(1) An assurance that the designated State agency is an independent State commission that—

(i) Is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State and is primarily concerned with vocational rehabilitation or vocational and other rehabilitation services, in accordance with §361.13(a)(1)(i);

(ii) Is consumer-controlled by persons who—

(A) Are individuals with physical or mental impairments that substantially limit major life activities; and

(B) Represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

(iii) Includes family members, advocates, or other representatives of individuals with mental impairments; and

(iv) Conducts the functions identified in §361.17(h)(4).

Because OOD is an independent commission as defined at CFR §361.13(a)(1), it must meet the requirements of the above paragraph, NOT the following regulatory paragraph that defines when a "state rehabilitation council" should be established, which is to say, when the state VR program is administered by a State Designated Unit within another agency (e.g. If OOD was a unit of DoDD):

(2) An assurance that—

(i) **The State has established a State Rehabilitation Council (Council)** that meets the requirements of §361.17;

e-CFR data is current as of November 16, 2017

Title 34 → Subtitle B → Chapter III → Part 361 → Subpart B → §361.13

Title 34: Education

PART 361—STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

Subpart B—State Plan and Other Requirements for Vocational Rehabilitation Services

§361.13 State agency for administration.

(a) *Designation of State agency.* The vocational rehabilitation services portion of the Unified or Combined State Plan must designate a State agency as the sole State agency to administer the vocational rehabilitation services portion of the Unified or Combined State Plan, or to supervise its administration in a political subdivision of the State by a sole local agency, in accordance with the following requirements:

(1) *General.* Except as provided in paragraphs (a)(2) and (3) of this section, the vocational rehabilitation services portion of the Unified or Combined State Plan must provide that the designated State agency is one of the following types of agencies:

(i) A State agency that is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities; or

(ii) A State agency that includes a vocational rehabilitation unit as provided in paragraph (b) of this section.

(2) *American Samoa.* In the case of American Samoa, the vocational rehabilitation services portion of the Unified or Combined State Plan must designate the Governor.

(3) *Designated State agency for individuals who are blind.* If a State commission or other agency that provides assistance or services to individuals who are blind is authorized under State law to provide vocational rehabilitation services to individuals who are blind, and this commission or agency is primarily concerned with vocational rehabilitation or includes a vocational rehabilitation unit as provided in paragraph (b) of this section, the vocational rehabilitation services portion of the Unified or Combined State Plan may designate that agency as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind or to supervise its administration in a political subdivision of the State by a sole local agency.

(b) *Designation of State unit—(1) General.* If the designated State agency is not of the type specified in paragraph (a)(1)(i) of this section or if the designated State agency specified in paragraph (a)(3) of this section is not primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities, the vocational rehabilitation services portion of the Unified or Combined State Plan must assure that the agency (or each agency if two agencies are designated) includes a vocational rehabilitation bureau, division, or unit that—

(i) Is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities and is responsible for the administration of the State agency's vocational rehabilitation program under the vocational rehabilitation services portion of the Unified or Combined State Plan;

(ii) Has a full-time director who is responsible for the day-to-day operations of the vocational rehabilitation program;

(iii) Has a staff, at least 90 percent of whom are employed full time on the rehabilitation work of the organizational unit;

(iv) Is located at an organizational level and has an organizational status within the State agency comparable to that of other major organizational units of the agency; and

(v) Has the sole authority and responsibility described within the designated State agency in paragraph (a) of this section to expend funds made available under the Act in a manner that is consistent with the purpose of the Act.

(2) In the case of a State that has not designated a separate State agency for individuals who are blind, as provided for in paragraph (a)(3) of this section, the State may assign responsibility for the part of the vocational rehabilitation services portion of the Unified or Combined State Plan under which vocational rehabilitation services are provided to individuals who are blind to one organizational unit of the designated State agency and may assign responsibility for the rest of the plan to another

organizational unit of the designated State agency, with the provisions of paragraph (b)(1) of this section applying separately to each of these units.

(c) *Responsibility for administration*—(1) *Required activities*. At a minimum, the following activities are the responsibility of the designated State unit or the sole local agency under the supervision of the State unit:

(i) All decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of these services.

(ii) The determination to close the record of services of an individual who has achieved an employment outcome in accordance with §361.56.

(iii) Policy formulation and implementation.

(iv) The allocation and expenditure of vocational rehabilitation funds.

(v) Participation as a partner in the one-stop service delivery system established under title I of the Workforce Innovation and Opportunity Act, in accordance with 20 CFR part 678.

(2) *Non-delegable responsibility*. The responsibility for the functions described in paragraph (c)(1) of this section may not be delegated to any other agency or individual.

(Approved by the Office of Management and Budget under control number 1205-0522)

(Authority: Section 101(a)(2) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 721(a)(2))

Need assistance?

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of November 16, 2017

Title 34 → Subtitle B → Chapter III → Part 361 → Subpart B → §361.16

Title 34: Education

PART 361—STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

Subpart B—State Plan and Other Requirements for Vocational Rehabilitation Services

§361.16 Establishment of an independent commission or a State Rehabilitation Council.

(a) *General requirement.* Except as provided in paragraph (b) of this section, the vocational rehabilitation services portion of the Unified or Combined State Plan must contain one of the following two assurances:

(1) An assurance that the designated State agency is an independent State commission that—

(i) Is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State and is primarily concerned with vocational rehabilitation or vocational and other rehabilitation services, in accordance with §361.13(a)(1)(i);

(ii) Is consumer-controlled by persons who—

(A) Are individuals with physical or mental impairments that substantially limit major life activities; and

(B) Represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

(iii) Includes family members, advocates, or other representatives of individuals with mental impairments; and

(iv) Conducts the functions identified in §361.17(h)(4).

(2) An assurance that—

(i) The State has established a State Rehabilitation Council (Council) that meets the requirements of §361.17;

(ii) The designated State unit, in accordance with §361.29, jointly develops, agrees to, and reviews annually State goals and priorities and jointly submits to the Secretary annual reports of progress with the Council;

(iii) The designated State unit regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

(iv) The designated State unit transmits to the Council—

(A) All plans, reports, and other information required under this part to be submitted to the Secretary;

(B) All policies and information on all practices and procedures of general applicability provided to or used by rehabilitation personnel providing vocational rehabilitation services under this part; and

(C) Copies of due process hearing decisions issued under this part and transmitted in a manner to ensure that the identity of the participants in the hearings is kept confidential; and

(v) The vocational rehabilitation services portion of the Unified or Combined State Plan, and any revision to the vocational rehabilitation services portion of the Unified or Combined State Plan, includes a summary of input provided by the Council, including recommendations from the annual report of the Council, the review and analysis of consumer satisfaction described in §361.17(h)(4), and other reports prepared by the Council, and the designated State unit's response to the input and recommendations, including its reasons for rejecting any input or recommendation of the Council.

(b) *Exception for separate State agency for individuals who are blind.* In the case of a State that designates a separate State agency under §361.13(a)(3) to administer the part of the vocational rehabilitation services portion of the Unified or Combined State Plan under which vocational rehabilitation services are provided to individuals who are blind, the State must either establish a separate State Rehabilitation Council for each agency that does not meet the requirements in paragraph (a)

(1) of this section or establish one State Rehabilitation Council for both agencies if neither agency meets the requirements of paragraph (a)(1) of this section.

(Approved by the Office of Management and Budget under control number 1205-0522)

(Authority: Sections 101(a)(21) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 721(a)(21))

Need assistance?

Opportunities for Ohioans with Disabilities Agency

- Provided GRF funding is a 1.2% decrease for FY 2018 and remains flat in FY 2019
- 82% of funding is from federal sources
- Vocational Rehabilitation accounts for over half of expenditures

OVERVIEW

Agency Overview

The Opportunities for Ohioans with Disabilities Agency (OOD) was established in 1970 and is the agency in Ohio designated to provide vocational rehabilitation (VR) services under the federal Rehabilitation Act of 1973. OOD's mission is to provide individuals with disabilities opportunities to achieve quality employment, independence, and disability determination outcomes.

OOD's governing authority consists of seven members appointed by the Governor, which must include at least four members with disabilities, of whom two, but no more than three, have received VR services offered by a state VR agency or the Veterans' Administration, and three members from rehabilitation professions, one of whom must serve the blind. OOD's daily operations are the responsibility of an executive director appointed by the Governor. Including the Executive Director, OOD has about 1,100 full-time employees.

Appropriation Overview

The budget appropriates \$258.6 million in FY 2018, an 8.0% increase from FY 2017 actual expenditures, and \$262.2 million in FY 2019, a 1.4% increase from FY 2018.

Agency Appropriations by Fund Group, FY 2018-FY 2019 (Am. Sub. H.B. 49)					
Fund Group	FY 2017*	FY 2018	% change	FY 2019	% change
General Revenue	\$16,250,894	\$16,056,210	-1.2%	\$16,056,210	0.0%
Dedicated Purpose	\$14,215,791	\$17,430,559	22.6%	\$17,430,559	0.0%
Internal Service Activity	\$12,984,620	\$12,486,502	-3.8%	\$12,785,665	2.4%
Federal	\$196,009,706	\$212,632,914	8.5%	\$215,915,856	1.5%
TOTAL	\$239,461,010	\$258,606,185	8.0%	\$262,188,290	1.4%

*FY 2017 figures represent actual expenditures.

Opportunities for Ohioans with Disabilities Agency

FY 2018 - FY 2019 Final Appropriation Amounts

All Fund Groups

Line Item Detail by Agency

Appropriation FY 2017 to FY 2018 Appropriation FY 2018 to FY 2019
 FY 2016 FY 2017 FY 2018 FY 2019 % Change % Change

Version: As Enacted

Report For Main Operating Appropriations Bill

OOD Opportunities for Ohioans with Disabilities Agency

Line Item	Description	FY 2016	FY 2017	FY 2018	FY 2019	% Change	% Change
GRF 415402	Independent Living Council	\$ 321,052	\$ 252,000	\$ 252,000	\$ 252,000	0.00%	0.00%
GRF 415406	Assistive Technology	\$ 26,618	\$ 26,618	\$ 25,819	\$ 25,819	-3.00%	0.00%
GRF 415431	Brain Injury	\$ 126,567	\$ 126,567	\$ 126,567	\$ 126,567	0.00%	0.00%
GRF 415506	Services for Individuals with Disabilities	\$ 15,817,603	\$ 15,817,709	\$ 15,580,444	\$ 15,580,444	-1.50%	0.00%
GRF 415507	Lima Easter Seals	\$ 0	\$ 0	\$ 43,800	\$ 43,800	N/A	0.00%
GRF 415508	Services for the Deaf	\$ 31,902	\$ 28,000	\$ 27,580	\$ 27,580	-1.50%	0.00%
General Revenue Fund Total		\$ 16,323,742	\$ 16,250,894	\$ 16,056,210	\$ 16,056,210	-1.20%	0.00%

4670	Business Enterprise Operating Expenses	\$ 1,445,318	\$ 1,410,854	\$ 1,555,368	\$ 1,555,368	10.24%	0.00%
4680	Third Party Services Funding	\$ 8,464,669	\$ 9,706,666	\$ 12,300,000	\$ 12,300,000	26.72%	0.00%
4L10	Services for Rehabilitation	\$ 3,058,801	\$ 3,098,271	\$ 3,575,191	\$ 3,575,191	15.39%	0.00%
Dedicated Purpose Fund Group Total		\$ 12,968,788	\$ 14,215,791	\$ 17,430,559	\$ 17,430,559	22.61%	0.00%

4W50	Program Management	\$ 11,282,666	\$ 12,984,620	\$ 12,486,502	\$ 12,785,665	-3.84%	2.40%
Internal Service Activity Fund Group Total		\$ 11,282,666	\$ 12,984,620	\$ 12,486,502	\$ 12,785,665	-3.84%	2.40%

3170	Disability Determination	\$ 79,627,395	\$ 77,871,660	\$ 82,228,048	\$ 82,932,845	5.59%	0.86%
3790	Federal-Vocational Rehabilitation	\$ 101,573,707	\$ 105,633,372	\$ 115,837,977	\$ 117,416,322	9.66%	1.36%
3GH0	Personal Care Assistance	\$ 2,800,083	\$ 2,688,295	\$ 3,139,040	\$ 3,139,040	16.77%	0.00%
3GH0	Community Centers for the Deaf	\$ 721,209	\$ 882,170	\$ 1,022,000	\$ 1,022,000	15.85%	0.00%
3GH0	Independent Living	\$ 662,325	\$ 591,983	\$ 627,128	\$ 627,128	5.94%	0.00%
3L10	Social Security Special Program Assistance	\$ 6,434,649	\$ 6,032,245	\$ 7,000,000	\$ 8,000,000	16.04%	14.29%
3L40	Federal-Supported Employment	\$ 877,611	\$ 732,016	\$ 1,000,000	\$ 1,000,000	36.61%	0.00%
3L40	Vocational Rehabilitation Programs	\$ 1,536,259	\$ 1,577,964	\$ 1,778,721	\$ 1,778,721	12.72%	0.00%
Federal Fund Group Total		\$ 194,233,238	\$ 198,009,706	\$ 212,632,914	\$ 215,915,856	8.48%	1.54%

Opportunities for Ohioans with Disabilities Agency Total		\$ 234,808,434	\$ 239,461,010	\$ 258,606,185	\$ 262,188,280	8.00%	1.39%
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Prepared by the Legislative Service Commission