

elected official(s) and to the private industry council.

**§ 628.426 Disapproval or revocation of the plan.**

(a) If the Governor disapproves the SDA job training plan or plan modification for any reason, the Governor shall notify the PIC and chief elected official(s) for the SDA in writing as provided in section 105(b)(2) of the Act.

(b) If the Governor disapproves the SDA job training plan or plan modification, the Governor shall provide the PIC and the chief elected official(s) for the SDA 30 days to correct the deficiencies and resubmit the plan or plan modification. Within 15 days after the plan or plan modification is resubmitted, the Governor shall make a final decision and shall notify the PIC and the appropriate chief elected official(s) of the SDA in writing of the final disapproval or approval.

(c) *Governor mediation.* If the PIC and the appropriate chief elected official(s) of an SDA are unable to reach an agreement under the provisions of section 103 (b)(1) or (d) of the Act, any such party may request the Governor to mediate.

(d) *Failure to reach agreement.* If the PIC and the chief elected official(s) fail to reach the required agreements in section 103 (b)(1) or (d) of the Act, funds may not be made available to an SDA under section 104 of the Act and the Governor shall merge the affected area into one or more other existing service delivery areas (section 105(c)(1)).

(e) *Appeals.* (1) In accordance with section 105(b)(2) of the Act, any final disapproval by the Governor of the SDA job training plan or modification may be appealed by the PIC and chief elected official(s) of the SDA to the Secretary.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt by the PIC and chief elected official(s) of the final disapproval of the SDA job training plan or modification from the Governor.

(3) The Secretary shall accept an appeal under paragraph (e)(1) of this section and shall determine only whether the disapproval is clearly erroneous under section 105(b)(1) of the Act. The Secretary may consider any comments

submitted by the Governor. In accordance with section 105(b)(2) of the Act, the Secretary shall make a final decision within 45 days after the appeal is received by the Secretary.

(4) The Secretary shall notify the Governor and the appellant in writing of the Secretary's decision.

(f) *Appeals of plan revocations.* Pursuant to section 164(b)(1) of the Act, a notice of intent to revoke approval of all or part of a plan may be appealed to the Secretary. Such appeals shall be treated as a disapproval under paragraphs (c) and (e) of this section, except that the revocation shall not become effective until the later of:

(1) The time for appeal under paragraph (e) of this section has expired; or

(2) The date on which the Secretary issues a decision affirming the revocation.

(g) In the event that a plan is disapproved and the Governor's decision is upheld upon appeal, the Governor shall merge the affected area into other designated SDA's willing to accept it or include it in another SDA within the State.

**§ 628.430 State SDA Submission.**

(a) Pursuant to section 105(d) of the Act, when the SDA is the State, the Governor shall submit to the Secretary, not less than 60 days before the beginning of the first of the two program years covered by the job training plan and in accordance with instructions issued by the Secretary, an SDA job training plan covering two program years. When the SDA is the State, modifications to the plan shall be submitted to the Secretary for approval.

(b) When a State submits an SDA job training plan or plan modification pursuant to paragraph (a) of this section, the Secretary shall review the plan or plan modification for overall compliance with the provisions of the Act. The State's plan shall be considered approved unless, within 45 days of receipt of the submission described in paragraph (a) of this section, the Secretary notifies the Governor in writing of inconsistencies between the submission and requirements of specific provisions of the Act. If the plan or plan modification is disapproved, the Governor may appeal the decision by requesting a

hearing before an administrative law judge pursuant to subpart H of part 627 of this chapter.

**Subpart E—Program Design Requirements for Programs Under Title II of the Job Training Partnership Act**

**§ 628.500 Scope and purpose.**

This subpart contains the regulations pertaining to the program design requirements common to all programs conducted under titles I (i.e., sections 121 and 123) and II of the Act. Regulations specifically pertaining to the Adult Program can be found in subpart F of this part. Regulations pertaining to the Summer Youth Employment and Training Program can be found in subpart G of this part. Regulations pertaining to the Youth Training Program can be found in subpart H of this part.

**§ 628.505 Eligibility.**

(a) *Eligibility criteria.* (1) Individuals who apply to participate in a program under title II shall be evaluated for eligibility based on age and economic disadvantage. Specific eligibility criteria for programs under title II, parts A, B, and C are described in this part.

(2) Individuals served under title II shall be residents of the SDA, as determined by local government policy, except for the limited exceptions described in the job training plan, including joint programs operated by SDA's (section 141(e)).

(b) *Eligibility documentation.* (1) In order to promote the uniform and standard application of eligibility criteria for participation in the JTPA program, the Department has issued an Eligibility Documentation TAG that provides guidance on acceptable documentation.

(2) *SDA utilization of eligibility guidance.* When it is determined that the SDA or service provider has followed the guidance contained in the Eligibility Documentation TAG, the Grant Officer will not disallow questioned costs related to the required documentation concerning an individual's eligibility.

**§ 628.510 Intake, referrals and targeting.**

(a) *Collection of personal data.* In addition to determining an applicant's eligibility, the intake process shall include a preliminary review of information relating to whether an applicant is included in one or more of the categories listed in section 203(b) of the Act.

(b) *Information on services.* Upon application, an eligible individual shall be provided information by the SDA or its service providers on the full array of services available through the SDA and its service providers, including information for women about the opportunities for nontraditional training and employment.

(c) *Assessment during intake.* Some limited assessment activities may be conducted during the intake process in order to determine an eligible applicant's suitability for title II program services. This assessment should be a method, in difficult cases, to finalize determinations for enrollment. The amount of assessment provided during intake is not restricted, however, assessment during intake shall be charged in accordance with § 627.440(d)(3).

(d) *Referral of eligible applicants.* During the intake process, determinations may be made prior to enrollment to refer an eligible applicant to another human service, training or education program deemed more suitable for the individual, including the Job Corps program. In these cases, information on the full array of services available in the SDA may be provided in written form with recommendations and written referrals to other appropriate programs. Copies of or notations of referrals will be maintained as documentation and may be recorded in an incomplete ISS. Further tracking or follow-up of referrals out of title II is not required.

(e) *Referrals from service providers to service delivery areas for additional assessment.* (1) Each service provider shall ensure that an eligible applicant who cannot be served by its particular program shall be referred to the SDA for assessment, as necessary, and suitable referral to other appropriate programs. Each service provider shall also ensure