

Policy Update

Spring 1993

1992 Rehabilitation Act Amendments

New Requirements for Transition

The Rehabilitation Act Amendments of 1992 (PL. 102-569) were signed into law by President George Bush on October 29, 1992. This followed two years of debate that centered on expanding earlier provisions of the Act to promote full inclusion and integration, employment, independent living, and economic and social self-sufficiency for people with disabilities. The Secretary of Education is currently soliciting comments on specific portions of the amendments and drafting the regulations that guide the practical application of the law. Because the regulations are not yet written, the following discussion is based on the language of the law itself.

• Purpose and Philosophy

One of the most important aspects of the new amendments is their basic statement of philosophy. Congress has, for the first time, added statements to Titles I and VII that express the underlying values of the amendments, and specify a purpose to their implementation. Implicit in the language are values such as self determination and inclusion. For example, the findings portion of Title I states:

Congress finds that—

- (1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;*
- (2) individuals with disabilities constitute one of the most disadvantaged groups in society;...*
- (4) increased employment of individuals with disabilities can be achieved through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations; (and)*

(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to —

- (A) make informed choices and decisions; and*
- (B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.*

Statements such as these should serve to provide vocational rehabilitation (VR) counselors and others involved in transition services with a common philosophy and purpose as they engage in the transition process.

• Planning and Providing Transition Services

The Rehabilitation Act Amendments of 1992 affect the provision of transition services in several ways. First, the amendments adopt the definition of transition services contained within the Individuals with Disabilities Education Act (IDEA - P.L. 101-476):

The term "transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to postsecondary activities including post-secondary education, vocational training, integrated employment (including supported

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employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

Second, the new amendments strengthen the language regarding interagency collaboration; agreements are required in order to:

- (A) facilitate the development and accomplishment of
 - (i) long-term rehabilitation goals;
 - (ii) intermediate rehabilitation objectives; and
 - (Hi) goals and objectives related to enabling a student to live independently before the student leaves a school setting, ... and,
- (B) facilitate the transition from the provision of a free appropriate public education ... to the provision of vocational rehabilitation services... including the specification of plans for coordination with educational agencies in the provision of transition services ... consistent with the individualized written rehabilitation program of the individual.

Vocational rehabilitation counselors are encouraged, through these statements, to become involved while students are still in school. This will help to ensure that youth with disabilities transition with no gap in services.

Finally, vocational rehabilitation counselors and special education professionals are provided another opportunity to collaborate by increased requirements of the state plans. State plans, policies, and procedures must now provide methods for identifying and serving youth with disabilities, and evaluating and following up services. This requirement provides a unique opportunity to collaborate in the formulation of the state plan language concerning the nature of state-level plans, policies, and methods to assist youth in the transition from school to work and related activities.

• Eligibility Determination Redefined

Changes in the criteria for eligibility are perhaps the most important changes in the amendments, as they should make it easier for youth with disabilities to receive VR services. Eligible individuals are now defined by the amendments as

an individual who—

- (i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment, and
- (ii) can benefit in terms of an employment outcome from VR services.

Someone who has been judged eligible for either Social Security Disability Insurance or Supplemental Security Income will be presumed to have a physical or mental impairment under the first part of the definition. They will, however, need to meet the second criterion in order to receive VR services.

The term *employment outcome* in section (ii) replaces the term *employability* and will allow more flexibility in developing employment objectives for individuals with disabilities. It is defined by the amendments as:

entering or retaining full-time, or, if appropriate, part-time, competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine.

In addition, the individual must *require* "vocational rehabilitation services to prepare for, enter into, engage in, or retain gainful employment"

Taken together, these criteria demonstrate the intent of Congress to streamline the process of determining eligibility of applicants. Although applicants must be able to benefit in terms of an employment outcome, the definition of employment outcome has been broadened to include a variety of types of employment

Streamlining of the eligibility process is also found in the new assessment recommendations of the amendments. Assessment information from other sources, including public schools, individuals with disabilities and their families, is to be used in conducting the eligibility determination. If these data are not enough to plan a program of services or to determine the severity of an individual's disability, additional information can be collected.

The use of assessment information from outside sources should accelerate the eligibility decision. Regardless of the assessment source, eligibility decisions must now be made within 60 days of application, unless there are "exceptional and unforeseen circumstances beyond the control of the agency, ... and the individual agrees that an extension of time is warranted." An extended evaluation may also be used to determine if an individual with a severe disability can benefit from VR services. In either case, an extended evaluation can extend beyond the 60 day time frame, but must be completed within 18 months, and must be assessed for progress every 90 days.

Some states have found it impossible to assure that services can be provided to all eligible individuals who apply. In these states, an "order of selection" sets a priority on serving those with the most severe disabilities first

- **Individualized Written Rehabilitation Program (IWRP)**

The amendments require the inclusion of more information on the IWRP that is written for each consumer of rehabilitation services. The IWRP must be designed to achieve the employment objective of the individual, consistent with his or her unique strengths, priorities, abilities, and capabilities. It is now required to contain a statement of long-term goals and objectives which shall, to the maximum extent appropriate, include placement in integrated settings. Specific services to be provided must be identified in the IWRP, as well as an evaluation procedure, the terms and conditions under which goods and services are provided, the entity or entities that will provide services, and the process used to provide or procure such services. It must also include:

a statement by the individual in the words of the individual (or, if appropriate, in the words of a parent, a family member, a guardian, an advocate, or an authorized representative of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services and methods used to provide or procure such services.

Finally, a copy of the IWRP and any amendments to the plan must be furnished to the individual with a disability or an "authorized representative of the individual."

- **Coordination with Other Agencies Required**

The strengthened language in the amendments concerning interagency agreements allows for establishing interagency working groups and/or entering into formal interagency cooperative agreements that address policy, resources, and "all additional components necessary to ensure meaningful cooperation and coordination." Vocational rehabilitation agencies are required to arrange for cooperation with the Social Security Administration and other state and federal agencies that provide services to individuals eligible for services under IDEA, the Carl Perkins Act, and the Wagner-O'Day Act.

- **State Rehabilitation Advisory Council**

The governor of each state is required to establish an advisory council by October 1993. Individuals with disabilities who are not employed by the state agency are to make up the majority of council membership. Representatives of Independent Living Councils, parent training and information centers, client assistance programs, community rehabilitation programs, business and labor, and disability advocacy groups are to be included on the Council as well.

Councils will play an important role in ensuring that state agencies have consumer input. Public meetings will be held at least four times a year, and the Council will prepare annual reports which must be made available to the public.

Advisory councils provide an opportunity for people with disabilities, their families, and other advocates to become more involved in their state's vocational rehabilitation program. For more information regarding how states will meet this requirement, contact state agency directors.

- **Other Relevant Changes**

The amendments clarify and expand the scope of rehabilitation services available to consumers. First, Congress replaced the term *rehabilitation engineering* with *rehabilitation technology*. The term is defined as "rehabilitation engineering, assistive technology devices, and assistive technology services."

State plans must now describe how a "broad range of rehabilitation technology" will be provided at each stage of the rehabilitation process, and how these services will be made available on a statewide basis. States must also indicate what training will be provided to counselors, Client Assistance Program (CAP) staff, and other service personnel regarding rehabilitation technology. These new requirements should help consumers get the technology assistance they need during the rehabilitation process and beyond.

Changes were also made in the supported employment provisions of the Act to help ensure that individuals who are more severely disabled are provided these services. The targeted group is now specifically those individuals with the *most severe* disabilities, and they are to be provided with "intensive services." The intensity of services, while yet to be defined by regulation, is *not* to be defined by specific numerical requirements or other "arbitrary limits," according to the Senate Report.

The issue of extended services is still an important one, but the new amendments are somewhat less strict. They allow for identifying the "natural supports" (such as coworkers) who may provide support on the job site, and provide for the provision of time-limited services when there is a "reasonable expectation" that extended services will become available.

The amendments also authorize the provision of personal assistance services *while individuals are receiving rehabilitation services*. Personal assistance services are defined as:

a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

Personal assistance services must be job-related, but they do not have to be provided at the job site. This will allow more responsiveness in providing transition services, but if such services are to be provided by VR, they must be included in the IWRP.

- **Conclusion**

The new amendments to the Rehabilitation Act should result in a more responsive service delivery system for people with disabilities. The streamlined eligibility determination process, the requirement for increased consumer involvement in service planning, and the new focus on transition services, are all changes that can make this important state/federal

program more accessible and efficient for youth with disabilities and their families.

If you wish to obtain more information about the Rehabilitation Act Amendments, refer to *the Regional Office Directory*, published by the United States Department of Education, Office of Special Education and Rehabilitation Services, Rehabilitation Services Administration, inserted in this *Policy Update*.

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