

what changes are needed, if any, and to publish the changes to the State Plan for public comment. States will then submit a modification to the Department based on any updated information, including any new comments received and a summary of those comments. This slightly abbreviated process allows States to comply with the legislative requirements, but reduces the burden of the requirement.

What Are the Requirements for Modifying the State Plan? (§ 641.345)

Section 641.345 discusses when modifications to the State Plan are required. In general, modifications are required when there is a major change affecting the underlying basis for the State Plan. This section mirrors the WIA regulations at 20 CFR 662.230.

How Should Public Comments Be Solicited and Collected? (§ 641.350)

Because State procedures vary, the Department recommends that Governors use established methods for soliciting and collecting public comments. In general, however, soliciting and collecting public comments should ensure that the title V planning process is coordinated with other related State planning processes, such as the WIA 5-year plan and the title III OAA plan. The process should be open and inclusive in order to provide a meaningful opportunity for the public to review the proposed plan and offer comments.

Who May Comment on the State Plan? (§ 641.355)

This section clarifies that any individual or organization may comment on the State Plan, which is consistent with section 503(a)(2) of the OAA.

How Does the State Plan Relate to the Equitable Distribution (ED) Report? (§ 641.360)

The equitable distribution report is a report that shows where positions are located throughout a State on a grantee-by-grantee basis and is required by section 508 of the OAA. State agencies are responsible for preparing it at the beginning of each fiscal year. SCSEP grantees use the equitable distribution report to improve on the distribution of SCSEP positions within the State.

The information contained in the ED report is used in preparing the State Plan; however, the State Plan requires additional information, such as plans for facilitating the coordination of activities of grantees in the State under WIA, and consultation with individuals and organizations in the State. The State Plan is submitted annually. The

Department intends for these documents to work together to ensure that services are fairly distributed in the State.

How Must the Equitable Distribution Provisions Be Reconciled With the Provision That Disruptions to Current Participants Should Be Avoided? (§ 641.365)

The Department recognizes the difficulty of balancing these provisions in the daily operation of SCSEP projects. Section 508 of the OAA requires the State agency for each State receiving funds to prepare and submit a report to the Department each year on how the State is allocating its SCSEP funds in an equitable manner taking the priorities established in the State Plan into consideration. Section 503(a)(6) of the OAA provides that when developing the State Plan, disruptions to current participants must be avoided to the greatest extent possible. The Department proposes, in § 641.325(h) to require Governors to include a description of the steps that are being taken to comply with section 503(a)(6) on avoiding disruptions in the State Plan. When there is new census data indicating that there has been a shift in the location of the eligible population or when there is over-enrollment for any other reason, the Department recommends a gradual shift that encourages current participants in subsidized community service positions to move into unsubsidized jobs to make positions available for eligible individuals in areas where there has been an increase in the eligible population. The Department encourages interested organizations and individuals to use the State Plan review and comment process to make recommendations for how their State can achieve an equitable distribution of SCSEP positions while avoiding disruptions to current participants. The Department does not define disruptions to mean that participants are entitled to permanently remain in their current subsidized community service employment positions. As discussed in §§ 641.570 and 641.575, grantees may, under certain circumstances, place time limits on an SCSEP community service assignment, thus permitting positions to be transferred over time.

Subpart D—Grant Application, Eligibility, and Award Requirements

This subpart covers the grant application, eligibility, and award requirements for all SCSEP grants under section 506 of the OAA. The procedures in this subpart support increased emphasis on the grantees' accountability for results in order to achieve enhanced

program performance. Relevant sections describe organizations eligible to apply for SCSEP grants, application requirements, eligibility criteria, responsibility reviews, and how the Department will select grantees. The OAA contains a new requirement that the Department arrange for competition should grantees fail to meet performance measures, which are discussed in Subpart G. The OAA also reinforces the responsibility tests that were established in the former regulations. Should a grantee fail one or more of these tests, the Department is required to compete the funds of such grantee. This subpart provides procedures that the Department will use when awarding SCSEP funds under competitive and noncompetitive conditions.

What Entities Are Eligible To Apply to the Department for Funds To Administer SCSEP Community Service Projects? (§ 641.400)

The OAA, at section 502(b)(1), authorizes the Secretary to enter into agreements with State and national public and private nonprofit agencies and organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations.

This proposed rule clarifies the Department's policy on how these entities may apply for SCSEP funds. The proposed rule clarifies the list of eligible entities that may apply for SCSEP funds to preserve the balance of funds established in section 506 of the OAA, as well as the definitions of "national grants" and "State" in section 506(g)(5) and 506(g)(6). Entities that are eligible to apply for national grants are: nonprofit organizations, Federal public agencies, and tribal organizations. These entities must be capable of administering a multi-State grant. States, agencies of a State, political subdivisions of a State, and combinations of political subdivisions of a State are not eligible to apply for national grant funds. The Department has defined "public agencies" as Federal agencies in order to maintain the statutory distinction between national grants and grants to States and to give effect to the use of the separate terms "national public and private nonprofit agencies and organizations" and "agencies of a State government or a political subdivision of a State * * * or a combination of such political subdivisions" in section 502(b)(1) of the OAA. The definition of national grantee is expanded in § 641.140 to mean an organization that