

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, DC 20202

POLICY DIRECTIVE
RSA-PD-01-03
DATE: January 17, 2001

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)
STATE REHABILITATION COUNCILS
CLIENT ASSISTANCE PROGRAMS
REGIONAL REHABILITATION CONTINUING EDUCATION PROGRAMS
AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES
PROJECTS
RSA SENIOR MANAGEMENT TEAM

SUBJECT: Implementation of Informed Choice

BACKGROUND: The Rehabilitation Act of 1973, as amended (the Act), makes it clear in its policy statement that all programs, projects and activities funded under the Act must be "carried out in a manner consistent with the principles of respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities" (section 2(c)(1) of the Act). The Rehabilitation Act Amendments of 1992 introduced the principle of "informed choice" into the statute and provided individuals with disabilities expanded opportunities for increased involvement in the direction of their vocational rehabilitation (VR) programming. The Rehabilitation Act Amendments of 1998 (the 1998 Amendments) strengthened the previous requirements related to informed choice and introduced additional requirements that expanded opportunities for increased participation of individuals with disabilities in developing and implementing their VR programs.

This policy is reinforced in section 100(a)(3)(C) of the Act which states that the State VR program must be carried out in a manner consistent with the following principle: "Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners in the vocational rehabilitation process, making meaningful and informed choices-- (i) during assessments for determining eligibility and vocational rehabilitation needs; and (ii) in the selection of employment outcomes for individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services."

The purpose of this Policy Directive (PD) is to describe how the VR program can work with applicants and eligible individuals to ensure their full participation, based on informed choice, throughout the rehabilitation process. Since the implementation of informed choice makes demands on both the individual and the VR program, this PD also discusses the roles

of the individual, the VR counselor, and the State VR agency in carrying out their responsibilities.

Legal Requirements Related to Informed Choice

The 1998 Amendments consolidated all of the essential statutory requirements related to informed choice in a new stand-alone section – section 102(d). This section of the Act requires each VR agency to develop and implement written policies and procedures that enable each applicant or eligible individual to exercise informed choice throughout the entire rehabilitation process. These policies and procedures must be developed in consultation with the State Rehabilitation Council, if the agency has a Council, and must require the State VR agency to:

- inform each applicant and individual eligible for VR services, through appropriate modes of communication, about the opportunities to exercise informed choice throughout the VR process, including the availability of support services for individuals who require assistance in exercising informed choice;
- assist applicants and eligible individuals in exercising informed choice in making decisions related to the provision of assessment services;
- provide or assist eligible individuals in acquiring information that enables them to exercise informed choice in the development of their individualized plans for employment (IPE) with respect to the selection of the employment outcome, VR services and service providers, the employment setting and the settings in which the services will be provided, and methods for procuring services;
- develop and implement flexible procurement policies and methods that facilitate the provision of services and afford eligible individuals meaningful choices among procurement methods; and
- ensure that the availability and scope of informed choice is consistent with the obligations of the VR agency.

The Act requires the State VR agency to ensure that applicants and eligible individuals, or their representatives, are provided information and support services to assist them in exercising informed choice throughout the VR process (section 101(a)(19) of the Act). Section 103(a)(2) of the Act states that counseling and guidance services include information and support services to assist an individual in exercising informed choice, reinforcing the facilitative and supportive role of the VR counselor in assisting individuals with disabilities to exercise informed choice.

The implementing regulations at 34 CFR 361.52(c) specify the minimum information about services and service providers that must be provided by

the State VR agency to applicants and eligible individuals during the process of developing the IPE. The information must include: the cost, accessibility, and duration of services; the types of services; the degree to which service settings are integrated; the qualifications of service providers; and, to the extent available, information about consumer satisfaction with those services. The regulations also suggest various methods and sources for acquiring information about services and providers.

The opportunity for the individual to exercise informed choice requires special emphasis during the development of the IPE. Section 102(b)(1)(A) of the Act provides the individual with a choice of options for developing the IPE. These include: (1) the individual developing all or part of the IPE; or (2) the individual using technical assistance in developing all or part of the IPE, including the assistance of the VR counselor employed by the State VR agency. Section 102(b)(2)(B) of the Act requires that the IPE “be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, VR services, service providers, and methods for procuring services, consistent with subsection (d).”

The 1998 amendments link the individual's employment outcome with the informed choice of the individual. Section 102(b)(3)(A) of the Act specifies the description of the individual's chosen employment outcome as a “mandatory component” of the IPE and stipulates that the employment outcome must be chosen by the individual and must be consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. The respective responsibilities of the individual and the State VR agency in working toward the achievement of the employment outcome must be described in the IPE (Section 102(b)(3)(E)(i) and (ii) of the Act).

The link between the employment outcome and informed choice is further reinforced by the description of VR services in section 103(a) of the Act as “any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.” This is a change from the previous description of VR services as “any goods or services necessary to render an individual with a disability employable.” These changes make it clear that the cost, duration, or extent of vocational rehabilitation services that an eligible individual may need to achieve a particular employment goal should not be considered in identifying the goal. Instead, the employment outcome must be based only on what is

consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

Implementation of Informed Choice

Informed choice is a decision-making process that occurs throughout the individual's experience in the VR program. Implementation of informed choice should ensure that the individual, or if appropriate, the individual, through his or her representative:

- makes decisions related to the assessment process and to selection of the employment outcome and the settings in which employment occurs, vocational rehabilitation services, service providers, the settings for service provision, and the methods for procuring services;
- has a range of options from which to make these decisions or, to the extent possible, the opportunity to create new options that will meet the individual's specific rehabilitation needs;
- has access to sufficient information about the consequences of various options;
- has skills for evaluating the information and for making decisions, or, to the extent possible, the opportunity to develop such skills or support and assistance in carrying out these functions;
- makes decisions in ways that reflect the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests; and
- takes personal responsibility, to the extent possible, for implementing the chosen options.

While the Act emphasizes the importance of the individual's ability to exercise informed choice throughout the VR process, section 102(d)(5) of the Act requires the State VR agencies to ensure that the availability and scope of informed choice is consistent with the VR agencies' responsibilities for the administration of the VR program. Parameters that affect the exercise of informed choice are imposed by: statutory and regulatory requirements, including sections 101(a)(6)(C) (accessible facilities), 101(a)(8)(A) (comparable services and benefits) and 101(a)(9)(B) (provision of services) of the Act, 34 CFR 361.50 (written policies regarding provision of services) and 361.54 (participation in the cost of services) of the implementing regulations, and 34 CFR 80.36(a) (procurement) of the Education Department General Administrative Regulations; Federal and State VR agency policies; and factors specific to each individual.

Roles and Responsibilities

Effective implementation of informed choice depends on efforts of the individual and, as appropriate, people important in the individual's life, working jointly with the VR counselor. The efforts of all of these individuals should be supported by the policies, procedures, and practices of the State VR agency.

The Applicant and/or Eligible Individual: The Conference Report for HR 1385, Workforce Investment Act of 1998, refers to the "need to provide greater choice and

involvement of vocational rehabilitation clients in developing their service plans.” (House Report 105-659, p. 355). To accomplish this, the individual must make decisions about the options for developing the IPE, the extent of technical assistance needed for exercising the various options, and the extent to which family members and others are to be involved in the IPE planning process.

Exercising informed choice and taking more responsibility in the VR process makes demands on individuals with disabilities, and may also make demands on other people in their lives. To be fully engaged in the VR process, including development of the IPE, the individual must gather and use information to the extent possible, participate in planning and problem solving, make and implement decisions, and seek or identify needed resources. The individual engages in these activities to make decisions about the selection of the employment outcome, VR services, service providers, service and employment settings, and methods for procuring services. Once the IPE has been signed both by the individual and the VR counselor employed by the State VR agency, the individual assumes the responsibilities identified in the IPE for implementing the decisions and achieving the employment outcome.

The VR Counselor: The Conference Report for HR 1385, Workforce Investment Act of 1998, established the expectations that changes in the informed choice and IPE provisions will "fundamentally change the role of the client-counselor relationship, and that in many cases counselors will serve more as facilitators of plan development." (House Report 105-659, p. 355). The VR counselor facilitates the process with knowledge of rehabilitation and the VR process, an understanding of informed choice, information regarding rehabilitation resources and current labor market trends, and the experience of assisting other individuals through the VR process.

It is generally the responsibility of the VR counselor to inform the individual about available options for developing the IPE and for exercising informed choice and to assure that the individual understands the options. The counselor assists the individual during the assessment process to discover the individual’s strengths, abilities, capabilities, and interests. If appropriate, the counselor encourages the participation of family members and others in the VR process.

The counselor also assists the individual in exercising informed choice, informs the individual of services that support the individual in exercising informed choice, and helps the individual link with any necessary support services. The counselor facilitates the development of the individual's ability to gather information and supports the individual in making decisions to the best of the individual’s ability.

The counselor works with the individual to build relationships and to align resources that will enable the individual to exercise informed choice and to work toward the employment outcome.

The State VR Agency: The role of the State VR agency is to administer the VR program in a manner that supports the joint efforts of the individual and the VR counselor. Agencies can provide such support by implementing policies and procedures that provide the maximum opportunity for individuals to exercise informed choice, for the VR counselor to support individuals in that effort, and for the development of employment and service options that meet a wide range of individual needs. Commitment to informed choice by the leadership of the agency is critical to these efforts.

State VR agencies are responsible for facilitating the development of information resources, tools, and support services needed by individuals and counselors to fully implement informed choice. Agencies need to provide the information in accessible formats or modes of communication that individuals can understand. The VR agency also has a responsibility to develop or make available a variety of resources to assist individuals in planning, problem solving, and building decision-making skills.

Working with State procurement staff and other relevant agencies, the VR agency should seek maximum flexibility in procurement procedures for both the VR program and its participants. The VR agency should assure that its policies and procedures support an individual's ability to exercise informed choice so that the agency's policies and procedures do not result in the pre-selection of employment outcomes, services, and service providers for VR participants.

Beyond fulfilling program requirements, the State VR agency can use its resources and influence to promote and improve the implementation of informed choice. The capacity for resource development can be used to increase the employment and training options that are available for participants and to support the development of service providers willing to negotiate with VR participants about individualized services. Providing training about implementation of informed choice to VR counselors and other service providers who interact with participants helps to assure consistent practices and to disseminate information about innovations. The agency can foster the development of creative approaches for implementing informed choice by identifying, supporting, and replicating promising practices.

POLICY

STATEMENT:

The State VR program must provide applicants and individuals eligible for VR services with opportunities to exercise informed choice throughout the VR process, including making decisions about the employment goal, VR services, service providers, settings for employment and service provision, and methods for procuring services. To enable an individual to make such decisions, the State VR agency must provide information, support and assistance needed by the individual. The VR agency has the responsibility to implement policies, procedures, and practices, and to develop resources that enable applicants and individuals eligible for VR services to exercise informed choice throughout the entire VR process; these policies, procedures, and practices must be consistent with Federal statutory and regulatory requirements.

CITATIONS:

Sections 2(c)(1), 100(a)(3)(C); 101(a)(6)(C), (8)(A), (9)(B), and (19); 102(b)(1)(A), (2)(B) and (C), (3)(A) and (3)(E)(i) and (ii); 102(d); and 103(a) and (a)(2) of the Rehabilitation Act of 1973, as amended.

EFFECTIVE

DATE:

Upon issuance.

EXPIRATION

DATE:

None

INQUIRIES:

Regional Commissioners

Fredric K. Schroeder
Commissioner

CC: CSAVR
NAPAS
CANAR
NCIL
RSA Regional Offices
(Regions II, IV, V, VIII, and X)