# CHALLENGE '97
# The Reauthorization of the Rehab Act

## A National Teleconference

## TRAINING MANUAL
**December 1996**

**IL NETWORK**

**NCIL/ILRU National Training & Technical Assistance Project**

# CHALLENGE '97: REAUTHORIZATION OF THE REHAB ACT

## AGENDA

**Thursday, December 5, 1996**

| | |
|---|---|
| Bob Michaels | Welcome and Introductions |
| Bob Michaels | Overview of the Reauthorization<br>When reauthorization is going to happen<br>What Congress wants |
| Fred Schroeder<br>Beverlee Stafford | The RSA Perspective<br>Results of nationwide hearings<br>RSA plans for reauthorization |
| | Questions and Answers |
| Paul Spooner | The NCIL Perspective<br>Background on development of the NCIL position paper<br>Review of major NCIL recommendations |
| | Questions and Answers |
| Paul Edwards | The Blind Community Perspective<br>Orientation to the perspective<br>Review of major recommendations |
| | Questions and Answers |
| Sallie Rhodes | The NAPAS Perspective<br>Status of advocates' efforts in Washington<br>Review of major NAPAS recommendations |
| Full Panel | Questions and Answers |
| Bob Michaels | Wrap-up |

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**December 1996**

**IL NETWORK**

**NCIL/ILRU National Training & Technical Assistance Project**

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| Paul Edwards | Dawn Kemp-Moye |
| Sallie Rhodes | Anne-Marie Hughey |

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# TELECONFERENCE OBJECTIVES

- Learn about the reauthorization process.
- Find out what people said at OSERS' public hearings this summer.
- Explore NCIL's position on reauthorization.
- Understand why the blind community wants separate services.
- Discover what advocates in Washington want changed.
- Get answers to your questions.

# LIST OF PRESENTERS
# AND
# PROJECT STAFF

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# ABOUT THE PRESENTERS

**BOB MICHAELS** is co-director of curriculum development and training with the IL NETWORK and is training and technical assistance associate with ILRU. Prior to his position with ILRU, Bob was president and chief executive officer of Liberty Resources, Inc., in Philadelphia, Pennsylvania, for four years.

Bob has also served as director of the Arizona Bridge to Independent Living in Phoenix, Arizona, and on both the Arizona and Pennsylvania state independent living councils. He has been chair of the Rehab Act Subcommittee for the National Council on Independent Living (NCIL) for the past ten years. Bob has written numerous articles and briefs on the Rehab Act and related topics and has conducted training programs for CILs and SILCs nationwide.

**FREDRIC K. SCHROEDER** is the ninth commissioner of the Rehabilitation Services Administration (RSA), having been appointed to this position in 1994 by President Clinton. As RSA Commissioner, Schroeder administers a $2.4 billion dollar program that annually provides services to more than 1 million people with disabilities. Prior to this appointment, Schroeder served for eight years as the executive director of the New Mexico Commission for the Blind where he was responsible for a variety of statewide services primarily targeted at correcting the seventy percent unemployment rate experienced by the blind nationwide.

In addition to being nationally recognized advocate for people with disabilities, he is a well-published and accomplished scholar with over twenty published articles to his credit. Schroeder has also made numerous presentations to the general public, consumer groups rehabilitation professions, and educators on the future of disability policy in this country.

**BEVERLEE STAFFORD** currently serves as director of Planning, Policy and Evaluation in the Rehabilitation Services Administration (RSA). Her primary areas of concern are legislation, policy development, and regulation coordination.

Beverly has worked with RSA for the past 22 years, primarily in the RSA Region V office in Chicago, where she was the head of the Management and Support Services unit. She moved to the RSA headquarters office in July of 1990 to take over policy development for the Basic Vocational Rehabilitation program and has also served as a Special Assistant to the RSA Commissioner.

**JOHN NELSON** is chief of the Independent Living Branch, Rehabilitation Services Administration (RSA). Previously, he acted as special assistant to the commissioner of RSA as well as chief of administrative management services at RSA.

One of the most influential shapers of the Title VII regulations for the amended Rehab Act (1992) and the recently approved standards and indicators of compliance for independent living centers,

Nelson has been a strong presence in the progress for independence and empowerment of people with disabilities. His efforts within the legislative process have ensured that the regulations in place today reflect to the largest degree possible the interests and philosophy of independent living.

**PAUL SPOONER** is executive director of the MetroWest Center for Independent Living in Framingham, Massachusetts. Paul has served as was community development coordinator at Independence Associates in Brockton, Massachusetts, where his primary responsibilities included community advocacy and outreach for the center, plus extensive grant proposal development. Paul is also involved in the development, training, and administration of DIMENET, the primary nationwide computer network for persons with disabilities.

Paul currently serves as external vice president of the National Council on Independent Living (NCIL) and is a member of the NCIL Rehabilitation Act Subcommittee. He is also a past president of the National Association of Independent Living and is a member of the Massachusetts Association of Independent Living Centers and the New England Coalition of Independent Living Centers. Paul was recently elected chair of the Massachusetts Independent Living Council.

**PAUL EDWARDS** has worked as a high school teacher, a rehabilitation teacher, a rehabilitation counselor, and a director of a private agency serving people with visual impairments. He is currently coordinator of Disabled Student Services at Miami-Dade Community College's North Campus.

Paul currently serves as president of the American Council of the Blind and recently completed a term as chair of Florida's Blue Print Transition Board. He has served on the board of directors of the National Accreditation Council for Agencies Serving the Blind and Visually Impaired and works on a number of other national, state, and local boards and committees.

**SALLIE RHODES** is the director of training for National Association of Protection and Advocacy Systems (NAPAS). She is a disability specialist with expertise in client assistance, protection and advocacy services, vocational rehabilitation, independent living, supported employment, and work incentives.

Sallie co-chairs the Employment and Training Task Force for the Consortium of Citizens with Disabilities (CCD) and played a significant role in the reauthorization of the Rehab Act in 1992. CCD is currently preparing a position paper on the 1997 reauthorization. Prior to employment with NAPAS, Sallie worked as an assistant project director for the National Association of Developmental Disabilities Councils. Sallie has authored numerous articles and monographs on disability-related issues.

## ABOUT NCIL

Founded in 1982, the National Council on Independent Living is a membership organization representing independent living centers and individuals with disabilities. NCIL has been instrumental in efforts to standardize requirements for consumer control in management and delivery of services provided through federally-funded independent living centers.

Until 1992, NCIL's efforts to foster consumer control and direction in independent living services through changes in federal legislation and regulations were coordinated through an extensive network and involvement of volunteers from independent living centers and other organizations around the country. Since 1992, NCIL has had a national office in Arlington, Virginia, just minutes by subway or car from the major centers of government in Washington, D.C. While NCIL continues to rely on the commitment and dedication of volunteers from around the country, the establishment of a national office with staff and other resources has strengthened its capacity to serve as the voice for independent living in matters of critical importance in eliminating discrimination and unequal treatment based on disability.

Today, NCIL is a strong voice for independent living in our nation's capital. With your participation, NCIL can deliver the message of independent living to even more people who are charged with the important responsibility of making laws and creating programs designed to assure equal rights for all.

## ABOUT ILRU

The Independent Living Research Utilization (ILRU) Program was established in 1977 to serve as a national center for information, training, research, and technical assistance for independent living. In the mid-1980's, it began conducting management training programs for executive directors and middle managers of independent living centers in the U.S. Since 1985, it has operated the ILRU Research and Training Center on Independent Living at TIRR, conducting a comprehensive and coordinated set of research, training, and technical assistance projects focusing on leading issues facing the independent living field.

ILRU has developed an extensive set of resource materials on various aspects of independent living, including a comprehensive directory of programs providing independent living services in the U.S. and Canada.

ILRU is a program of TIRR, a nationally recognized, free-standing rehabilitation facility for persons with physical disabilities. TIRR is part of TIRR Systems, a not-for-profit corporation dedicated to providing a continuum of services to individuals with disabilities. Since 1959, TIRR has provided patient care, education, and research to promote the integration of people with physical and cognitive disabilities into all aspects of community living.

# ABOUT THE IL NETWORK

The IL NETWORK is a collaboration of the National Council on Independent Living (NCIL), the Independent Living Research Utilization (ILRU) Program, and several other organizations and individuals involved in independent living nationwide.

The mission of the IL NETWORK is to provide training and technical assistance on a variety of issues central to independent living today--understanding the Rehab Act, what the statewide independent living council is and how it can operate most effectively, management issues for centers for independent living, systems advocacy, computer networking, and others. Training activities are conducted conference-style, via long-distance communication, through widely disseminated print and audio materials, and through the promotion of a strong national network of centers and individuals in the independent living field.

IL NETWORK goals include:

- conducting training on provisions of the recently amended Rehabilitation Act and on independent living center operations nationwide;

- establishing a technical assistance service through development of a network of individuals around the country who have expertise in various aspects of center operations and Title VII of the Rehab Act;

- identifying, adapting, and/or developing resource materials to support training and technical assistance activities related to the Rehab Act and center operations;

- using computer networks to support training, technical assistance, and dissemination activities and promoting network development and information sharing among centers and other organizations involved in independent living;

- exploring the use of distance-learning technology in addressing the information, training, and technical assistance needs of the field; and

- fostering inclusion in the independent living field of people from various cultural and disability groups and geographic areas through activities carried out with NCIL's Multicultural Committee and the Association of Programs for Rural Independent Living (APRIL).

IL NETWORK STAFF

The IL NETWORK is managed by a directorate consisting of Anne-Marie Hughey of NCIL; June Isaacson Kailes, independent living consultant; and Bob Michaels, Laurel Richards, and Quentin Smith of ILRU. Principal responsibility for curriculum development and training is shared by Kailes and Michaels; logistical coordination by NCIL; materials development and

technical assistance coordination by ILRU; and responsibility for information dissemination is shared between NCIL and ILRU.

The IL NETWORK also works very closely with a number of individuals and organizations, particularly Roland Sykes of DIMENET, in fostering more effective computerized networking among centers, and Steve Brown, in evaluating project impact and identifying movement-wide factors which impede effective center operations. In addition, individuals with expertise on Title VII of the Rehab Act and on center operations will be involved throughout training and technical assistance activities.

## TRAINING ACTIVITIES

During the first year, training programs were conducted in each of the ten federal regions and were attended by more than 600 representatives of independent living centers and SILCs. Year one training activities focused largely on the amended Rehab Act and its implications for independent living centers and statewide independent living councils. Issues related to center operations and to use of DIMENET as a networking and technical assistance tool were covered as well.

Year two training and technical assistance activities emphasized the recently released compliance indicators for centers, critical issues related to statewide independent living councils and development of state IL plans, systems advocacy, computer networking, and a closer look at state-administered CILs in the seven "723" states. Most of these focal points were identified through training participants' input and technical assistance requests.

In 1995, IL NETWORK piloted several new and dynamic training methods--national teleconferences, customized training programs for SILCs, and three five-day training sessions designed to be both comprehensive and intensive. Hands-on training for use of DIMENET and other computer networks was also incorporated into training sessions to allow new and experienced users to receive in-person technical assistance.

To build on training curricula developed during the first two years, project staff assessed participants' reactions to trainings and techniques received in 1994 and 1995, requests received for technical assistance, and priorities for future trainings as identified by centers and SILCs on the 704 Report. As a result, 1996 trainings address the need for more information about conducting effective systems advocacy, doing outreach to underserved populations, computer networking, developing better presentation skills, innovative management techniques, and systems for collecting and reporting center information (MIS). These topics will again be presented in a variety of ways--through customized, one-on-one, distance learning, and traditional interactive styles.

In addition, the IL NETWORK plans to convene a task force with representation by RSA central and regional offices, state voc rehab agencies, and independent living centers for the purpose of examining policies and procedures affecting center and agency interaction.

## TECHNICAL ASSISTANCE

Requests for technical assistance, whether from center staff, board members, or others involved in independent activities, are handled through a single point of contact at ILRU. ILRU staff determines who among various partner organizations and individuals are the most qualified to respond to the request, then provides referral to one or more potential technical assistants who may be ILRU staff, NCIL staff or board members, or other members of the project's technical assistance network. In each project year, IL NETWORK staff have responded to over 10,000 telephone requests from the field.

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## IL NETWORK SUPPORT

This three-year project is supported in part by the Rehabilitation Services Administration of the U.S. Department of Education, with additional support provided by NCIL, ILRU, DIMENET and other project partners.

# IL NETWORK RESOURCE MATERIALS

The IL NETWORK: National Training and Technical Assistance project, a collaboration of the National Council on Independent Living (NCIL) and the Independent Living Research and Utilization (ILRU) Program, is committed to promoting a national network of centers for independent living, statewide independent living councils, and others involved in the independent living field. Through training and technical assistance activities, project staff seek to provide individuals at all levels of expertise with educational and networking opportunities.

To enhance our ability to reach as wide an audience as possible, we are making many of our training materials available in the form of individual fact sheets and packets. The following is a description of resource materials concerning the Rehab Act, statewide independent living councils, state IL plans, funding, and other topics. *These materials may be duplicated without acquiring permission, providing that the following credit is given to the project:* "Developed as part of the IL NETWORK: NCIL/ILRU National Training & Technical Assistance Project."

All materials are available in accessible formats, including copies available to download in either WordPerfect or ASCII from DIMENET in the IL_NETWORK file area. For fact sheets about the Rehab Act, download file 'rehab1.wp' or 'rehab1.asc.' For fact sheets about SILCs, download 'silcpak1.wp' or 'silcpak1.asc.' You will also find each piece of the packets available individually. For assistance with downloading call (808) 880-5325 (v/TTY) or (513) 439-0071 (v), 439-0072 (TTY).

For further information or technical assistance, contact ILRU at (713) 520-0232 (v), 520-5136 (TTY) or NCIL at (703) 525-3406 (v), 525-3407 (TTY).

## FACT SHEETS ABOUT THE REHAB ACT

*Amendments to the Rehab Act: 1986 & 1992: A Comparison*--a set of charts showing changes in the Rehab Act which occurred from 1986 to 1992.

*Where to Get Information About the Rehabilitation Act*--how to obtain copies of the Rehab Act and related background information from the government, from public records, and from DIMENET, the national computer bulletin board for independent living.

*Terminology Related to the Legislative and Regulatory Process*--explanations of terms and concepts related to the legislative process.

*Key OSERS Staff*--a listing of top-level staff members of the Office of Special Education and Rehabilitation Services, the Rehabilitation Services Administration, and the National Institute on Disability and Rehabilitation Research (NIDRR).

## FACT SHEETS ABOUT STATEWIDE INDEPENDENT LIVING COUNCILS (SILCs)

*Composition of Statewide IL Councils*--an easily understood overview of SILC responsibilities, composition criteria, and examples of some of the problems faced by state IL councils with direct, concrete suggestions for dealing with them.

*Questions About SILC Governance*--identifies many of the pivotal questions an organization can use to establish the bylaws with which it governs itself; covers specific questions for councils operating as private, nonprofit corporations and seeking a tax exempt status.

*What Every SILC Member Should Know*--a checklist of basic information that each SILC member should understand in order to be an effective, voting participant of a statewide IL planning body.

*Prototype Job Descriptions*--basic duties, authorities, and qualifications for the SILC chair, vice-chair, secretary, treasurer, and member; intended as a guideline from which to build individualized descriptions.

*SILC Profile Analysis*--a grid designed to reveal a basic profile of any SILC by mapping characteristics and affiliations of the members; simple, easy-to-follow instructions show whether or not a council is consumer controlled according to legal mandate.

*SILC Membership Compliance Assessment*--a checklist for determining whether or not your SILC is in compliance with the compositional guidelines outlined in section 705(b)(2) the Rehab Act.

*Directory of Statewide IL Councils*--a complete list of all SILCs with contact information for state chairs; current as of May 1995.

## AUTHORIZED USES OF FUNDS AVAILABLE TO THE STATE IL COUNCIL

*Authorized Uses of Title VII, Part B*--this document gives an overview of the history and development of Title VII, with an emphasis on gains made in controlling how the dollars allotted to support independent living programs and services are spent.

*Funding Under SILC Jurisdiction*--identifies funding sources available to the statewide IL council: Title VII, Parts B and C, Title I, Part C, Social Security Reimbursement Funds, and private or other sources.

*Funding for Title VII, Part B: Fiscal Years 1994 & 1995*--exact 1995 dollar amounts allocated from this source for each state and territory.

*Funding for Title VII, Part C: Fiscal Year 1994*--dollar amounts by state and territory showing 1994 allotments as well as post-reallotment amounts for fiscal year 1993.

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Developed by the IL NETWORK: NCIL/ILRU National Training and Technical Assistance Project. Requests for technical assistance on this and other independent living subjects may be directed to the IL NETWORK Project, c/o ILRU at (713)520-0232 (v), 520-5136 (TTY), 520-5785 (Fax), or NCIL at (703) 525-3406 (v), 525-3407 (TTY), 525-3409 (Fax).

# NATIONAL RESOURCES ON INDEPENDENT LIVING

Several national organizations have been established to provide technical assistance on particular concerns relevant to issues in independent living.

### *National Council on Independent Living*

Founded in 1982, NCIL is a membership organization representing independent living centers and individuals with disabilities. NCIL has been instrumental in efforts to incorporate independent living philosophy in federal legislation and regulations. National headquarters are located outside Washington, D.C. at 2111 Wilson Blvd., Suite 405, Arlington, VA 22201; (703) 525-3406 (v), 525-3407 (TTY), 525-3409 (fax).

### *Association of Programs for Rural Independent Living*

One of the best resources for information about rural independent living is APRIL. Established in 1986, APRIL is an association of 33 centers and other organizations and individuals across the country serving a predominantly rural constituencies. For further information, contact APRIL president Michael Mayer at the Summit Independent Living Center, 1900 Brooks Street, #120, Missoula, Montana 59801, (406) 728-1630 (v/TTY), or Linda Tonsing Gonzales at 1919 Kiva Road, Santa Fe, New Mexico, 87505, (505) 984-8035 (v/fax).

### *Disability and Business Technical Assistance Centers on ADA*

There are ten regional DBTACs funded by the National Institute on Disability and Rehabilitation Research, the U.S. Department of Education, to provide technical assistance and training on the Americans with Disabilities Act (ADA). The Southwest DBTAC, operated by ILRU, features an Hispanic outreach program. By calling 1-800-949-4232 from anywhere in the country, your call will be routed automatically to the appropriate regional DBTAC.

### *American Disabled for Attendant Programs Today*

One of the oldest and most active grassroots disability rights advocacy groups is ADAPT. Following its tremendous success in advocating for accessible transportation, ADAPT has focused its mission on personal assistance services. With local chapters in many cities around the country, ADAPT is centered in Colorado at 201 South Cherokee St., Denver, CO 80223; (303) 733-9324 (v), 733-6211 (fax).

### *Disability Rights Education and Defense Fund*

DREDF is an organization dedicated to promoting the civil rights of individuals with disabilities through research, education, and advocacy. The DREDF offices are located at 1633 Q St., NW, Suite 220, Washington, D.C. 20009; (202) 986-0375 (v), 462-5624 (fax) and 2212 Sixth Street, Berkeley, CA 94710; (510) 644-2555 (v), 841-8645 (fax).

### *Disabled Individuals Movement for Equality Network*

DIMENET is a computer network that serves the independent living and disability rights movements. It was established in 1985 to meet the demand for a computer network that directly serves the interests of all people with disabilities and that is fully accessible to people with visual impairments. You can access DIMENET from any of three host sites: (508) 880-5412 (Taunton, MA), (513) 341-5205 (Dayton, OH), and (918) 582-3622 (Tulsa, OK).

If you have problems or questions regarding accessing DIMENET, technical assistance is also available from individuals at DIMENET regional host sites: Taunton (508) 880-5325 (v/TTY), Dayton (513) 439-0071 (v), 439-0072 (TTY), and Tulsa (918) 592-1235 (v/TTY). Additional help may be obtained from Roland Sykes at (513) 237-8360 (v) or Paul Spooner at (508) 875-7853 (v/TTY).

### *Independent Living Research Utilization Program*

ILRU Program is a national center for information, training, research, and technical assistance on independent living. Founded in 1977, its goal is to expand the body of knowledge in independent living and to improve utilization of results of related research and demonstration projects. ILRU, 2323 S. Shepherd, Suite 1000, Houston, TX 77019; (713) 520-0232 (v), 520-5136 (TTY), and 520-5785 (fax).

### *World Institute on Disability*

Originally founded in 1983 from within the grassroots disability rights movement, WID's focus is now international in scope. WID conducts research and training in public policy, personal assistance services, and independent living from its headquarters at 510 16th Street, #100, Oakland, CA 94612; (510) 763-4100 (v/TTY).

## RESEARCH AND TRAINING CENTERS ON INDEPENDENT LIVING

Four research and training centers funded by the National Institute on Disability and Rehabilitation Research (NIDRR), U.S. Department of Education, focus on independent living. They are:

- the *ILRU Research and Training Center on Independent Living at TIRR;*
- the *RTC: IL at the University of Kansas*;
- the *RTC on Personal Assistance Services at the World Institute on Disability* (WID); and
- the *RTC on Public Policy and Independent Living*, also at WID.

All four centers conduct research and training projects designed to address the needs of individuals with disabilities, as well as state and private entities involved with independent living. More information about each is given below.

***ILRU Research and Training Center on Independent Living at TIRR***

The goals of the ILRU RTC are to enhance management performance in independent living centers through improved management and operational practices developed and tested in research-based models, and disseminated through training, technical assistance, and materials development projects. A major emphasis of these training and technical assistance projects is the promotion of networking among individuals and organizations in the independent living field. ILRU RTC is guided by the independent living philosophy, particularly with regard to the substantial involvement of people with disabilities at all levels of RTC operations.

| | |
|---|---|
| Director: | Lex Frieden |
| Associate Director: | Quentin Smith |
| Director of Research: | Peg Nosek |
| Director of Training: | Laurel Richards |
| Coordinating Director: | Laurie Gerken Redd |
| For more information, contact: | ILRU Program<br>2323 S. Shepherd, Suite 1000<br>Houston, TX 77019<br>(713) 520-0232 (v), 520-5136 (TTY),<br>520-5785 (fax)<br>URL: http://www.bcm.tmc.edu/ilru |

***Research and Training Center on Independent Living at the University of Kansas***

The University of Kansas operates a national research and training center which focuses on aspects of independent living particular to rural and other underserved populations, including persons with cognitive and psychiatric disabilities. In addition, the RTC conducts consumer control training, conducts research in prevention of secondary health conditions in people with disabilities, and studies successful attainment of vocational rehabilitation goals.

| | |
|---|---|
| Director: | Glen W. White |
| Co-Director: | James F. Budde |
| Assistant Director: | John Youngbauer |
| Training Director: | Kenneth J. Golden |

For more information, contact:

RTC-IL at Kansas
4089 Dole Building
University of Kansas
Lawrence, KS 66045
(913) 864-4095 (v/TTY), 864-5063 (fax)
URL: http://www.lsi.ukans.edu/rtcil/rtcbroc.htm

***The Research and Training Center on Public Policy and Independent Living***

Funded by NIDRR at the World Institute on Disability, the RTC-PPIL conducts research and training on major disability policy issues including independent living, leadership development, peer support, and community integration. In addition, WID is attempting to establish the first full curriculum for disability studies. The program will offer courses of study at the undergraduate, graduate, professional training, and continuing education levels.

Director: Herb Leibowitz
Director of Research: Tanis Doe

For more information, contact:

RTC-PPIL
World Institute on Disability
510 16th Street, Suite 100
Oakland, CA 94612-1500
(510) 763-4100 (v/TTY), 763-4109 (fax)

***The Research and Training Center on Personal Assistance Services at WID***

One of two RTCs operated by WID, the RTC-PAS was established for the purpose of creating greater understanding about how personal assistance service systems can further the self-sufficiency and economic independence of individuals with disabilities. The RTC will perform a comprehensive evaluation of PAS programs across the country and will seek to define effective PAS from the consumer's point of view. In developing new service programs, the RTC-PAS also focuses on underserved or unserved populations.

Director of Training: Simi Litvak
Research Assistant: Valerie Bivona

For more information, contact:

RTC-PAS
World Institute on Disability
510 16th Street, Suite 100
Oakland, CA 94612-1500
(510) 763-4100 (v), 208-9493 (TTY), 763-4109 (fax)

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Developed by the IL NETWORK: NCIL/ILRU National Training and Technical Assistance Project. Requests for technical assistance on this and other independent living issues may be directed to the IL NETWORK Project, c/o ILRU at (713) 520-0232 (v), 520-5136 (TTY), 520-5785 (fax), or NCIL at (703) 525-3406 (v), 525-3407 (TTY), 525-3409 (fax).

# READINGS FOR THE INDEPENDENT LIVING AND DISABILITY RIGHTS MOVEMENTS


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DeJong, Gerben. *Environmental Accessibility and Independent Living Outcomes: Directions for Disability Policy and Research.* East Lansing: University Center for International Rehabilitation, 1981.

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Kailes, June Isaacson, and Darrell Jones. *A Guide to Planning Accessible Meetings.* Houston: ILRU Program, 1993.

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Lachat, Mary Ann. *The Independent Living Service Model: Historical Roots, Core Elements, and Current Practice.* Hampton: Center for Resource Management, 1988.

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National Council on the Handicapped (now the National Council on Disability). *On the Threshold of Independence: A Report to the President and the Congress of the United States.* January 1988. Available from NCD (see above).

Nosek, Peg, Yayoi Narita, Yoshiko Dart, and Justin Dart. *A Philosophical Foundation for the Independent Living & Disability Rights Movement*. Occasional Paper No. 1. Houston: ILRU Program, 1982.

Pflueger, Susan Stoddard. *Independent Living*. Emerging Issues in Rehabilitation. Washington, D.C.: Institute for Research Utilization, 1977.

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Shapiro, Joseph P. *No Pity*. New York: Random House, Inc. 1993.

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Martha Williams, ed. *Consumer Control in Independent Living*. Available from: Center for Resource Management, 2 Highland Road, South Hampton, NH 03847; (603) 394-7040 (v/TTY), 394-7483 (fax).

Smith, Quentin, Lex Frieden, and Laurel Richards. "Independent Living." *Encyclopedia of Disability and Rehabilitation*. New York: Macmillan, Inc., (in press, 1994).

Smith, Quentin, Laura W. Smith, Kym King, Lex Frieden, and Laurel Richards. *Health Care Reform, Independent Living, and People With Disabilities*. Issues in Independent Living No. 11. Houston: ILRU Program, 1993.

United States Department of Education. *Comprehensive Evaluation of the Title VII, Part B of the Rehabilitation Act of 1973, as Amended, Centers for Independent Living Program*. January 1986. Available through clearinghouses (see below).

Willig, Chava Levy. *A People's History of Independent Living*. 1988. Available from the Research and Training Center on Independent Living, 4089 Dole Building, University of Kansas 66045; (913) 864-4095 (v/TTY).

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Giordiano, Gerard and Bruno J. D'Alonzo. "The Link Between Transition and Independent Living," 2-7.

Shreve, Maggie. "The Greater Vision: An Advocate's Reflections on the Rehabilitation Act Amendments of 1992," 8-13.

Smith, Laura W., Quentin W. Smith, Laurel Richards, Lex Frieden, and Kym King. "Independent Living Centers: Moving Into the 21st Century," 14-22.

Chappell, John A., Jr. "The Whole is Greater Than the Sum of its Parts," 23-29.

Moore, J. Elton and Barry C. Stephens. "Independent Living Services for Older Individuals Who are Blind: Issues and Practices," 30-34.

Montagano, Tim. "Bringing the Rehabilitation Family Together: An IL-VR Partnership," 35-36.

Lougheed, Val, Bev Hunter, and Susan Wilson. "Partners for Independence: A Team Approach to Community-Based Rehabilitation," 37-38.

Baker, David. "Independent Living in Communities: The Role of the Independence Fund in Vermont," 39-41.

Lachat, Mary Ann. "Using the Power of Management Information System Technology to Support the Goals of Centers for Independent Living," 42-48.

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French, Duane. "Independent Living: Driven By Principles of Democracy," 37-38.

Kafka, Bob. "Perspectives on Personal Assistance Services," 11-13.

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Mathews, Mark R. "Learning from the Experts: Best Practices in Rural Independent Living," 23-29.

Michaels, Robert E. "Title VII: A Major Step Forward," 8-10.

Nelson, John. "Changes in the Rehabilitation Act of 1973 and Federal Regulations," 4-8.

Smith, Quentin, Lex Frieden, Laurel Richards, and Laurie Gerken Redd. "Improving Management Effectiveness in Independent Living Centers through Research and Training," 30-36.

Tate, Denise and Julie Daugherty. "The Effects of Insurance Benefits Coverage: Does It Affect Persons with Spinal Cord Injury?" 19-22.

Westbrook, John D. "Consumer-Driven Supported Employment: Consolidating Services for People with Significant Disabilities," 14-18.

Ziegler, Martha. "How Parent Networks Are Working with Independent Living Centers," 39-42.

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Clay, Julie Anna. "Native American Independent Living," 41-50.

Curl, Rita M., Shanna M. Hall, Linda A. Chisholm, and Sarah Rule. "Co-workers as Trainers for Entry-level Workers: A Competitive Employment Model for Individuals with Disabilities," 31-35.

Nosek, Margaret. "The Personal Assistance Dilemma for People with Disabilities Living in Rural Areas," 36-40.

Potter, Carol G., Quentin W. Smith, Huong Quan, and Margaret A. Nosek. "Delivering Independent Living Services in Rural Communities: Options and Alternatives," 16-23.

Richards, Laurel and Quentin Smith. "Independent Living Centers In Rural Communities," 5-10.

Seekins, Tom, Craig Revesloot, and Bob Maffit. "Extending the Independent Living Center Model to Rural Areas: Expanding Services through State and Local Efforts," 11-15.

Smith, Quentin W., Carl E. Fasser, Stacy Wallace, Laurel K. Richards, and Carol G. Potter. "Children with Disabilities in Rural Areas: The Critical Role of the Special Education Teacher in Promoting Independence," 24-30.

*We Won't Go Away*, videocassette. Sells for $20 each, including postage, from the World Institute on Disability, 510 16th Street, Suite 100, Oakland, CA 94612 (510) 763-4100 (v), 208-9493 (TTY).

*The Disability Rag.* A bi-monthly publication reflecting ideas and discussions in the disability rights movement. Available at $12 for a one-year subscription. Write to: Subscriptions, The Disability Rag, 1962 Roanoke Ave, Louisville, KY 40205 (502) 459-5343 (v/TTY/fax).

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Most of the readings cited above can be obtained from resource clearinghouses. Several are listed below and can be reached for further information about publications and modem-accessible databases by mail or telephone.

- National Clearinghouse of Rehabilitation Training Materials, Oklahoma State University, 816 West Sixth Ave., Stillwater, OK 74078 (800) 223-5219.

- National Rehabilitation Information Center (NARIC), 8455 Colesville Road, Suite 935, Silver Spring, MD 20910 (800) 346-2742 (v), 227-0216 (TTY).

- ERIC Clearinghouse on Disabilities and Gifted Education (formerly the ERIC Clearinghouse on Handicapped and Gifted Children), 1920 Association Dr., Reston, VA 22091, (800) 328-0272 (v/TTY) at the Council for Exceptional Children, (703) 620-3660, ext. 307 (v).

ILRU also offers a number of publications and other materials on various independent living subjects. For a listing of resource materials contact ILRU at 2323 S. Shepherd, Suite 1000, Houston, TX 77019, (713) 520-0232 (v), 520-5136 (TTY).

For resource materials and technical assistance on the Americans with Disabilities Act, there are ten regional Disability and Business Technical Assistance Centers (DBTACs). One toll-free number, 1-800-949-4232, will direct your call to a technical assistant in your region. Resource materials are published by the U.S. Department of Justice and many are available free of charge. The Southwest DBTAC in Houston, Texas offers technical assistance and some resource materials in Spanish as well as English.

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# CHALLENGE '97: REAUTHORIZATION OF THE REHAB ACT PARTICIPATING SITES

DECEMBER 3, 1996

**Arkansas**

Mainstream Living
1818 S. University Avenue
Little Rock, AR 72204
501-280-0012 (V)
501-280-9262 (TTY)
501-280-9267 (Fax)
Contact person: Richard Petty
Site participants: 15

Sources
212 East Poplar Street
Fayetteville, AR 72703
501-442-5600 (V/TTY)
Contact person: Mary Anne Sullivan
Site participants: 10

**California**

AFB, West
111 Pine Street, Suite 725
San Francisco, CA
415-392-4845 (V)
415-392-0383 (Fax)
Contact person: Gil Johnson
Site participants: 2

The Dayle McIntosh Center
150 W. Cerritos, Bldg. #4
Anaheim, CA 92805
714-772-8285 (V)
714-772-8366 (TTY)
714-772-8292 (Fax)
Contact person: Richard Melli
Site participants: 15

Disabled Resources Center Inc.
2750 East Spring St., Suite 100
Long beach, CA 90806
310-427-1000 (V/TTY)
310-427-2027 (Fax)
Contact person: Monica Duerre
Site participants: 3

IL Resource Center of San Francisco
70 Tenth Street
San Francisco, CA 94103
475-863-0581 (V)
415-863-1267 (TTY)
415-863-1290 (Fax)
Contact person: Kathy Uhl
Site participants: 10

Resources for Independent Living, Inc.
1211 H St. Suite B
Sacramento, CA 95814
916-446-3074 (V/TTY)
916-446-2443 (Fax)
Contact person: Arlene Deger
Site participants: 20

**Colorado**

Center for Independence
1600 Ute Avenue, Suite 100
Grand Junction, CO 81501
970-241-0315 (V)
970-241-8130 (TTY)
970-245-3341 (Fax)
Contact person: Mary Lynn McNutt
Site participants: 5

Center for People with Disabilities
948 North Street, Suite #7
Boulder, CO 80304
303-442-8662 (V/TTY)
303-442-0502 (Fax)
Contact person: Tym Bary or
Nan Hildebrand
Site participants: 10

Independence Center
21 E. Las Animas
Colorado Springs, CO 80903
719-471-8181 (V)
719-471-2076 (TTY)
719-471-7829 (Fax)
Contact person: Jan Ingram
Site participants: 6

**Delaware**

Easter Seal ILC
61 Corporate Circle
New Castle, DE 19720
302-324-4444 (V)
302-324-4442 (TTY)
302-324-4441 (Fax)
Contact person: Ray Brouillette
Site participants: 7

**Florida**

CIL of North Florida, Inc.
527-C Appleyard Drive
Tallahassee, FL 32304
904-575-9621 (V)
904-576-5245 (TTY)
904-575-5740 (Fax)
Contact person: Paul Martell or
Dennis Shelt
Site participants: 25

CIL of NW Florida
513 East Fairfield Dr.
Pensacola, FL 32503
904-435-9343 (V/TTY)
904-435-1542 (Fax)
Contact person: Frank Cherry
Site participants: 4

South Florida Assn. for Disability
Advocacy d/b/a CIL of South Florida
1335 N.W. 14th Street, #200
Miami, FL 33125
305-325-0901 (V)
305-325-0903 (TTY)
305-547-7355 (Fax)
Contact person: Nury Rodriguez
Site participants: 5

**Illinois**

Evert Conner Rights and Resouces CIL
20 East Market Street
Iowa City, IA 52245
319-338-3870 (V/TTY)
319-338-8385 (Fax)
Contact person: Jacqueline Kebschull
Site participants: 14

Fox River Valley CIL
730-B W. Chicago Street
Elgin, IL 60123
847-695-5818 (V/TTY)
847-695-5892 (Fax)
Contact person: Cindy Ciancio
Site participants: 12

Illinois/Iowa CIL
PO Box 6156
Rock Island, IL 61204
319-324-1460 (V/TTY)
319-324-1036 (Fax)
Contact person: Monique Anderson
Site participants: 6

Illinois SILC
122 South 4th
Springfield, IL 62701
217-744-7777 (V/TTY)
217-744-7744 (Fax)
Contact person: Burt Pusch
Site participants: 3

LIFE - CIL
1328 E. Empire
Bloomington, IL 61701
309-663-5433 (V/TTY)
309-663-7024 (Fax)
Contact person: Roger Knoblauch
Site participants: 12

Progressive Center for IL
7521 Madison Street
Forest Park, IL 60130
708-209-1735 (V)
708-209-1826 (TTY)
708-209-1735 (Fax)
Contact person: Diane Coleman
Site participants: 4

**Indiana**

Indianapolis Resource CIL
8383 Graig Street, Ste 130
Indianapolis, IN 46250
318-596-6440 (V/TTY)
317-596-6446 (Fax)
Contact person: Nancy Griffin
Site participants: 20

**Iowa**

Hope Haven
1800 19th Street
Rock Valley, IA
712-476-2737 (V)
Contact person: Gale Van Engen
Site participants: 10

League of Human Dignity
SW Iowa CIL
1417-1/2 West Broadway
Council Bluffs, IA 51501
712-323-6863 (V/TTY)
712-323-6811 (Fax)
Contact person: Debbie Zach
Site participants: 10

Three Rivers
131 Baxter Bldg. 800 5th Street
Sioux City, IA 51101
712-255-1065 (V/TTY)
712-255-1065 (Fax)
Contact person: Brenda Denney
Site participants: 2

**Kansas**

LINK, Inc.
2401 E. 13th
Hays, KS 67601
913-625-6942 (V/TTY)
913-625-6137 (Fax)
Contact person: Lou Ann Kibbee
Site participants: 3

SILC of Kansas
700 SW Jackson, Suite 1003
Topeka, KS 66603
913-234-6990 (V/TTY)
913-234-6651 (Fax)
Contact person: Shannon Jones
Site participants: 20

**Louisiana**

Resources for Independent Living
701 Main Street, Suite A
Baton Rouge, LA 70802-5527
504-379-3840 (V/TTY)
504-379-3845 (Fax)
Contact person: Emily Blackwell
Site participants: 10

**Maryland**

Maryland SILC
2301 Argonne Drive
Baltimore, MD 21218
410-554-9442 (V)
410-554-9411 (TTY)
410-554-9412 (Fax)
Contact person: Donna Lippa
Site participants: 25

**Michigan**

CIL of Mid-Michigan
1206 Janes Savage
Midland, MI 48640
517-835-4041 (V/TTY)
Contact person: Melissa Davert
Site participants: 2

Michigan SILC
3001 N. Coolidge, #125
East Lansing, MI 48823
517-333-4254 (V)
517-333-4244 (Fax)
Contact person: Patricia Cudahy
Site participants: 2

**Missouri**

Access II ILC
1210 South Main
Gallatin, MO 64640
816-663-2423 (V)
816-663-2517 (Fax)
Contact person: Gary Maddox
Site participants: 15

Disabled Citizens Alliance for Independence
PO Box 675
Viburnum, MO 65566
573-244-3315 (V/TTY)
573-244-5609 (Fax)
Contact person: Juanita Hagemeier
Site participants: 2

Semo Alliance for Disability
Independence, Inc.
121 S. Broadview Plaza, Suite 12
Cape Girardeau. MO 63703
573-651-6464 (V/TTY)
573-651-6565 (Fax)
Contact person: MaryAnn "Miki" Gudermuth
Site participants: 15

Southwest CIL
1856 E. Cinderella
Springfield, MO 65804
417-886-1188 (V/TTY)
417-886-3619 (Fax)
Contact person: Ann Morris
Site participants: 9

**Montana**

Living Independently for Today & Tommorrow
929 Broadwater Square
Billings, MT 59101
406-259-5181 (V)
406-259-5259 (Fax)
Contact person: Pat Lockwood
Site participants: 10

**New York**

Brooklyn Center for the Independence of the Disabled
2044 Ocean Avenue
Brooklyn, NY 11230
718-998-3000 (V)
718-998-7406 (TTY)
718-998-3743 (Fax)
Contact person: Migdalia Maisam
Site participants: 5

Northern Regional Center for IL
165 Mechanic Street
Watertown, NY 13601
315-785-8703 (V/TTY)
315-785-8612 (Fax)
Contact person: Cath Keane
Site participants: 4

Self Initiated Living Options, Inc.
745 Waverly Avenue
Holtsville, NY 11742
516-654-8007 (V)
Contact name: June Roberts
Site participants: 15

Southern Tier Independence Center
24 Prospect Avenue
Binghamton, NY 13901
607-724-2111 (V/TTY)
607-722-5646 (Fax)
Contact person: Maria Dibble
Site participants: 4

Taconic Resources for Independence, Inc.
82 Washington Street, Suite 214
Poughkeepsie, NY 12601
914-452-3913 (V)
914-485-8110 (TTY)
914-485-3196 (Fax)
Contact person: Patrick Muller
Site participants: 8

**North Carolina**

PAL
5701 Executive Center Drive
Suite, 320
Charlotte, NC 28283
704-537 0550 (V/TTY)
704-566-0507 (Fax)
Contact person: Julia Sain
Site participants: 20

**North Dakota**

Dakota CIL
3111 E. Broadway Ave.
Bismrell, North Dakota
701-222-3636 (V/TTY)
701-222-0511 (Fax)
Contact person: Mary Robinson
Site participants: 15

**Oklahoma**

Progressive Independence
121 N. Porter Avenue
Norman, OK 73071
405-321-3203 (V/TTY)
405-321-7601 (Fax)
Contact person: Sharon Johnson
Site participants: 4

**Pennsylvania**

CIL of Southcentral PA
1501 - 11th Avenue
Altoona, PA 16601
814-949-1905 (V)
814-949-1912 (TTY)
814-949-1909 (Fax)
Contact person: Susan Van Scoyoc
Site participants: 7

NE Pennsylvania CIL
Lower Level
431 Wyoming Avenue
Scranton, PA 18503
717-344-7211 (V/TTY)
717-344-7218 (Fax)
Contact person: Keith Williams
Site participants: 20

**South Dakota**

Prairie Freedom CIL
301 South Garfield, Suite #8
Sioux Falls, SD 57104
605-367-5630 (V/TTY)
605-367-5639 (Fax)
Contact person: Char Crisp
Site participants: 12

South Dakota SILC
221 South Central Avenue, Suite 34A
Pierre, SD 57501
605-945-2207 (V/TTY)
605-945-2422 (Fax)
Contact person: Shelly Pfaff
Site participants: 10

**Utah**

Utah SILC
1800 South West Temple
Suite 317-Box 47
Salt Lake City, UT 84115
801-463-1592 (V/TTY)
801-463-1683 (Fax)
Contact person: Brian Dale
Site participants: 2

**Virginia**

Endependence Center Inc.
15 Koger Ctr.
6320 North Center Drive, Suite 100
Norfolk, VA 23502
757-461-8007 (V)
757-455-8223 (Fax)
Contact person: Stephen Johnson
Site participants: 2

**West Virginia**

WVSIL/WVDRS
State Capital Box 5089
Charleston, WV 25305-0890
304-766-4965 (V/TTY)
304-766-4690 (Fax)
Contact person: Barbara King
Site participants: 15

**Wisconsin**

Independence First
600 West Virginia Street, Suite 301
Milwaukee, WI 53204
414-291-7520 (V)
414-291-7525 (TTY)
414-291-7510 (Fax)
Contact person: Lee Schulz
Site participants: 8

Options for Independent Living
2900 Curry Lane
PO Box 9517
Green Bay, WI 54308-9517
414-465-1515 (V)
414-465-0303 (TTY)
414-465-1599 (Fax)
Contact person: Kathryn Barry
Site participants: 9

**Wyoming**

Wyoming IL Rehabilitation
305 W. 1st Street
Casper, WY 82601
307-266-6956 (V/TTY)
307-266-6957 (Fax)
Contact person: Carol Kinney
Site participants: 10

# THE RSA PERSPECTIVE

# UPDATE ON REAUTHORIZATION--October 10, 1996

## Underlying Principles for Reauthorization Process:

* Seek broad input from all interested constituencies and individuals
* Seek consensus on issues to be addressed
* Develop a legislative proposal that will gain the widest support possible from our constituencies

## Actions to date:

* Established Core Work Group within ED to work on the reauthorization proposal. Solicited input from staff.
* Met with other relevant Federal agencies to discuss reauthorization and their involvement/interests (e.g. SSA, DOL, EEOC, GSA, DOJ, ADD).
* Met individually with 30 constituent groups to discuss reauthorization -- more meetings planned.
* Published a notice in Federal Register (July 5, 1996) to solicit broad input (written) and to announce a series of public meetings on reauthorization.
* Conducted five public meetings (Oakland, CA, Washington, DC, Boston, MA, Atlanta, GA, and Chicago, IL)

## Planned Activities:

* Final public meeting to be held in Bellevue, WA (suburb of Seattle) on October 29, 1996 -- also the closing date for public comments.*
  Analyze comments from written input and public hearing testimony as basis for development of discussion drafts of proposed changes in the Act. (Analyze comments - November, 96; Develop drafts - January, 97)
* Develop Administration's legislative proposal

## Possible Additional Activities:

* May hold focus groups on contentious issues.
* May publish another Federal Register notice soliciting input on specific issues.

# PRELIMINARY ANALYSIS OF EXTERNAL INPUT

## Reauthorization of the Rehabilitation Act

The following issues have been identified through a review of written input and public hearing testimony as of September 5, 1996:

### ORDER OF SELECTION

The order of selection provisions have been strongly criticized. Many comments have related this to the need for additional funding for the VR program, while others have suggested changing the Order of Selection requirements to allow qualified individuals who require only minor amounts of assistance (for example, $200.00 for assistance that would make the individual employable) be instituted. Almost all who have criticized the Order of Selection criteria have cited examples of the denial of services to those who are not perhaps the most severely disabled, but severely disabled none-the-less, and being denied a positive VR outcome solely because the States lack the ability, under the law, to provide them minor assistance; some have suggested the use of vouchers in these instances (similar to the manner in which the Veterans Administration provides services to disabled individuals).

### CONSUMER CHOICE

Most comments regarding consumer choice have been very positive towards and supportive of the concept of choice, but also indicate a strong preference for more emphasis to be placed on consumer choice -- e.g., the increased provision of information and services/supports that enhance and promote choice; increased efforts to maximize consumer information and choice in the design and delivery of rehabilitation services; and ensuring that individuals with disabilities have access to accurate information in appropriate formats so they are able to make informed choices. Also mentioned is the need to state in the Act the specific areas in which individuals are to be afforded choice. Cited were examples of some State agencies interpreting "choice" to mean that individuals are only able to choose among the alternatives that the State determines to be appropriate and available. Suggestions have been made to allow, if not require, consumer developed IWRPs.

### TRANSITION

Many individuals have cited the need for increased emphasis on transition services between education providers and VR, especially with regard to the age in which VR starts becoming involved with students. Most comments have cited age 14 as latest age to being such planning.

## DUE PROCESS

All who have mentioned due process issues have spoken to the need to retain and strengthen the procedural requirements. Several individuals have raised the need to rescind the State Director's ability to overturn decisions of impartial hearing officers. Many examples of abuses in this area were provided. Recommendations for change have included making the hearing officer's decision the last administrative review available and placing the authority to review and overturn hearing officer's decisions with the State Advisory Council (if action is also taken to make the State Advisory Councils more autonomous - particularly requiring that the Chair not be named by the governor). Also raised under this issue is the need for the Act to set time frames for due process actions/decisions.

## ASSISTIVE TECHNOLOGY AND PERSONAL ASSISTANCE

Many comments have cited the need to increase efforts to promote access to assistive technology and personal assistance services in the employment setting. Examples of this problem have included the refusal of the States (mainly through the VR counselors) to even consider the purchase of assistive technology due to monetary (lack of funding) considerations as well as the lack of knowledge about how these services may be provided. (Some of these comments have been raised within the comments on Order of Selection.) A related issue is the need for the Act to specify who will provide these services in the academic and employment settings, as these types of disputes only serve to delay, and sometimes deny, services to qualified individuals.

## FOLLOW-UP SERVICES

Many comments emphasized the need for follow-up services for individuals moving into the employment setting after receiving vocational rehabilitation. Most believe this may be accomplished through better coordination among and between Federal, State, public, and private agencies in order to optimize the disabled individual's receipt of all available resources and services. It has also been suggested that the identification of these type services be made during the IWRP process or through the CAP and PAIR programs.

## HEALTH INSURANCE

Several individuals have cited the need to remove the loss of health insurance as a barrier to disabled individuals accepting suitable job placements after receiving VR services. Comments have emphasized that disabled individuals do, in fact, want to work and be productive (and receive the positive rewards that employment may provide) as well as remove themselves from public support systems, but the loss, or threat of loss, of their health insurance or SSI/Medicare benefits requires those individuals to refuse suitable employment.

## TARGETED SERVICES

Several interest groups (in particular, blindness, deaf and hard of hearing, TBI, epilepsy, and developmentally disabled organizations) have stressed the need for flexibility in the Act for, and an increased emphasis on, services and funding specifically targeted for certain constituencies. This has not been presented as merely a request for special treatment, but rather the need for specialized services in order for these individuals to receive VR services that are as effective as those provided to other qualified disabled individuals. The development of model systems to meet their unique needs, the need for the specialized training for VR professionals, and justification for the continuation/ establishment of separate agencies (i.e., State agencies for the blind and CILs that serve targeted disability groups) have been methods suggested to resolve this issue.

# THE NCIL PERSPECTIVE

# THE NATIONAL COUNCIL ON INDEPENDENT LIVING (NCIL)

**Position on the Reauthorization of the Rehabilitation Act of 1973, as Amended**

## Introduction

The National Council on Independent Living (NCIL) is a national membership organization comprised of centers for independent living, persons with disabilities, independent living advocates, and organizations supporting the principles of independent living.

NCIL was founded in 1982 by a group of directors of centers for independent living and their supporters for the purpose of advocating for national policies which would enhance the lives of people with disabilities. These policies included civil rights, housing, transportation, personal assistance, air travel, communication, architectural accessibility, and, most particularly, reform of the federal and state vocational rehabilitation systems.

NCIL has been an active grassroots organizer, advocating for passage of the Fair Housing Amendments Act, the Air Carriers Access Act, the Civil Rights Restoration Act, the Americans with Disabilities Act (ADA), and most recently, the Rehabilitation Act Amendments of 1992. NCIL's position on the reauthorization of the Rehabilitation Act demonstrated its continued commitment to placing the authority over disability-related programming into the hands of persons with disabilities.

The center for independent living (CIL) network itself has, with the support of the federal and state governments, experienced strong growth in recent years. Since the first federal funding of centers was appropriated in 1979, the number of centers has increased from the original 10 to over 400 federally and state funded centers meeting fixed standards of performance. Today, many view the independent living movement and its centers as the operating arm of the disability rights movement.

Working from a premise that society, not people with disabilities, needs to be fixed, independent living (IL) advocates have demanded that people with disabilities have control over both the options and methods which bring them the greatest independence and control over their own lives. This includes greater authority over both administration and design of services that benefit people with disabilities. CILs became the first group of private, non-profit organizations to exemplify this principle, known as "consumer control."

In recent years, there have been several positive changes resulting from the actions of advocates for independent living. These actions have begun to make a difference in the policies and practices of the traditional rehabilitation system.

- Consumers have been given greater control of the services and programs designed to assist them. Title I vocational rehabilitation (VR) consumers have a greater role in the

development of their individual program plans, and in Title VII, consumer-controlled independent living councils have been partners in designing the IL networks in each state.

- Movement through the rehabilitation system of education, services, and support has been simplified. Applicants for VR assistance now face shorter time lines, less-complex enrollment procedures, and fewer duplicative and unnecessary barriers to overcome before receiving services. Assistance from CILs may now be received virtually without delay because of relaxed regulations governing the application process--with cost savings re-directed to consumer services and assistance.

- Stronger linkages exist between VR and IL programs in many states because of shared resources, cross-over representation on various councils, and a greater respect for the role of the consumer in the oversight and peer review processes which guide development and implementation of both programs.

- Recent exploration of voucher systems for purchasing services and the latest technical developments have also opened doors to a variety of individuals who have traditionally been excluded from VR programs because they did not "fit" into existing programs and services.

- More and more people have begun to pursue an independent living lifestyle. In Fiscal Year 1995, federally funded CILs assisted over 130,000 individuals with disabilities.

**The Need for Additional Changes**

Yet, there continue to be problems. In spite of legislative and regulatory amendments which require change and encourage creativity, many VR traditionalists cling to models of "service provision" which perpetuate the idea that people with disabilities are "cases" which need to be "managed" and that professionals know what is best for their "clients." As a result, a number of deficiencies in the rehabilitation program remain.

- Surveys and reports consistently show that 70% to 80% of persons with disabilities are unemployed. In fact, recent statistical data show that unemployment among men and women with disabilities who are actively seeking employment has increased 3% and 5%, respectively. Many advocates who were active in securing passage of the ADA are frustrated. If laws necessary for integration are in place, why hasn't change occurred? Why are more people with disabilities unemployed now than before the ADA was law?

- In the House of Representatives Report on The CAREERS Act, the Economic and Educational Opportunities Committee found that ". . . the vocational rehabilitation system needs to be significantly reformed to better meet the rehabilitation and training needs of individuals with disabilities, particularly those with severe disabilities."

- Another statement from the House Report said, ". . . a rehabilitation means a sixty day placement, although not necessarily a wage earning placement. Even by this very low standard, the system fails to rehabilitate 45% of its clients."

- A Government Accounting Office study indicated that ". . . when judged by the Social Security Administration's more challenging standard of nine months job placement . . . the VR agency only experienced a seven percent (7%) success rate."

- The CAREERS Act Report also stated that ". . . the Rehabilitation Services Administration estimates that an average of 10.4% is spent on State administration of rehabilitation programs, 34.6% on counseling and placement, and about 50.8% on purchased services."

- State VR agencies continue to support sheltered workshop facilities by placing individuals with disabilities in segregated settings which pay less than minimum wage and offer few options for movement.

- The Rehabilitation Act promotes the continuation of under-funded, separate programs for individuals who are blind as opposed to programs that are adequately funded, that promote the need for disability-specific service provision and staffing, and provide these services in integrated settings.

- Some state agencies have undermined the efforts of the statewide IL councils to plan and put into effect a strong IL network in the state.

- Disability advocates report that the response to the 1992 reauthorization in many states has been superficial at best, in spite of Congress' clear prescription for change. This is most noticeable when viewing the operational ineffectiveness of state advisory bodies.

**The Independent Living Foundation**

NCIL believes that there are certain principles upon which meaningful changes to the Rehabilitation Act must be based. The steady application of these principles throughout reauthorization ensures a consistent, less expensive, and more effective approach as the above needs are addressed. Application of all of the principles would assure full integration of all people with disabilities in the communities of their choice.

**Principle #1: Consumer Control**

NCIL defines consumer control as vesting power and authority in consumers of a particular program or service. In a consumer-controlled organization, the planning and decision-making staff reflect the population eligible to receive services with regard to disability, ethnicity, and other characteristics.

With regard to an individual, a consumer-controlled organization assumes that the individual knows best what he or she needs or wants.

**Principle #2: Cross-Disability**

The issues that individuals with disabilities have in common override the issues that mark their differences. Separate programs developed for a single group exaggerate differences between disability populations, usurp the strength of the disability community, and drive a wedge into efforts to advance disability issues. Separate programs, as enticing as they are to individuals denied the most basic supports, are inherently unequal. A cross-disability approach supports the need for specialized services, programs, and assistance, provided in the community.

**Principle #3: Equal Access**

People with disabilities must have the same opportunities as other persons to participate in training and job programs. All programs, services, and assistance must advance the independence and full participation of all individuals with disabilities without regard to significance or nature of the disability, promote self help and choice in methodology, and require equal access to society for all persons with disabilities.

Equal access for individuals with disabilities includes the availability of procurable services and products.

**Principle #4: Community Based**

All programs, services, and assistance must be provided within the community and in response to the needs of the community. Institutions, whether they are public, private or for-profit entities, inhibit growth and integration into community life. The most productive organizations are those which must survive by listening and responding to their consumers, involving families and the larger community, and building networks.

**Principle #5: Peer Relationships**

IL advocates believe that CILs are successful in assisting individuals with disabilities in achieving independence because of the use of peer role models. This method of transferring information, growing out of the self-help movements which evolved in the first half of this century, is based on the development of peer relationships with people who have had similar experiences.

In summary, advocates for change in the current rehabilitation program find that the principles briefly described above fly in the face of current rehabilitation practices, which emphasize the Medical Model, adherence to professional opinion at the expense of the consumer, and a belief that the individual with the disability needs to be "fixed" rather than fixing society and the rehabilitation system.

## NCIL Recommendations

The following are NCIL's recommendations for change to be included in the 1997 reauthorization of the Rehabilitation Act of 1973, as Amended. Each recommendation is preceded by the identification of the Issue which warrants the change and the IL Principle which is affected.

### SECTION 21

**Issue: Traditionally Underserved Populations**

The Rehabilitation Act requires that 1% of the funds appropriated to carry out programs authorized in Titles II through VIII (except Titles IV and V) be set aside for outreach efforts. The Act specifically encourages expenditures to historically black colleges and universities, Hispanic-serving universities, minority owned or controlled agencies and other underrepresented populations.

NCIL supports efforts to expand recruitment and training for minority populations. In 1995, however, Title VII Part C funded centers were exemplary in their efforts to reach out to minority populations. In that year, 20.4% of all decision-making staff and over 25% of all other staff were from minority populations.

This responsiveness was also apparent in CIL consumer statistics. Over 33% of all consumers were from minority populations with 19.5% of all consumers being African-American. CILs, with their consumer-controlled staff and boards, appear to have a greater sensitivity to issues of discrimination than other entities funded under the Act which do not have majorities with disabilities.

While NCIL is proud of the advances made within our community, we understand that there is still room for improvement in individual centers and nationwide, not only in addressing underserved minority populations, but in reaching out to underserved disability groups such as people who experience multiple chemical sensitivity, mental illness, and cognitive disabilities. Our record, nevertheless, warrants greater latitude and involvement for centers.

**Principle:** Consumer Control; Equal Access

**Solution:** Continue to set aside 1% of the funds for the recruitment and training of minority staff, but include CILs among those who may compete for grants. Encourage historically black colleges and universities to join with CILs and entities which historically provide training and technical assistance to CILs in the submission of grants for the training of professionals in the field.

In addition, extend the requirements, including the 1% set aside, to Title I where the greatest impact would be experienced.

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## TITLE I

**Issue: Rehabilitation Advisory Council (RAC) Authority**

In 1992, Congress created the rehabilitation advisory councils (RACs) to provide input into the planning and operations of the Title I program, in much the same manner as the statewide independent living councils (SILCs). The major difference between the councils lies in the legal authority vested with the SILC. People with disabilities have demonstrated in the SILCs that they possess the ability to provide the leadership and direction needed to move the vocational rehabilitation program into the 21st century.

**Principle**: Consumer Control

**Solution**: Transform the RAC into the Rehabilitation Council (RC), appointed by the governor, or appropriate government entity, and with full authority for developing and overseeing the implementation of the state plan for vocational rehabilitation, including all programs and operations under Titles I and III. Recognizing the substantial investment each state makes in the operation of the Title I program, the director of the designated state unit would be a full voting member of the RC. All other representatives of state agencies serving individuals with disabilities would be non-voting members of the council.

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**Issue: Consumer Control in the Vocational Rehabilitation Program**

Many states have practices which encourage rehabilitation counselors to pursue graduate study, yet prevent VR clients from pursuing advanced degrees. These practices perpetuate an image that the VR program is paternalistic -- assuring that individuals with disabilities are never more than recipients of services.

People with disabilities have been in leadership and professional positions in independent living centers for over 15 years, while the system of centers has grown from the original handful to over 400 nationally. People with disabilities have demonstrated an ability to provide a high level of assistance in a consumer-directed environment while reducing bureaucratic nonsense. As a result, their consumers have a sense of trust that only emerges when they also feel a sense of ownership.

**Principle:** Consumer Control

**Solution:** The Office of Special Education and Rehabilitative Services (OSERS) must begin to integrate the principle of consumer control into the VR program. State agencies receiving funds for the provision of VR services must begin to move toward consumer control immediately. RSA must set standards for hiring qualified individuals with disabilities into decision-making, direct service, and support staff positions. These standards must assure consumer control within the state agencies by the year 2002.

Similarly, the law must require consumer control within RSA by the year 2000.

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**Issue: Sheltered Workshops**

Section 103, Scope of Vocational Rehabilitation Services, specifically identifies services which may be provided in order to "render an individual with a disability employable." In some cases placement in sheltered employment has turned into extended employment at less than minimum wage, and VR clients have found themselves entrenched in a cycle of poverty because of these dead-end jobs. Extended employment at less than minimum wage is not a viable option for individuals seeking to break out of poverty.

**Principle:** Equal Access

**Solution:** Specifically prohibit extended employment at less than minimum wage in Section 103 and prohibit the inclusion of the costs of a facility which provides such services under Section 104, Non-federal Share for Construction.

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**Issue: Eligibility Determination**

In 1992, the statute was amended to assure that there is a presumption of an individual's ability to benefit from VR services and that eligibility determinations would be completed within 60 days of completion of the application for services. At that time a great deal of resistance to these changes came from traditionalists within the rehabilitation bureaucracy.

In fact, the changes were readily achievable and forced bureaucrats to change long established practices of over-assessment and institutionalized discrimination. Truthfully, 60 day determination periods are as undefendable as the previous 150 day periods since the presence of a disability is often immediately apparent.

**Principle**: Consumer Control; Equal Access

**Solution**: Most applicants are obviously eligible and a simple declaration of their disability and a desire to work should be sufficient to move them toward the training phase of their involvement with VR. The only other consideration may be their standing in an order of selection if the state has insufficient funding for all applicants.

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**Issue: Individual Written Rehabilitation Program (IWRP)**

Some individuals enter the vocational rehabilitation system without the need for long-term or intensive intervention. Often these are people who have already been employed, but need assistive technology or some additional education to maintain or advance in their career. Sometimes applicants are wishing to enter the work force, but need short term or limited assistance.

In each case, the development of an IWRP may not only be unnecessary, but also actually be counterproductive. The IWRP is a bureaucratic tool intended to protect both the counselor and the client. In fact, clients of VR are often confused about the purpose of the IWRP and, shortly after it is signed, do not remember what is in it. An IWRP is not a guarantee that clients of VR have been told all of their options, so it does not ensure that participants in the program will remain satisfied with the level of assistance they are receiving. At its worst, the IWRP creates a dependency on the VR system.

In 1992, consumers of CILs were given the opportunity to waive the right to an independent living plan. After two years, a majority of consumers receiving assistance through centers still exercised their right to a plan. Informal surveys of center staff showed no decrease in consumer satisfaction, but a significant lessening in the amount of time spent filling out needless paperwork -- time which could be devoted to direct services and assistance.

**Principle:** Consumer Control

**Solution:** NCIL supports giving clients of the VR program the option to waive the IWRP.

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**Issue: Consumer Choice**

Lack of consumer choice is one of the major barriers to successful rehabilitation. Professionals and clients agree that the greater the level of involvement by the client in the decision-making process, the greater the likelihood that the client will become employed. Too often, rather than sharing the strengths and weaknesses of a range of options with the client, the counselor gives a single alternative to the consumer and places the consumer in a "take it or leave it" situation. Since an integral part of the rehabilitation process is teaching decision-making skills and building self confidence, it makes sense to integrate consumer choice into all phases of the vocational rehabilitation process.

One way to blend consumer choice into the current system is by implementing a voucher program. Model voucher programs were tested during the current reauthorization cycle, so information is now available regarding what works and what does not.

**Principle:** Consumer Choice

**Solution:** Require that each state establish a limited voucher program during the first year following reauthorization and have a fully established system in place by October 1, 2000.

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**Issue: Personal Assistance Services**

The Act requires that state plans, policies, and procedures address personal assistance services and a statement in the IWRP, if appropriate, should identify the specific on-the-job and related personal assistance services to be provided to individuals. In practice, these services are not generally being provided to people with severe disabilities, even when necessary for individuals to be able to engage in training or employment or to retain employment.

**Principle:** Equal Access

**Solution:** Section 100 of the Act includes a list of reasons for the significant number of individuals with disabilities not working. The lack of personal assistance services should be added to this list in order to emphasize the importance of personal assistance services in the rehabilitation and employment process.

State plans should provide satisfactory assurances that the state has studied and considered a broad variety of means for providing personal assistance services to individuals with the most severe disabilities. State plans should also include a description of 1) how personal assistance services will be provided at each stage of the rehabilitation process; 2) how a broad range of such services will be provided on a statewide basis; and 3) the procedures and activities the state will undertake to assure appropriate and adequate training of vocational rehabilitation personnel concerning the uses and benefits of personal assistance services.

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**Issue: Evaluation, Monitoring and Review**

Perhaps the most common criticism leveled at the vocational rehabilitation system is that it is unresponsive to the needs and wishes of recipients of services. Too often, applicants and clients of the program feel alienated from administrators in the state designated agencies and overwhelmed by the "professionals" hired to assist them.

Additionally, the monitoring and reviewing of a state's VR program must be conducted in such a manner as to enhance client confidence. The reviews must ensure that emphasis is placed on administrative and programmatic practices which are respectful of client wishes and consistent with independent living principles.

**Principle:** Consumer Control

**Solution:** Include recipients of services in periodic revisions of the standards and indicators to ensure that more emphasis is placed on client responsiveness than professional credentials. In addition, recipients of services and qualified non-governmental evaluators from outside the state should make up a majority of reviewers during the periodic on-site monitoring of state programs, and results should be shared with the Rehabilitation Council for use in the development or modification of the state plan.

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**Issue: Career Development**

NCIL members often express concern that VR counselors tend to close clients out of the VR system shortly after they gain initial employment, regardless of their actual employment objectives. This occurs because counselors are evaluated on a point scale which values quantity over quality--that any job is as good as another. Although there has been some progress recently in placing more emphasis on working with clients who are more significantly disabled, there continue to be incentives for the counselor which are barriers to career development for their clients. This emphasis on moving clients through the system as fast and cheaply as possible is at least partly responsible for the poor 7% success rate when placements are evaluated on the 9 month job placement standard used by the Social Security Administration.

The clients complain that the VR system assumes that someone with a disability will keep an entry-level job forever, instead of providing services leading to employment which are consistent with the client's interests and abilities. As a result, VR clients do not receive the services and supports necessary to change jobs or advance in their careers. Clients often believe that they must quit their jobs in order to receive VR services again.

**Principle: Consumer Control**

**Solution:** There are several steps which must be taken to address the problem:

1. Give the VR client, not the counselor, primary responsibility for deciding when the vocational objective has been accomplished.

2. Change the evaluation system for VR counselors to place emphasis on the quality of the job as well as significance of the disability.

3. Give credit to the counselor for an initial placement that is building toward the client's vocational objective, and additional credit for advancement.

4. Ensure that a full range of disability specific services and supports are available to people who are employed and need assistance for career advancement. This should include requiring clients with higher incomes to incur some of the cost of assistance.

**Issue: Responsiveness of Client Assistance Programs (CAPs)**

One of the purposes of the CAPs is to ". . . assist and advocate for such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act . . ."

Many consumers and advocates report a lack of confidence in the CAP because of an apparent conflict of interest. In several states, the CAP is located administratively under the same state agency which manages the vocational rehabilitation program.

**Principle:** Consumer Control; Community Based

**Solution:** CAPs must be located outside the administrative entity that oversees the vocational rehabilitation program, and consumers must be involved in the development and evaluation of the CAPs.

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**Issue: Funding for CAPs**

CAPs report that one of the reasons for their slow response to complaints filed by clients and advocates is the large client-staff ratio in many states. As a result, clients report that untimely responses make pursuit of action wasteful and ineffective.

**Principle:** Consumer Control

**Solution:** A ratio of one CAP staff person per 50 VR counselors would ensure that clients and applicants would not be denied assistance because of burdensome staff-client ratios.

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**Issue: Higher Education Expenses**

The ADA requires institutions of higher education to provide auxiliary aids, such as interpreter services, and this responsibility is not dependent upon the availability of vocational rehabilitation or other funding. Yet, people are referred to VR by colleges, not because the person requires VR help, but because the school wants to capture VR funds to pay for accommodations. Similarly, VR clients attending an institution of higher learning are also required to access VR funding for auxiliary aids which the college or university is required to provide.

**Principle:** Equal Access

**Solution:** Section 103 (a)(6) must be amended to preclude the use of rehabilitation funding, unless reimbursed, for the purchase of interpreter, reader, notetaking, and tutoring expenses on behalf of individuals attending a college or university .

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**Issue: Class Actions**

Currently, CAPs are prohibited from pursuing class action suits when patterns of wrongdoing are evident. This is a wasteful obstruction, forcing CAPs to pursue each action individually when state agencies fail to put new practices into place to implement legal decisions statewide.

**Principle:** Consumer Control

**Solution:** CAPs must be permitted to pursue class action lawsuits.

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**Issue: Timeliness of Fair Hearings**

Advocates in several states report that fair hearings are not held in a timely manner and that the decisions from fair hearings are often not implemented. As a result, clients or applicants miss windows of opportunity and favorable decisions are rendered ineffectual.

**Principle:** Consumer Control

**Solution:** Specific time lines must be set into the statute within which the state must act. Systems must be set in place for monitoring and implementing of the fair hearing decisions, such as reports which are signed off by the client. Failure to follow through on a fair hearing timeline and decision will automatically result in a ruling in the client or applicant's favor.

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**Issue: State Director Review**

The current statute gives the state director the authority to review the decision of the impartial hearing officer and reverse the decision if it violates state or federal law. This reversal authority has been abused when no specific provision in the state or federal law is identified, resulting in needless litigation to reassert the rights of individuals to receive appropriate services.

**Principle:** Equal Access

**Solution:** The review process must be modified to require that such decisions be made by a state-level impartial review officer.

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**Issue: State Allotments**

Currently, only 50% of the funds allotted under Section 110 are dedicated to the purchase of training, equipment, and assistance for individuals who are recipients of vocational rehabilitation services. Traditionalists within the VR system dispute this claim, asserting that rehabilitation counselors, the state employees who determine eligibility and broker VR services, are in fact part of the "service" rendered.

The responsibilities of the rehabilitation counselor have greatly diminished with the advent of simplified eligibility determinations, the waiver of the IWRP, client choice, and job development and placement programs.

**Principle:** Consumer control

**Solution:** Require that state designated agencies use not more than 20% of their Title I Part B allotment for administration of the VR program, including salaries and related expenses for all state employees such as rehabilitation counselors.

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**Issue: Vocational Rehabilitation Program Access**

Although most vocational rehabilitation offices and providers of VR programs and services meet standards of access which are regarded as suitable for the general public, many facilities are not accessible to people who experience environmental illness or multiple chemical sensitivity. The use of many pesticides, chemical cleaners, carpet glues, and paints create barriers which prevent access to the facilities. In addition, some lighting and elevators are electronic barriers to people with environmental illness.

**Principle:** Equal Access

**Solution:** RSA, with the input of people who experience environmental illness/multiple chemical sensitivity, must develop standards of accessibility which address the needs of all people with disabilities. Continued receipt of funding through Title I, including state agencies and vendors which provide services, must be contingent upon meeting those standards.

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**Issue: Vocational Rehabilitation for Native Americans**

Projects funded under Section 130 are operated by Native people on their respective reservations. Many Section 130 project staff identify the need for independent living assistance for an overwhelming number of consumers either before or during the time they are receiving VR services, yet staff are prevented from providing them because of inflexible regulations, a lack of consumer control in Title I, and an inability to take into account the culture, values, and beliefs of Native Americans.

**Principle:** Consumer Control: Equal Access

**Solution:** Allow Section 130 projects to provide independent living assistance as a primary rather than ancillary service as long as the provision of such assistance is consistent with the principle of consumer control.

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## TITLE II

**Issue: Dissemination of Findings**

In Sections 202 (b)(2) and (4), NIDRR is given responsibility for widely disseminating research findings and educational materials from research and demonstration projects to researchers, educators (elementary and secondary schools and colleges), rehab practitioners, and individuals with disabilities, their family members, and their advocates.

This is a very important and ambitious provision. Updates on research findings are of great interest to people in the independent living field. NIDRR needs to examine carefully its efforts in this area.

The dissemination efforts as they relate to both consumers and staff at independent living centers do not appear to be entirely successful. This may be because many of the research dissemination efforts take the form of journal articles ("publish or perish" is a burden many researchers must live with) or presentations at research-focused professional conferences. Typically, research results are not the favorite reading or choice of conferences for most people in the independent living field, people with disabilities in general, or society-at-large.

**Principle**: Equal Access

**Solution**: The responsibility of widely disseminating research findings poses a very special challenge for NIDRR and the researchers it funds. It is imperative that findings be effectively disseminated to all the appropriate audiences. Therefore, NIDRR and its grant-funded projects should be required:

- to implement much broader and accessible methods of information dissemination, including use of language appropriate to the general public;

- to identify each component of their target audience and describe the distinctive dissemination methods that will be used to reach them;

- to specify approaches that will be taken by NIDRR to assure that research findings are being disseminated to target audiences; and

- to identify how NIDRR will assure that non-traditional dissemination methods are being used to reach the mandated target audiences, including people with disabilities, their family members, and their advocates.

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**Issue: Dissemination of Findings; Consumer Involvement**

According to Section 202 (b)(9), NIDRR has the responsibility for conducting research on consumer satisfaction with vocational rehabilitation services.

**Principle**: Consumer Control; Equal Access

**Solution**: Here is an example of the importance of research findings being widely disseminated to all audiences using innovative methods rather than just the traditional ones: Title I requires each state's rehabilitation advisory council (RAC) to conduct consumer satisfaction assessments--revisions to the state VR plan may be based on the results. RACs are composed of consumers, family members of consumers, and individuals representing advocacy organizations, service providers, and business.

Without question, members of the 50-plus RACs in the nation would benefit from having findings from NIDRR's efforts in this area. It needs to be stated again: NIDRR must require its funded programs to disseminate findings to the mandated target audiences, including RACs, in the most appropriate and communication-friendly manner possible. In addition, individuals involved in this research on behalf of NIDRR should be required to make technical assistance available to RACs in preparing, conducting, and interpreting their findings.

A second set of recommendations follows regarding NIDRR's very important responsibility of conducting research on consumer satisfaction with VR services:

This area of research must be conducted by individuals and organizations that have no connection with any stakeholders in the outcome.

Individuals conducting this research must obtain technical assistance from consumers in preparing and conducting both the approach and the tools to be used in the study and in interpreting the findings.

**Issue: Maintenance of Effort**

In Section 202 (b)(11), NIDRR has the responsibility of "coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 to ensure consistency with the plan for technical assistance required under section 506 of such Act."

**Principle**: Consumer Control; Equal Access

**Solution**: It is strongly recommended that this responsibility be maintained and that under no circumstances should any effort to relax activities related to the ADA be accepted. In addition, NIDRR must hire or promote people with disabilities to administer its ADA-focused programs.

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**Issue: Peer Reviews**

Section 202 (e)(1) addresses peer reviews for all NIDRR competitions for research grants and programs. The director of NIDRR is required to include in peer review groups people who are experts from the independent living field and knowledgeable people with disabilities, their family members, and advocates. To select individuals to serve on peer review groups, the director is to solicit nominations from the public and is to publish the names of individuals selected to be included in the pool.

**Principle**: Consumer Control

**Solution**: It is recommended that this provision be maintained. In addition, it is recommended that NIDRR use more aggressive methods to recruit as peer reviewers knowledgeable people from the independent living and disability rights fields. In its recruiting efforts, NIDRR should be less concerned with degrees and more concerned with identifying people who understand the consequences of disability. In addition, it must provide appropriate accommodations for people with disabilities, especially for people who are blind or have significant visual impairment, have multiple chemical sensitivity, or have a disability which makes writing difficult. All materials must be made available in alternate formats, including electronic, and the reviews must be conducted in environmentally safe locations. Applicants for peer reviewer positions should be notified periodically regarding their status as a peer reviewer.

NIDRR must also take steps when reviewing applications for continuation grants to assure that applicants have demonstrated a commitment to consumer participation and consumer responsiveness.

As the present Assistant Secretary of OSERS said 20 years ago, the people who know best what people with disabilities need to participate as full members of their communities are people with disabilities. This philosophy continues to be the guiding force in the independent living movement, and NIDRR's research programs could only benefit from reality-based appraisals from the people who know disability best.

To identify such knowledgeable people with disabilities, NIDRR should request consumer-led organizations such as NCIL to assist in disseminating information about the peer review application process.

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**Issue: Development of Research Plan**

In Section 202 (g)(2), (3), the NIDRR director is responsible for developing and submitting to Congress a long-range plan to identify rehabilitation research to "be conducted respecting the full inclusion and integration into society of people with disabilities" and to determine funding priorities for research activities. Section 202 (g)(4) stipulates further that the plan be developed "after full consideration of the input of individuals with disabilities" and their parents, service providers, organizations representing individuals with disabilities, and rehabilitation researchers.

**Principle**: Consumer Control

**Solution**: NCIL is pleased to see this research goal of full inclusion and the value placed on consumer input in this critical process. However, NIDRR needs to make explicitly clear how such input will be obtained, and take steps to ensure that input is received from traditionally underserved populations, such as individuals who experience multiple chemical sensitivity, mental illness and cognitive disabilities. Additionally, not only should independent living and consumer input be obtained prior to development of the plan, it should also be obtained after a draft of the plan has been prepared and funding priorities set.

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**Issue: Alternate Formats**

In Section 202 (g)(5), the NIDRR director is required to "specify plans for widespread dissemination of research results in accessible formats to rehabilitation practitioners, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals."

**Principle**: Equal Access

**Solution**: NCIL endorses this provision for accessible formats; however, NIDRR needs to specify what it means by "accessible." Would this include versions in braille, audio tapes with tone indexing, large print, electronic formats? Would it also include alternate languages, such

as Spanish? NIDRR must recognize (and be gratified) that many diverse audiences are extremely interested in learning more about findings resulting from its research programs.

In addition, NCIL's concerns remain regarding NIDRR's commitment to disseminating research findings by using a variety of diverse mediums to audiences in addition to rehabilitation research professionals. Historically, these research professionals appear to have more interest in investigating, interpreting, and reporting than in improving quality.

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**Issue: Establishment of Research and Training Centers**

In Section 202 (j)(1), (3), specific mention is made for NIDRR support of a pediatric rehabilitation research program and research and training centers on rehab and the Pacific Basin and rehab and rural areas.

**Principle**: Consumer Control

**Solution**: While NCIL does not in any way object to support of these RTCs, it questions the necessity of singling out these in the next Rehabilitation Act reauthorization.

Regarding support of a research and training center in the Pacific Basin, it is not clear if this RTC is to be actually located in the Pacific Basin--that is, outside the territorial U.S. It is NCIL's position that NIDRR locate this RTC in the Pacific Basin.

NCIL has learned through its participation in the RSA-funded national independent living training and technical assistance project that issues related to service provision and consumer empowerment in any cultural or language group are unique and best understood and, therefore, best addressed by people who are native to the location, group, and/or language.

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**Issue: Consumer Input**

In Section 203, the Interagency Committee on Disability Research, to promote coordination and cooperation among federal agencies conducting rehab research programs, is mandated to obtain input from people with disabilities, their family members, and advocates.

**Principle**: Consumer Control; Equal Access

**Solution**: Again, NIDRR needs to specify how this input will be obtained, and it needs to require that such input will be obtained both before and after preparation of the coordination strategy. Also, the National Council on Disability, Access Board, and other entities that have a solid record of advocacy on behalf of traditionally underserved populations need to be included as members of the committee.

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**Issue: Consumer Input**

In Section 204 (a), the NIDRR director "shall emphasize projects that support the implementation of titles I, III, VI, VII, and VIII, including projects addressing the needs described in the state plans submitted under section 101 or 704 by state agencies."

**Principle**: Consumer Control

**Solution**: NCIL endorses this provision of funding research on projects related to Title VII and the state IL plan.

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**Issue: Awarding of RTC Grants**

Section 204 (b)(2)(J) stipulates that in awarding RTC grants, NIDRR shall consider the geographic and regional allocation of RTCs.

**Solution**: NCIL recommends deleting this provision. NCIL believes that the most important criterion involved in awarding grants is the soundness of the proposal and the peer review score. Consideration of geographic or regional allocation should not be given priority over the peer review score. An exception to this rule is when the subject of the RTC has a special relationship with its locale (such as an RTC for the Pacific Basin).

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**Issue: Awarding of RTC Grants**

Section 204 (b)(2)(K)(ii) stipulates that to be eligible to receive a research and training center grant, an organization must "demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training."

By separating out the training component, the researchers' best and closest linkage with its user groups is severed. In addition, the greatest criticism of research programs is that they are out of touch with the needs and interests of the people whose needs they are supposed to address. An ongoing concern is the lack of awareness of, and full compliance with the ADA on the part of some RTCs and an inability to show practical application when developing research and dissemination proposals.

In addition, the present provision permitting the training component to be carried out by a separate entity implies a lack of appreciation of the significance of knowledge transfer and a profound lack of understanding of how the research and training components both enlighten and strengthen the efforts of each--and, in so doing, compound the overall effectiveness of the RTC.

**Solution**: NCIL believes that an organization receiving an RTC grant should have "in house" the capacity to design and implement both the training and meaningful research activities.

NCIL believes that in order to fulfill its mission effectively, an RTC should have a commitment and the ability to undertake a comprehensive, interdependent set of research and training projects. Neither the training component nor the research component should be contracted out to a separate organization.

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**Issue: Awarding of RTC Grants**

Section 204 (b)(2)(N) provides that when RTC applicants seek renewal of a grant, NIDRR is to take into account past performance regarding the RTC and will obtain input from people with disabilities and their family members.

**Principle**: Consumer Control

**Solution**: NCIL agrees with the provision to consider past performance; however, it has concerns about the process NIDRR will use to obtain input from people with disabilities. It is recommended that the Act require NIDRR to acquire assistance from consumer-based organizations, such as independent living centers, in order to develop procedures for obtaining such input. Procedures should address consumer control, consumer involvement, programmatic and architectural access, and ties to consumer groups and organizations, including those populations which are traditionally underserved.

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**Issue: Consumer Representation**

In Section 205 (c), a 12-member Rehabilitation Research Advisory Council is established to advise the director of NIDRR about research priorities as well as development and revision of the long-range rehabilitation research plan. It stipulates that at least one-half of the members shall be people with disabilities and their family members.

**Principle**: Consumer Control

**Solution**: NCIL strongly recommends that the council be composed of at least 51% of people with disabilities, including members from traditionally underserved populations and recipients of government support--and that family members and guardians be included in the other 49%. Further, it is recommended that the council be re-named the Research Council and be given sign-off authority on all plans developed by the NIDRR director.

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## TITLE III

**Issue: Training for IL Staff**

According to Section 301, the purpose of this title is (1) to ensure that skilled personnel are available to provide rehabilitation services to people with disabilities through a variety of rehab programs, including CILs; (2) to maintain and upgrade basic skills and knowledge of personnel employed in such programs; and (3) to provide training and information to people with disabilities and others to develop skills necessary for people with disabilities to access the rehab system.

**Principle**: Equal Access

**Solution**: It is clear from RSA's annual requests for proposals for training programs under this title that needs of present and future staff of CILs have been insufficiently addressed. While this title obligates RSA to ensure availability of skilled CIL personnel and to maintain and upgrade basic skills and knowledge of personnel working in CILs, this obligation is simply not being met.

It is imperative that RSA establish a minimum annual number of training programs targeted to personnel employed by CILs, that no less than 20% of RRCEP funding be dedicated to training of CIL staff, that train-the-trainer methods and various multi-media formats are utilized, that such training programs be designed by CIL personnel and consumers, and that such programs be funded on an on-going basis.

It is also critical that RSA's reviewers be knowledgeable about disabilities, disability rights, consumer empowerment, CILs, accommodations, and the peer model of advocacy and service provision.

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**Issue: Personnel Shortages**

In Section 302 (b)(1)(A), the RSA commissioner targets funds made available in any year to areas of personnel shortage.

**Principle**: Consumer Control; Equal Access

**Solution**: NCIL recommends that RSA be required to provide a very clear description of the procedure used for making this decision and to obtain input from its target audience, including CILs, on their needs prior to making this decision.

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**Issue: Content of Training for Rehabilitation Personnel**

There is a strong emphasis throughout Title III on training in the medical aspects of

disability, particularly in Section 302 (b)(1)(A). Little emphasis is placed on training concerning the environmental and statutory barriers to employment although such barriers are some of the most significant impediments for people with disabilities in obtaining training and employment.

**Principle:** Community Based

**Solution:** Throughout Title III and particularly in Section 302 (b)(1)(A), change the emphasis on training concerning the medical aspects of disability to an emphasis on training concerning environmental and statutory barriers.

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**Issue: Training People with Disabilities to be Qualified Vocational Rehabilitation Personnel**

Title III is concerned with training individuals to be qualified personnel to provide vocational rehabilitation services to people with disabilities. There is no particular emphasis placed on training people with disabilities to be qualified personnel to provide vocational services to other people with disabilities. If the program is to become consumer controlled, and if the recipients of the services are to have the proven advantages of peer counseling and support, there must be a strong emphasis on training people with disabilities to become qualified vocational rehabilitation personnel.

**Principle: Consumer Control, Equal Access**

**Solution:** Grants that are made for programs to train qualified vocational rehabilitation personnel must require that recruitment of people with disabilities for training be a strong component of the program and that the percentage of trainees with disabilities will be a major factor in the evaluation, hence continuation, of training programs. A goal that 51% of all trainees will be people with disabilities should be required of all training programs funded under Title III and progress toward this goal should be a major component in the evaluation of training programs.

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**Issue: Career Development and Weekly Allowance Limitations**

Section 303 (b)(2)(B) provides that payments of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services when this is necessary to assure that the individual can enter into and satisfactorily complete training. These weekly allowances may not be paid to any individual for any period in excess of two years even though training for careers or career advancement may take more than two years in many instances. Training for careers and career advancement are emphasized in the Rehabilitation Act. However, the limitation of weekly allowance payments to two years may preclude the type of training necessary for careers and career advancement.

**Principle:** Equal Access

**Solution:** In Section 302 (b)(2)(B) change the limitation on weekly training allowances from two to four years.

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**Issue: Training of CIL Personnel**

Section 302 (b)(1)(B) identifies 16 categories of professions that may receive training under Title II; however, CIL staff do not appear to be included among these 16 categories.

**Principle**: Equal Access

**Solution**: NCIL recommends that CIL staff be recognized and treated in the same manner as these other categories of professions for which RSA has responsibility of providing pre- and post-employment training in order to improve the effectiveness of services authorized under this Act.

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**Issue: Internships**

Section 302 (b)(3)(A)(I) stipulates that an individual who receives a scholarship under this program must maintain employment in a nonprofit rehab agency for a given period of time.

**Principle**: Consumer Control

**Solution**: NCIL recommends that this section makes it clear that an independent living center may serve as one of these "agencies."

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**Issue: Development of Manpower [sic] Plans**

In Section 302 (c), the RSA commissioner "shall evaluate the impact of the training programs conducted under this section, shall determine training needs for qualified personnel necessary to provide services to individuals with disabilities, and shall develop a long-term rehabilitation manpower [sic] plan designed to target resources on areas of personnel shortage."

**Principle**: Consumer Control

**Solution**: NCIL recommends that the procedures used to accomplish these activities be explicitly described, particularly the means of preparing the long-term rehabilitation "personnel" plan. It also recommends that RSA be required to include people with disabilities and representatives from the independent living field to participate in preparation and review of the personnel plan.

**Issue: Career Advancement**

Section 303 (b)(2)(I) specifies that vocational rehabilitation services include "training with a view toward career advancement."

**Position:** NCIL strongly approves of this provision, which recognizes that advancement in employment is a valid employment goal for which people with disabilities can receive VR support.

## TITLE IV

**Issue: Council Membership**

In 1992, the membership criteria for the National Council on Disability (NCD) was changed to assure that a majority of people appointed to the NCD were individuals with disabilities, or parents or guardians of individuals with disabilities. Lawmakers appear to be operating under the assumption that there are certain specific disability groups in which no individual could be identified to represent his or her peers. To continue to operate under this assumption perpetuates negative stereotypes of entire disability populations.

**Principle**: Consumer Control

**Solution**: Assure that over 50 % of the members of the NCD are people with disabilities, including people from traditionally underserved populations. Parents, guardians and others may be among the other 49 % of the appointees.

## TITLE V

**When the Americans with Disabilities Act (ADA) was signed, civil rights protection for individuals with disabilities finally became the law of the land. Title V, however, remains the cornerstone of this civil rights movement. Even with the passage of the ADA, Title V remains the only line of defense when addressing discrimination in federal programs and contracts. All provisions in Title V must be maintained.**

**Issue: Accessibility of Equipment**

Section 508 of the Act requires that the Department of Education, through the National Institute on Disability and Rehabilitation Research (NIDRR), and the General Services Administration develop and establish guidelines for federal agencies for electronic and information technology accessibility. The purpose of these guidelines is to ensure, regardless

of the type of medium, that people with disabilities have the same access as individuals who do not have disabilities.

In spite of this very clear language, Section 508 has had little impact on the procurement of equipment by federal agencies. This creative market-driven approach has been unsuccessful in part because:

- procurement officers in the federal agencies are not given the technical assistance they need to purchase the correct equipment;
- purchasing thresholds (amounts over $2 million) are too high to have significant impact; and
- there are no oversight provisions or penalties to ensure compliance with the law.

Section 508 is a practical, cost-effective way to ensure that individuals with disabilities, especially those with sensory disabilities, have the same access to federal employment as their fellow citizens.

**Principle:** Equal Access

**Solution:** Section 508 must be reinforced to ensure that the guidelines are updated and realistic purchasing thresholds are set in place, a single agency is given responsibility for the provision of technical assistance, and incentives are set for compliance with the law.

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## TITLE VII

**Issue: SILC Sign Off Authority**

In 1992, Congress granted the statewide independent living councils (SILCs) co-sign off authority, in conjunction with the director of the designated state agency, for the development of the state IL plan and concomitant responsibilities. SILCs have now been operating for at least four years, during which time they have developed three state IL plans, managed resources, and supervised staff. It is time for the SILCs to have full authority for the development of the state IL plans, as well as related responsibilities. The state agency directors continue as members of the council.

**Principle**: Consumer Control

**Solution**: Amend the Act to give the chair(s) of the SILC, acting on behalf and at the direction of the council, singular authority for signing and submitting the state IL plan.

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**Issue : Appointments to Statewide Independent Living Councils**

Current law requires that the governor appoint members to the SILC, unless another appointing authority exists within the state. Several problems have evolved as the SILCs have grown and established themselves:

1. In many states appointments to the SILC have taken as long as 18 months. SILCs are asked to screen applicants and forward their recommendations to the governor's office, but must wait for the official appointment before allowing the applicants to conduct business. This has placed a burden on councils which must develop and approve state plans, carry out goals and objectives, monitor the implementation of the plan, and prepare for future SILC endeavors.

2. In a least five states (and several more under consideration), the SILC has found that establishing the SILC as a 501(c)(3) not-for-profit corporation has been the most effective way for that SILC to meet both the requirements of the Rehab Act and respond to the needs of the disability community of that state. While operating as a 501(c)(3) corporation is reported to be a very successful model in those states, the statute essentially requires that a public official names the board of directors of a private corporation.

3. At least one director of a center for independent living must serve on the SILC, and this director must be chosen by the other CIL directors. The statute also requires that the governor (or an appointing authority) appoint the members to the SILC. A conflict may arise if a governor refuses to appoint the director chosen by his or her peers.

4. In several states designated state unit (DSU) staff have been appointed as voting members, and vote as a block to keep control of the IL programs under the DSU. No employees of the DSU may be a voting member of the SILC.

**Principle**: Consumer Control

**Solution**: The statute should be changed giving SILCs the authority to nominate all members to the council. These nominees would have full voting powers (except ex-officio members) and decision-making authority pending final approval by the governor (or appointing authority). The governor will not appoint the CIL representative(s) and SILCs which are not-for-profit corporations will follow their own by-laws in appointing members to their SILC.

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**Issue: Title VII Part B Funds**

Following the 1992 reauthorization, SILCs were given much more latitude with regard to determining how Part B funds are to be spent within their state. Many SILC members report that state agencies continue to control both the planning and administration of the Part B funds. Consequently, Part B funds are generally used to provide services and equipment to a relatively few consumers rather than for systems change activities.

Several SILCs also report that, when systems change activities are identified for Part B funding, state agencies are unable to overcome their own bureaucratic obstacles to pay for them. Yet, in this short reauthorization cycle, several SILCs have written by-laws, developed articles of incorporation, established non-profit entities, hired staff, established procurement procedures, and entered into contracts and grants with a variety of entities. Several state agencies have acknowledged their legitimacy and competence by entering into contacts with them.

**Principle:** Consumer Control; Community Based

**Solution:** NCIL suggests moving the "IL services" option under Part B from number 1 to number 7 and require that services be provided by consumer-controlled organizations which support and practice the independent living philosophy. Further, NCIL supports giving the SILCs the right of first refusal for receiving Part B funds directly.

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**Issue: Direct Funding of Centers for Independent Living**

In 1992, the Act was amended to allow direct funding of CILs in states in which the federal government allocated more funds for the operation of centers than the state. In those states in which allocation from the state general fund for the operation of CILs exceeded the federal allocation to the state, the states were given the first right of refusal to receive and then re-grant those funds. Fourteen states qualified to receive those funds directly, and seven (now six) exercised their option. In some states this action was taken in spite of the objection of the SILC in that state.

In states in which funding is controlled by the states, more latitude is given to the SILC to redistribute federal dollars. On the plus side, this allowed some SILCs to resolve long-standing inequities between centers and assure that each center received both federal and state dollars, an insurance against future cutbacks.

On the negative side, state control perpetuated some long-standing problems with funding threats/ intimidation, burdensome record keeping, and excessive contract (rather than grant) oversight. In many cases, state dollars are directed toward the management of the federal funds, rather than the operation of the CILs.

Recognizing that those centers in states in which funds flow through the state agency are the best evaluators of the current model, NCIL surveyed its members in those seven states. Fifty percent of those surveyed responded. Of those who responded, over 80% wanted direct funding for all CILs without regard to the state contribution. A majority of each state's respondents also were in favor of direct funding.

**Principle:** Consumer Control

**Solution:** NCIL believes all recipients of Title VII Part C funds must receive their funds directly from the federal government, thus eliminating the need for Section 723 of the Act.

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**Issue: Existing Eligible Agencies**

Section 722 of the Act states that the ". . . Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993 . . ." The purpose of this requirement is to ensure that centers conducting community change activities will continue to receive funding from year to year as long as they meet the other program and fiscal standards and assurances. The wording in the Act guarantees the sovereignty of those CILs in existence at the time of the reauthorization, but not those created since October 1, 1993 and those funded in the future.

**Principle:** Consumer control

**Solution:** Extend the coverage of Section 722, Existing Eligible Agencies, to all centers funded in the previous year.

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**Issue: Center Accessibility**

Although most centers meet standards of access which are regarded as suitable for the general public, many centers are not accessible to people who experience environmental illness or multiple chemical sensitivity. The use of many pesticides, chemical cleaners, carpet glues, and paints create barriers which prevent access to the facilities. In addition, some lighting and elevators are electronic barriers to people with environmental illness.

**Principle:** Equal Access

**Solution:** RSA, with the input of people who experience environmental illness/multiple chemical sensitivity, must develop standards of accessibility which address the needs of all people with disabilities and continued receipt of funding through Title VII must be contingent upon meeting those standards.

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**Issue: Chapter 2**

The independent living services program for individuals who are older and blind attempts to address an issue of importance to all Americans--an ever-increasing population which acquires disability through the aging process. These individuals, who may not even

perceive themselves to experience a disability, can thrive for decades in their community. In order for them to live outside institutional settings, these individuals must be integrated into the system of IL supports which are being developed nationwide.

The current Chapter 2 program misses the mark for several reasons. First, the program is not integrated into the statewide IL planning system for all individuals with disabilities. Therefore it lacks a comprehensive, long range, community-based approach to resolving this issue.

Secondly, the program operates in a vacuum, failing to address the issues of all older Americans who acquire disability and may be facing similar barriers to continued independence. Again, individuals with disabilities have more in common than differences and the myth that one population has greater need than all others can no longer be supported. Arguments in defense of separate systems "on behalf of older blind people" are too often simply efforts to obtain continued funding for bureaucrats and their systems.

Finally, the program cannot begin to address the needs of even the older blind population if it utilizes the limited funding to support traditional models of service provision. The states which have proved to be most successful are those which integrate the funds into broad IL programs rather than use them for evaluations and eyeglasses.

**Principle**: Consumer Control; Cross Disability; Equal Access; Community Based; Peer Relationships

**Solution**: The Chapter 2 program should be changed to "Independent Living Services for Older Americans" and be integrated into the balance of Title VII. Funding, which is insufficient and must be increased, should be made available through grants to consumer controlled organizations following the direction of the SILC with direct input from older Americans and the state's blind community.

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## TITLE VIII

### Issue: National Commission on Rehabilitation Services

In 1992, NCIL advocated for the establishment of a consumer-controlled, cross-disability National Commission on Rehabilitation Services which would study programs and services rendered under the Act to determine what substantive changes must be made during the next reauthorization. A comprehensive final report was to be presented to the President and Congress not later than January 30, 1997. Although included in Title VIII, the Commission was never funded.

While the original need for the Commission continues, there is an additional element which must be added to the mission: Any report produced by the Commission must include specific recommendations regarding changes which also must be made to related statutes, such

as the Social Security Act, the Higher Education Act, and the tax codes. In addition, recommendations made in this paper to prevent the funding of agencies or organizations which keep people with disabilities in dead-end or low paying jobs will have less impact if other federal funds are used to perpetuate them. Likewise, as long as inappropriate purchases of training, services, and equipment are made without regard for the wishes of the consumer, brokers will merely substitute one funding source for another. A radical change in any one statute will be ineffective unless we make a comprehensive attempt to remove all disincentives to employment of individuals with disabilities.

**Principle:** Equal Access

**Solution:** The report produced by the Commission must include specific recommendations regarding changes which also must be made to related statutes.

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**This position paper was unanimously approved by the NCIL Governing Board at the October 4, 1996 meeting.**

# THE BLIND COMMUNITY PERSPECTIVE

# JOBS CONSOLIDATION ACT

## JOINT STATEMENT

This plan simply would not work. The needs of a person who is newly blinded or who has not received effective rehabilitation services are drastically different from those of the typical unemployed worker. For example, the following essential rehabilitation services needed by blind individuals are not available from, and are completely unrelated to, generic job training and employment programs:

1. Travel training in using the white cane or the guide dog is essential for success in vocational training or employment. This training must encompass how to assess the environment without seeing one's surroundings.

2. Adaptive methods of reading, writing, and information access are prerequisites for success in the workplace. Braille, for example, is a system of reading and writing which depends upon the tactile identification of raised dots. The extent of training needed will vary in complexity from learning the basic Braille code (including almost 200 contractions or special symbols commonly in use) to specialized notations for computers, foreign languages, music, math and other disciplines.

3. Assistive technology is an essential tool for blind persons in employment. High- or low-tech adaptations include use of specially adapted synthetic speech devices for computers, screen enlargement programs, Braille computer terminals, closed-circuit television or other magnification devices, reading machines, or scanners. These services must include identification of the appropriate technology to meet the needs of the individual and the employer and provision of training in its use. Title I is the only funding source for this service.

4. Daily living skills training is directly related to employment, inasmuch as blind and visually impaired persons without these skills will not be able to function effectively in an employment setting. Such training includes alternative skills for personal and home management such as grooming, cooking, shopping, getting to work, and many other ordinary things that sighted persons take for granted.

5. Adjustment to blindness is essential to an individual's eventual success in seeking and holding a job. Effective rehabilitation counseling helps blind and visually impaired persons overcome fears and develop confidence in their newfound skills. They learn to understand employer attitudes about blindness and how to deal with them effectively. We support continued federal leadership in a partnership with the states for targeted programs to assist persons with disabilities, including specialized services for individuals who are blind or visually impaired.

CONCURRING AGENCIES/ORGANIZATIONS:

American Association for the Deaf-Blind (AADB)
American Council of the Blind (ACB)
American Foundation for the Blind (AFB)
Association for Education and Rehabilitation of the Blind and Visually Impaired (AER)
Blinded Veterans Association (BVA)
General Council of Workshops for the Blind (GCWB)
Helen Keller National Center for Deaf-Blind Youths and Adults (HKNC)

including:

National Family Association for the Deaf-Blind (NFADB)
National Association for Parents of the Visually Impaired (NAPVI)
National Council of Private Agencies for the Blind and Visually Impaired (NCPABVI)
National Council of State Agencies for the Blind (NCSAB)
National Federation of the Blind (NFB)
National Industries for the Blind (NIB)
National Organization of Parents of Blind Children (NOPBC)

# SPECIALIZED REHABILITATION SERVICES FOR BLIND AND VISUALLY IMPAIRED PERSONS

## A Position Statement

The Americans with Disabilities Act and other laws enacted in recent years in the United States and Canada represent enlightened disability policy. However, the noticeable trend to define "disability" as an overarching generic condition for purposes of program design, administration, and funding is pernicious in its effect upon rehabilitation services for children and adults who are blind or visually impaired.

It is the common experience of the agencies and organizations that have joined in this statement that specialized, comprehensive rehabilitation services and essential changes in social attitudes about blindness do not occur when rehabilitation services for the blind are provided through a single program which serves both blind and disabled persons. This is so in large part because the characteristics and distinctive needs of the blind become lost amid much larger issues and populations and because specialized services are overshadowed by diverse, unrelated goals.

The accomplishment of individualized rehabilitation goals can be achieved in an efficient, consumer-responsive manner when blind people have access to an agency dedicated to providing blindness-specific services. Such an agency must be administratively identifiable and have qualified personnel especially trained to serve the blind. Accountability for program results is strengthened by this organizational structure and staffing since accomplishment of specific objectives for a defined target population of manageable size can readily be measured. When program results fail to merit support, blind consumers and their advocates or the professionals who serve them can make focused efforts to insist upon improvements.

Promoting more enlightened social attitudes about blindness is an indispensable goal of specialized services for the blind. To achieve this unique goal competent personnel, including blind persons serving as role models in both staff and volunteer capacities, must be assigned to teach blindness-related alternative techniques. Blind individuals require comprehensive and often complex rehabilitation services in areas such as adjustment training, independent mobility, Braille, and the use of assistive technology to meet their particular information needs resulting from vision loss. Most importantly, they must develop confidence, which is a prerequisite to effective use of these skills in daily life.

Laws pertaining to "people with disabilities" as a class may appropriately be general if the purpose is to prohibit discrimination or to identify individual rights. However, rehabilitation programs and the laws which authorize them have a far more precise mission. When services for the blind are submerged into broad disability programs precision is sacrificed for generality, and comprehensive, consumer-responsive services for blind individuals are lost.

This position statement has been unanimously adopted by national agencies and organizations in the United States and Canada which represent those who provide services for persons who are blind or visually impaired and those who are the elected representatives of the blind. We are firmly committed to the provision of specialized rehabilitation services for blind persons by identifiable agencies especially established to serve them. We urge program administrators, lawmakers, and other public officials to follow the principles expressed in this statement.

SIGNING ORGANIZATIONS ARE:

American Council of the Blind
American Foundation for the Blind
Association for the Education and Rehabilitation of the Blind and Visually Impaired
Blinded Veterans Association
Canadian Council of the Blind
Canadian National Institute for the Blind
National Federation of the Blind
National Library Service for the Blind and Physically Handicapped

# AMERICAN COUNCIL OF THE BLIND

## Testimony on Reauthorization of the Rehab Act

American Council of the Blind
1155 15th Street NW, Suite 720
Washington, D.C. 20005

COMMENTS TO: Fredric K. Schroeder, Ph.D.
U.S. Department of Education
600 Independence Avenue, S.W.
Mary E. Switzer Building, Room 3028
Washington, D.C. 20202-2531

SUBMITTED BY: Julie H. Carroll
Director of Governmental Affairs
American Council of the Blind
1155 15th Street, N.W., Suite 720
Washington, D.C. 20005

DATE: October 29, 1996

RE: Reauthorization of the Vocational Rehabilitation Act

The American Council of the Blind (ACB) is pleased to comment on the reauthorization of the vocational Rehabilitation Act of 1973, as amended. The American Council of the Blind is the leading national organization of blind men and women in the United States. ACB strives to increase the independence, security, equality of opportunity and quality of life for all blind and visually impaired people.

Congress' findings with the passage of the Vocational Rehabilitation Act are just as accurate and pertinent today as they were at the time of the passage of the Act. Congress found that "Millions of Americans have one or more physical or mental disabilities, that the number of Americans with such disabilities is increasing, and that individuals with disabilities constitute one of the most disadvantaged groups in society. ACB has found that the number of individuals with visual impairments is increasing as the population ages. Individuals with vision impairments, especially those with severe visual impairments, "constitute one of the most disadvantaged groups in society."

Individuals with disabilities, those with visual impairments in particular, continually encounter various forms of discrimination in employment, housing, public accommodations, education, transportation, communication, recreation, voting, and public services. For these

reasons, it is imperative that the Federal Government play a leadership role in promoting the employment of individuals with disabilities, especially individuals with severe disabilities such as blindness, and that the vocational Rehabilitation Act be reauthorized.

ACB's comments regarding suggested changes to the Act relate to expanding employment opportunities, strengthening individualized, specialized services, and promoting consumer involvement in the overall functioning of the vocational rehabilitation system.

I. Expanding Employment Opportunities

A. Self-Employment

The vocational rehabilitation system should seek ways to expand employment options for people with disabilities and, in particular, to promote creative alternatives to traditional employment options for people with severe disabilities. ACB finds that self-employment is one such alternative that may hold much promise for self-sufficiency for people who are blind or visually impaired, but which is discouraged by rehabilitation professionals in many states.

Results of recent research conducted by the American Foundation for the Blind indicates that, of those blind people who are successfully employed, a surprising percentage (approximately 25 percent) are self-employed. Given the attitudinal barriers to employment faced by people with disabilities, as well as transportation barriers, ACB questions the wisdom of practices which discourage self-employment as an option. ACB prefers that individuals with disabilities be encouraged and provided appropriate rehabilitation services to pursue self-employment if that is the individual's informed choice.

Self-employment often involves serving customers, private practice, consulting, sales, etc. Many of these activities involve a high degree of contact with non-disabled individuals--thereby creating excellent opportunities for disabled individuals to demonstrate that they can work successfully and independently. This is hardly inconsistent with competitive employment. In the long run, it could have the effect of breaking down more attitudinal barriers than would working for someone else.

Moreover, there is no justification in the Act for diminishing self-employment opportunities for disabled individuals; yet, we are advised that this is occurring. Self-employment is consistent with section 2(a)(3)(B) of the Act which provides that "disability is a natural part of human experience and in no way diminishes the right of individuals to enjoy self-determination." Strengthening self-employment options for people with disabilities should be a high priority during reauthorization.

B. Employment in Non-Integrated Settings

Much emphasis has come to be placed on employment in integrated settings for people with disabilities. Ironically, such emphasis, in some situations, may foster rather than discourage discrimination. The value of one's work should not be measured by how many nondisabled coworkers or customers one comes into contact with during a given work day. While

integration into the community and into society is certainly an important goal for people with disabilities, who have historically been isolated and excluded from many aspects of life, specifying the nature and composition of the workplace for people with disabilities restricts employment options and may not guarantee integration into society.

Furthermore, no such restriction is applied to nondisabled people. An individual's informed choice of employment setting, so long as competitive wages and benefits are provided in a nondiscriminatory fashion, should be given priority over the general view that employment settings for people with disabilities must be integrated. During reauthorization, all references to "integrated setting" should be qualified with the phrase "unless the individual chooses otherwise." This will clarify that an individual, through informed choice, may opt to pursue an employment outcome in a non-integrated setting.

Disabled individuals should have the option to choose to work primarily with other disabled individuals. For example, a visually impaired teacher should have the option to teach visually impaired students. Persons with disabilities should have the option to work as peer counselors in centers for independent living. A deaf nurse should have the option to work in a school for deaf children. And it should not be the practice of our vocational rehabilitation system to tell such individuals that their work is less valuable simply because they are not working with nondisabled people. This will also accommodate some of the more promising jobs and career paths for workers today, including workers with disabilities, which often involve self-employment, home-based businesses and/or telecommuting. Since employment of this type provides little or no direct or face-to-face contact with other people, it may not be viewed as competitive employment and, as a result, might be discouraged as appropriate employment outcomes for individuals receiving vocational rehabilitation services.

During reauthorization, emphasis should shift to the individual's right to choose from among employment options which provide competitive wages and benefits as opposed to emphasizing the number of other disabled employees on the premises or the number of contacts with nondisabled individuals during the work day.

C. Strengthening Services to Groups

In the Notice of Proposed Rule-Making for Title I regulations, Section 713 provided that management support services may be provided on an ongoing basis for small business enterprises operated by individuals with the most severe disabilities. Similarly, ACB would like to see an emphasis in Section 103(b) of the Act tying services to groups, particularly services supporting small business enterprises, to informed consumer choice. While some state programs strongly support small business enterprises, other state programs do not support this as an employment option, even for individuals who, through informed choice, wish to pursue this employment option.

Given the unemployment rate among people who are blind or visually impaired, and the limited range of employment options available for blind people, all viable employment avenues for blind people which are "consistent with their strengths, resources, priorities, concerns, abilities, capabilities, and informed choice" should receive the support of our vocational

rehabilitation system. During reauthorization, provisions should be added which require that state vocational rehabilitation systems must provide support necessary to make small business enterprises available as an employment option for those who would choose this option.

II. Strengthening Individualized, Specialized Services

A. Service Settings

The emphasis on integration has carried over to training settings as well as employment settings. Section 12(5)(e)(2)(C) of the Act requires "Procedures to assure that services are provided in the most integrated settings." Rehabilitation services should be provided in the most appropriate setting which will be most likely to prepare the individual receiving the services to compete successfully in employment.

Providing rehabilitation services in the most integrated setting will not necessarily achieve full integration into society. Where the purpose is to provide specialized services to populations with low incidence disabilities, particularly services for teaching alternative methods of acquiring and communicating information, such as teaching the use of speech technology and reading and writing in braille, an integrated setting may not meet the needs of the individual with a disability. For example, sending a newly blinded person to a community college for a basic class in WordPerfect skills may be "the most integrated setting possible," but, if the facility is not equipped with speech and/or braille technology and instructors who know how to use such equipment, the blind individual will not benefit from the service and will likely become more isolated than if he or she received appropriate, specialized training so that skills are acquired that can be used successfully in an integrated employment setting. This type of situation was a primary reason for the recent amendments to the employment consolidation bills passed during the 104th Congress which removed vocational rehabilitation services from employment consolidation.

During reauthorization, the ultimate goal of integration into society should be retained, but, in addressing the delivery of rehabilitation services, emphasis should return to providing services in the most appropriate setting to meet the unique needs of the disabled individual.

B. Separate Agencies for Blind People

The value of providing separate organizational structures for specialized services for people who are blind or visually impaired was set forth in The Studies of Service Delivery Systems in Rehabilitation of the Blind and Visually Impaired: Review and Analysis, 1991. The report's summary concludes:

1. Blind and visually impaired rehabilitation clients should be served in specialized caseloads which are devoted exclusively to blind and visually impaired persons.

2. The cost of rehabilitating blind persons is not affected by administrative structure; in general, the cost of rehabilitating blind persons is high.

3. There is no evidence to indicate that combined agencies are more cost effective.

4. The separate, identifiable program is more accountable.

5. Identifiable, specialized programs provide more, better, and more effective services than do other types of programs including the combined programs. Research notwithstanding, the need for separate and specialized services for blind people has come into question by some who are not part of the blindness service delivery system. Separate agencies for blind people have come under attack in some states, and in some cases, are being abolished despite opposition by blind consumers and professionals who serve them. Adjustment to blindness requires comprehensive services provided by highly specialized personnel. Unlike many other disabilities, blindness affects multiple major life activities. Reading, writing, mobility, and nearly all aspects of independent living must be relearned using alternative compensatory strategies and techniques. Such services are not available from the traditional health care system, nor are these services reimbursed by traditional third-party payers. Examples of such services include:

1. Orientation and mobility training in using a cane or guide dog is essential for success in vocational training, employment, and independent living.

2. Adaptive methods of reading, writing, and information access are prerequisites for success in the workplace and independent living. Braille, for example, is a system of reading and writing which depends upon the tactile identification of raised dots. The extent of training needed will vary in complexity from learning the basic Braille code (including almost 200 contractions or special symbols commonly in use) to specialized notations for computers, foreign languages, music, math and other disciplines.

3. Assistive technology is an essential tool for blind persons in employment. High- or low-tech adaptations include use of specially adapted synthetic speech devices for computers, screen enlargement programs, braille computer terminals, closed-circuit television or other magnification devices, reading machines, or scanners. These services must include identification of the appropriate technology to meet the needs of the individual and the employer and provision of training in its use. Title I is generally the only funding source for this service.

4. Daily living skills training is directly related to employment and success in independent living. Blind and visually impaired persons must learn alternative skills for personal and home management such as cooking, shopping, using public transportation, personal financial management, and many other ordinary things that sighted persons take for granted.

5. Adjustment to blindness is essential to an individual's eventual success in seeking and holding a job. Effective rehabilitation counseling by qualified personnel who are experienced in the blindness adjustment process is essential to assist blind and visually impaired persons to overcome fears and develop confidence in their

new-found skills. Nearly one-half of the states do not have private providers who offer comprehensive rehabilitation services to blind people. The state vocational rehabilitation structure is vital to the successful rehabilitation of people who are blind or visually impaired. Neither the independent living centers nor private, non-profit cross-disabilities agencies are equipped or staffed to meet the unique service needs of blind people. During reauthorization, provisions should be included in the Act to ensure the continued availability of separate specialized comprehensive services for people who are blind or visually impaired.

III. Promoting Consumer Involvement

A. Determining Appropriate Comparable Benefits

Consumers should determine whether to approach their employers to request assistive technology. Section 101(a) of the Act requires there to be a determination that comparable services or benefits are not available under any other program before expending state vocational rehabilitation funds. Although a later provision in the Act indicates, and regulations clearly explain, that this should never be applied if it will result in a lost employment opportunity, since the passage of the Americans with Disabilities Act, it has been the practice of some vocational rehabilitation service providers to interpret this section to mean that a client must first ask his or her employer to pay for assistive technology and be denied the accommodation before vocational rehabilitation funds can be spent on assistive technology.

There is no evidence in the statute or prior regulations that the term "program" is intended to refer to employers. Generally, a client will be in the best position to know whether an employer is amenable to purchasing assistive technology. Requiring clients to exhaust the employer avenue for the purchase of assistive technology could result in jeopardizing rare job opportunities. During reauthorization, Section 101(a) should be clarified so that consumers will not be forced to first approach employers to satisfy the comparable services and benefits requirement.

IV. Due Process Provisions

A. Eligibility

ACB has received many complaints from blind consumers seeking vocational rehabilitation services who were experiencing difficulty on the job due to a vision impairment and were in fear of losing their jobs, but who were denied vocational rehabilitation services because they were still employed. The Act should be clarified to ensure that those making eligibility determinations consider the potential of job loss due to the physical or mental impairment to be "a substantial impediment to employment."

It is well-established that finding successful employment after being dismissed by an employer is much more difficult than making a transition into a more compatible employment situation before losing a job. In many cases, consumers have been discouraged from filing applications for services after only a brief initial telephone interview. Consumers are in the best

position to know whether they are in need of vocational rehabilitation assistance. During reauthorization, provisions should be included in the Act which create a presumption of eligibility for services when a request for services is received and to establish consumer protections against perfunctory eligibility determinations.

B. Appeal Timelines

In Section 361.57 of the Notice of Proposed Rule-Making with respect to Title I regulations, entitled "Review of Rehabilitation Counselor or Coordinator Determinations," the Commission proposed the removal of federally established timelines for the appeals process which were spelled out in previous regulations and in the draft NPRM. Such removal would result in confusion, inefficiencies, inconsistencies, and a diminution of important consumer safeguards.

Uniform timelines are a critical factor in seeing that issues and concerns which are being appealed are dealt with in a timely manner. If allowed to do so, some states will likely lengthen the appeals process. This would be particularly problematic for consumers with an immediate need for services, such as students starting a school year, individuals who are currently employed and in need of retention services, and individuals negotiating with new employers for reasonable accommodations. Delays in the processing of appeals could even result in missed employment opportunities. The federal timelines for appeals should be uniform and strictly enforced. If this is not achieved through final rules under Title I, it should be remedied during reauthorization.

Respectfully submitted,

Julie H. Carroll
Director of Governmental Affairs
American Council of the Blind

# THE NAPAS PERSPECTIVE

# NAPAS TESTIMONY ON REAUTHORIZATION OF THE REHAB ACT

October 29, 1996

Mr. Fred Schroeder, Commissioner
Rehabilitation Services Administration
Switzer Building, Room 3028
330 C. Street, S.W.
Washington, D.C. 20202

Dear Commissioner Schroeder,

I am writing on behalf of the National Association of Protection and Advocacy Systems (NAPAS) and its member agencies to provide comments and recommendations regarding the upcoming reauthorization of the Rehabilitation Act. NAPAS is a national nonprofit membership organization whose membership is composed of four federally-funded Protection and Advocacy (P&A) Programs and the Client Assistance Program (CAP). These five disability advocacy programs are established in each state and territory to protect the rights of individuals with disabilities and advocate on behalf of such individuals to ensure that they have access to needed services and supports. As the membership association for the CAP program which is authorized under Section 112 of the Rehabilitation Act and for the Protection and Advocacy of Individual Rights Programs (PAIR) which is authorized under Section 509 of the Rehabilitation Act, NAPAS is fully informed of the issues and concerns for which individuals with disabilities seek assistance from these two programs.

As you know, the CAP program provides assistance and advocacy for individuals seeking or receiving services under the Rehabilitation Act. CAP statistics indicate that ninety to ninety-five percent of CAP's work is with individuals seeking or receiving services under the State vocational rehabilitation (VR) program funded under Title I of the Act. As a result of NAPAS' close work with CAP representatives nationwide over the last twelve years, staff at NAPAS are very familiar with the State VR Program and with the needs and concerns of individuals with disabilities, particularly those with severe disabilities. who are seeking services in order to secure, retain, and maintain employment.

On behalf of NAPAS and its member programs, I would like to thank RSA for the opportunity to provide written testimony on the upcoming reauthorization of the Rehabilitation Act. In July 1996, the 75th anniversary of the State VR program was celebrated. One might wonder if there will be a 76th anniversary of the State VR program given the current political climate, including last year's Congressional efforts aimed at consolidating federally-funded job training programs, the House's efforts to repeal the State VR program authorized under Title I of the Rehab Act, the introduction of Representative Bunning's Rehabilitation and Return to Work Opportunities Act of 1996, and the prevalence of widespread criticism of the public VR program. The intense

battles that erupted during last year's discussion about job training consolidation and the widespread disagreement over if and/or how the State VR program should be treated in such a consolidation effort demonstrated the widespread belief that the delivery system for publicly-funded VR services is seriously flawed. Some of this belief stems from a growing body of information which implies that the State VR program as currently implemented has demonstrated limited effectiveness and efficiency.

While indications from the Hill and many parts of the disability community indicate growing support for the privatization of the public VR program, NAPAS questions whether the current system is so flawed that the current VR services delivery system should be entirely eliminated, whether a major overhaul is needed, or whether thoughtfully tinkering with the current system would produce the changes needed to make the current system more effective in placing individuals with severe disabilities in employment and more efficient in the expenditure of public dollars. These questions become particularly thought provoking when one considers what happened during the 1992 reauthorization of the Rehab Act. The 1992 amendments to the Act were developed with widespread input from individuals with disabilities, from consumers of VR services and their families and representatives, and from innumerable disability organizations. Disability organizations belonging to the Consortium for Citizens with Disabilities (CCD) Employment and Training Task Force spent hours and hours in meetings trying to come to consensus on language to add to the Rehab Act in an effort to correct the problems being experienced by individuals with disabilities who were seeking or receiving VR services. Even with the passage of these carefully crafted amendments, many people feel that the problems attributed to the public VR program have not improved.

As we look to the reauthorization of the Rehab Act in 1997, RSA staff and representatives of the State VR program are going to have to set aside a long history of tradition in the delivery of VR services and be willing to discuss and consider alternative approaches to the delivery of federally-funded VR services. NAPAS believes that such alternatives can be crafted within the context of the current State VR program. However, to do this, the system for delivering VR services must be examined within the context of related service delivery systems such as the private sector, the independent living network, decreased state funding for personal assistance services, dwindling funds for medical services, etc. In addition, pending administrative efforts and federal legislation related to the Social Security Administration's Return to Work Program, state and federal efforts to consolidate job training programs, and continued efforts to reauthorize IDEA will need to be taken into account. NAPAS sees this as a unique opportunity to create a comprehensive system for the delivery of vocational rehabilitation and employment services for individuals with disabilities, regardless of the severity of their disabilities. In an effort to determine exactly what the role of the public VR program should be, some hard questions will need to be entertained. Representatives from RSA and the State VR program, representatives from the House and Senate, members of the CCD Employment and Training Task Force, and representatives from disability groups must be willing to discuss things openly, to consider changes which may appear drastic in some cases, and to make compromises when necessary and appropriate. Substantial time and effort will be needed to adequately address the difficult issues facing us in this pending reauthorization. We will need to ask some hard questions such as those listed here.

1) Should the 1997 reauthorization be another attempt at correcting and adding to existing language in Title I or should it constitute a major overhaul of the public VR program as it exist today?

2) Should VR continue to provide the range of services it currently is mandated to provide, or should the services be redefined or narrowed, e.g., eliminating funding for surgery, limiting funding for graduate school, limiting VR funding to services that are vocational in nature and directly related to the person's disability and impediment to employment, etc.?

3) Should VR be allowed to place limitations on the amount of funds that can be spent on specific services, e.g., vehicle modifications, expensive pieces of assistive technology, college education, etc.?

4) Given the inadequacy of federal funding for VR services, should VR agencies be required to implement financial needs testing and/or sliding scale fees? Should this be done across the board for all purchased VR services or only for specific costly services such as post-secondary education and vehicle modifications? Regardless of what approach is taken, NAPAS recommends that the Act provide federally-mandated guidelines for any financial needs testing undertaken by VR agencies whether that testing is permissive or mandatory.

5) Should maintenance services be reinstated (i.e., based on financial need) so that the VR program does not discriminate against people who have little or no income?

6) Should the Rehab Act be more prescriptive in dealing with interagency cooperation and coordination, e.g., in securing on-going supports for individuals in supported employment, for individuals transitioning from special education to adult services and employment, etc.?

7) What kind of guidance should be given to the States to help them deal with situations where the underlying principles of "placing individuals with disabilities in integrated settings" and "facilitating informed choice" are in conflict with one another? Should the principle of choice be upheld to the extent that VR funds continue to place clients in extended employment (i.e., sheltered workshops)? Or, should policy direct funds and other resources away from segregated employment to community, integrated employment?

8) Should supported employment placements which earn below minimum wages continue to be viewed as appropriate placements for individuals with the most severe disabilities? (Note: The NPRM on Title I of the Rehab Act said that supported employment placements with subminimum wages would not be considered competitive employment. Since supported employment is defined as competitive employment, this would indicate that a subminimum wage supported employment placement would no longer be a viable supported employment option.)

9) Should there be any limits to the choices clients should have regarding their preferred services and vocational goals? If so, what should these limits be based upon?

10) In times of funding shortages, should some individuals receive expensive, comprehensive services to maximize their potential, if it means that many other clients will receive few or no services? How should eligibility for expensive, comprehensive services be determined, e.g., based on severity of disability and/or financial need?

11) Given the increased emphasis in the 1992 amendments on serving individuals with severe and the most severe disabilities, should the justification for continuing to fund the VR program continue to be the short-term nature of VR interventions?

12) Should the Act mandate a cap or limit on the amount of a State's Section 110 allotment which can be used for the administrative costs of the program? If a cap is placed on the administrative costs of the State VR program, how should the funds used to support VR counselors be classified, i.e., as service costs or administrative costs?

13) In the current consolidation climate, should the Rehab Act continue to allow States to divide the State's allotment under Section 110 of the Act to create both a general VR agency and a blind VR agency? If not, why not. (Note: While not taking a position to get rid of the separate blind VR agencies, NAPAS does feel that the decision to set aside a percentage of a State's 110 funding to create a separate blind agency should be made in conjunction with the State Rehabilitation Advisory Counsel and with widespread input from the disability community. NAPAS is told that some of these decisions which were made in the 1950's and 1960's have never been reviewed.)

In addition to noting the need to address difficult questions such as these, NAPAS would like to make some specific recommendations regarding the CAP program, the PAIR program and the Title I State VR Program. However, it should be noted that NAPAS is cognizant of the current political climate and the implications of the upcoming elections in early November. NAPAS, like so many other organizations, may find it necessary to rethink its position on the upcoming reauthorization of the Rehab Act based on the outcome of these elections. If the Republicans continue to control Congress, NAPAS may lend support to a simple extension of the Rehab Act in its current form for a year or two. If, on the other hand, the Democrats take control of the House of Representatives, NAPAS will move forward with the recommendations contained in this testimony and with its commitment to taking a comprehensive look at how the public VR program should fit into a comprehensive system for the delivery of vocational and employment services to all individuals with disabilities, regardless of severity.

**Increased Appropriations:** First and foremost, NAPAS recommends increased funding for CAP, PAIR and the State VR program. NAPAS hopes that all of the people who continue to criticize the public VR program, including Congressional staff, will begin to understand that one of the main problems inherent in the current program is the insufficiency of its funding. The State VR program is authorized to provide individualized services to assist individuals with disabilities in obtaining employment. Many of these services are costly and some are long-term by nature. There needs to be a general acknowledgement that quality services cost money. There needs to be a general recognition that the population of individuals who could potentially

benefit from the provision of VR services is large and growing larger, especially given medical advancements and the steadily increasing number of people who are becoming disabled by HIV and AIDS. Hence, NAPAS recommends increased funding for the State VR program.

NAPAS also recommends increased funding for CAP and PAIR. Both of these programs must provide a statewide system of advocacy services on a very small budget. As you know, the PAIR Program, authorized under Section 509 of the Rehabilitation Act, is a vitally important component of the Protection and Advocacy (P&A) System's comprehensive effort to advocate for the rights of all persons with disabilities. Under the PAIR Program, P&As have the authority to serve **all** persons with disabilities who need services that are beyond the scope of CAP, and who are not eligible for services under two separately authorized P&A Programs. These separate programs are established under the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Individuals with Mental Illness Act. The programs are known respectively as the PADD program and the PAIMI program.

Under these separate statutory programs, eligibility for P&A services is limited to persons with very specific types of disabilities:

- Persons are eligible for service under the PADD program only if they have a severe, chronic disability which manifested before the age of 22 and which results in substantial functional limitations in three or more major life activities. Such disabilities include, but are not limited to, mental retardation, autism, and cerebral palsy.

- Eligibility under the PAIMI Program is generally limited to those persons with significant mental illnesses or emotional impairments who are inpatients or residents in residential treatment facilities (e.g., psychiatric hospitals).

The PAIR program is the vehicle by which P&As are funded to serve the approximately 39 millions persons with disabilities who would be PAIR eligible, i.e., who do not fall within the narrowly defined eligibility criteria for PADD and PAIMI or whose issues do not fall within CAP's limited jurisdiction. Hence, the PAIR Program is potentially the largest program of the three advocacy programs; however, it is currently funded at the lowest level.

Persons eligible for PAIR services include those with head or spinal cord injury, multiple sclerosis, HIV infection and AIDS, psychiatric conditions which do not require 24-hour treatment, cancer, heart disease, and a broad range of mobility impairments, as well as persons who are blind or deaf. PAIR funds support much needed advocacy efforts related to such things as discrimination in employment, access to public benefits and services, and access to housing. Clearly, there is a very high level of unmet advocacy needs within this population. This gap is demonstrated, for instance, by the very large number of discrimination complaints filed with the Federal agencies responsible for enforcing the Americans with Disabilities Act (ADA) and the Fair Housing Act Amendments -- and by the failure to successfully and expeditiously resolve many of these complaints.

The Equal Employment Opportunity Commission (EEOC), which enforces Title I of the ADA (i.e., the employment provisions), has received a total of approximately 60,000 discrimination complaints since it assumed enforcement responsibility for Title I in 1992. According to recent EEOC data, a large proportion of these complaints have been filed by persons eligible for services under PAIR (including persons with mobility and psychiatric impairments). Similarly, many thousands of discrimination complaints have been filed with the Department of Justice under Titles II and III of the ADA, which prohibit, respectively, discrimination in public accommodations, and in state and local government services. There is also a very large number of fair housing complaints pending with the Department of Housing and Urban Development (HUD).

Many thousands of these ADA and fair housing complaints remain unresolved because of a lack of sufficient agency resources, and because EEOC, DOJ and HUD are only able to litigate a very small proportion of these claims. Moreover, there is a lack of qualified private and Legal Services attorneys available to provide representation in these cases. Additionally, reports from P&As nationwide demonstrate that very large numbers of persons eligible under PAIR can not be served, given the lack of adequate funding. NAPAS believes that there is a backlash developing against this Program based on the inability to provide needed services. In order to begin to address this unmet need for legal advocacy through the PAIR Program, NAPAS recommends a significant increase in Federal funding for the Program.

Although CAP's potential target population is well defined and somewhat limited in scope, there is still a need for increased funding for CAP. CAP programs, which often have very small staff (i.e., one or two people serving an entire state), are expected to provide individuals with advocacy services, and to identify problems in the delivery of VR services and make recommendations regarding solutions to those problems.

In addition to recommending increased funding for VR, CAP and PAIR, NAPAS recommends that legislative language be developed which will clearly protect VR funding from being diverted to pay for administrative costs of one stop career centers or one stop core services for individuals with disabilities. NAPAS also recommends that legislative language be included in Title I of the Act which will protect the autonomy of the State VR program, especially when the program is located in a larger umbrella agency or when the program is being considered for consolidation with other programs that provide vocational and employment services for non-disabled individuals.

**Issues Related to the PAIR Program:** The PAIR Program should be amended to expressly incorporate the investigatory and records access authorities contained in the DD Act. The PAIR Program is generally modeled after the DD Act. Similar to their authority under the DD Act, P&As are empowered under the Rehabilitation Act to pursue legal, administrative and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of eligible individuals. The statute also lists a number of other P&A mandates which parallel provisions in the DD Act -- such as the requirement that the P&A provide information and referrals, develop a statement of objectives and priorities, and establish a grievance procedure for clients and prospective clients.

However, the PAIR statutory language fails to expressly list a number of specific authorities contained in the DD Act which are critical to the P&A's ability to effectively carry out its mandate to ensure the protection of the rights of individuals with disabilities. These "missing" provisions relate to the P&A's investigatory and records access authority.

Rather than expressly listing the authorities contained in the DD Act, the Rehab Act simply states (i.e., at Section 794(e)(f)(2)) that the P&A shall "have the same general authorities, including access to records and program income, as are set forth in" the DD Act. Hence, NAPAS recommends that those "missing" general authorities be included in Section 509 of the Rehab Act. Those authorities include:

1. The authority to investigate incidents of abuse and neglect based upon a report to the P&A or a finding of probable cause to believe such an incident has occurred.

2. The authority to gain access at reasonable times and locations to residents living in facilities to monitor their treatment and consult with them on their rights.

3. The authority to obtain the records of an individual who is unable (as a result of physical or mental limitations) to authorize needed access. The DD Act expressly provides that the P&A may have such access in the following situations:

   a. where such an individual does not have a guardian, or the guardian is the state, provided that the P&A has received a complaint or has probable cause to suspect abuse or neglect; and

   b. where such an individual has a guardian, provided that the guardian fails or refuses to act on behalf of the individual, and the P&A has received a complaint or has probable cause to believe that the health of the individual is in serious and immediate jeopardy.

There is a significant need to spell out these authorities in the PAIR legislation -- to ensure effective enforcement of the Program. We have received a number of reports from P&As that employers, service providers and others are unfamiliar with the P&A's authority in this regard. Consequently, P&As' ability to conduct investigatory activities has been hampered.

Thus, the absence of these clear statutory authorities in the PAIR Program itself has unnecessarily complicated the administration of the Program. Incorporation of a detailed statement of these authorities would go a long way toward ensuring the protection of those persons in institutional settings who are not covered under either the DD or PAIMI Acts (e.g., nursing home residents, hospital patients, persons incarcerated in jails and prisons and other facility residents with conditions such as traumatic brain or spinal cord injury).

Such an amendment would merely clarify Congress' original intent to put the PAIR Program on an equal footing with the PADD Program. Indeed, the legislative history of the Rehabilitation Act Amendments of 1992 clarifies Congress' intent to ensure consistency and uniformity in the application of the PADD and PAIR Programs [see Senate Report 357, 102nd Cong., 2d Session, at p. 100 (1992)].

Additionally, PAIR should adopt other language clarifying the authority of P&As which is currently contained in both the DD and PAIMI Acts, but not expressly referenced in the current PAIR legislation, including:

1. That the P&A's authority to gain access to records preempts state laws which restrict access to such records.

2. That the P&A is not precluded from bringing suits on behalf of an individual with a disability against a state, or agencies or instrumentalities of a State.

Inclusion of these statutory clarifications would obviate needless disputes (including resource intensive litigation) regarding the P&A's authority.

The PAIR program should be amended to expressly authorize P&As to use their access powers to investigate general rights violations. NAPAS recommends that PAIR be amended to expressly provide P&As authority to investigate general rights violations based upon either a report from an individual or the agency's suspicion of such a violation. P&As should be permitted to apply their authority to gain access to facilities and records of individuals with disabilities when conducting an investigation of a broad range of rights violations other than abuse and neglect. Such violations would be related to, for instance, discrimination in employment, housing, public accommodations and entitlements.

Such express authority would enable P&As -- without the need to file litigation -- to conduct limited investigatory activities and obtain appropriate records (e.g., personnel files) necessary to make a determination about the merits of a case. Consequently, P&As would have the same authority to remedy these serious rights violations as they have with regard to abuse and neglect.

**CAP Recommendations:** In reference to CAP, NAPAS strongly recommends that the language requiring CAP to mediate to the maximum extent possible be changed. While this language was not a problem during the first eleven years of the formula grant CAP program, the issuance of the revised regulation for CAP in November of 1995, which incorporated a dictionary definition of mediation, created a problem. During the first eleven years of the mandated CAP program, CAP representatives were very successful in using good faith negotiation and informal "mediation procedures" to resolve disputes at the lowest level possible before resorting to higher level interventions. The implication of the revised regulations is that CAP must use third party, neutral people to mediate CAP cases. Since almost half of the CAP programs consist of only one or two professional staff, it is very difficult to ensure a third party, neutral mediator from within the CAP program. In addition, the cost of hiring someone from the outside to mediate a CAP case would be prohibitive given the limited funding available for CAP services and the mandate to use mediation procedures to the maximum extent possible before move to more formal interventions. Consequently, NAPAS recommends that the CAP language be changed to allow more flexibility in meeting this requirements. NAPAS offers four alternatives for such a change.

1) Current language could be changed slightly to refer to "using mediation procedures **or** good faith negotiations to the maximum extent possible".

2) Current language could be changed to refer to "using any form of alternative dispute resolution (ADR) prior to proceeding to more formal remedies".

3) The law could be changed to refer to "exhausting lower level resolutions to the maximum extent possible before going on to higher level interventions".

4) The law could be changed to require the "use of informal remedies such as negotiation to the extent possible prior to the more formal administrative or legal remedies".

Without such a change, CAP programs are going to be put in the untenable position of either having to justify every time they must use an in-house mediator or paying unnecessary fees to hire a third-party, neutral mediator. Moreover, it seems wise and prudent that CAPs be required to use less formal and time-consuming remedial mechanisms prior to resorting to administrative or legal remedies whenever feasible; however, mediation as now defined in the CAP regulations should not be the ADR strategy required to the maximum extent possible.

As in the past, NAPAS recommends that the prohibition against CAP pursuing class action litigation be removed. This change would ensure CAP's ability to pursue all appropriate remedies. In some States, CAP's ability to implement substantive systemic change has been limited by the current prohibition on class action litigation by CAP. Class action is an effective and efficient way to address problems that are being experienced by several or many individuals in like situations. It is much more economical to pursue one class action law suit rather than pursuing several law suits on behalf of individual claimants. The other four federally-funded P&A programs all have the authority to pursue class actions. During FY 1995, the PADD program pursued 123 class actions nationwide which had the potential of benefitting 1,038,698 individuals with developmental disabilities. Similarly, the PAIMI program undertook 21 class actions nationwide during FY 1995, with the potential of benefitting 121,869 individuals with mental illness. These statistics demonstrate the increased number of individuals who may be served through class action litigation. Consequently, removing the prohibition against CAPs pursuing class actions would assure that the most egregious systemic problems receive concerted attention and redress by the public VR program. Furthermore, CAP's ability to pursue class actions could prevent unnecessary court cases which attempt to deal with systemic problems in the delivery of VR services on a case-by-case basis. Although it is unlikely that CAP would pursue as many class actions as PADD or PAIMI, the potential widespread benefits of a meritorious class action law suit far outweigh any concerns that might be raised by State VR Agencies.

**Issues Related to the Title I VR Program**

In reference to the definition of "employment outcome" in Section 7(5), NAPAS recommends that the phrase "or satisfying any other vocational outcome the Secretary may determine, consistent with this Act" be expanded to specifically reference "home-based employment such as telecommuting or telemarketing". The definition should also be expanded to allow for homemaker closures and placement in non-competitive, non-integrated settings when an individual has made an informed choice for such outcome after being made fully aware of competitive employment options. Under current law, some individuals are being denied choices

related to home-based employment, homemaker services, and placements in non-integrated settings based on the emphasis that legislative and proposed regulatory language place on competitive employment in integrated settings. While this emphasis appears to reflect Congressional intent, it sometimes functions to be contradictory to the emphasis placed on "informed choice" in the Rehabilitation Act Amendments of 1992.

In reference to Section 7(13), NAPAS recommends that certain definitions be revised to resolve ambiguity concerning when a comparable services search is required in relation to specific services which may or may not be classified as rehabilitation technology services based on counselor discretion. Sec. 7 (13) provides a definition of rehabilitation technology but fails to address how services that may also be classified in other categories (e.g., Sec. 103(a)(4) "physical and mental restoration services" or Sec. 103(a)(11) "telecommunications, sensory and other technological aids and devices") are to be classified. For example, as assistive mobility device such as an electric wheelchair could be classified as either "physical restoration" or "rehabilitation technology". If it is regarded as a rehabilitation technology service, Sec. 101(a)(8) waives the requirement for a search for comparable services and benefits. If it is classified as a "physical restoration" service, a search for comparable services and benefits would have to be completed before VR would provide the service. Hence, NAPAS recommends that the definition of "rehabilitation technology" service in Sec. 7(13) be amended to include the following additional language.

> "It is recognized that a given service may legitimately fit into more than one category of service, e.g. physical restoration vs. rehabilitation technology. It is the intent of the Act that those VR services which meet the definition of rehabilitation technology be so classified for purposes of determining whether a comparable services search is required, even though such services may also fit under another service category as well, e.g. "physical restoration" or "telecommunication, sensory and other technological aids and devices".

NAPAS also recommends that RSA promote regulatory or legislative language which will clarify the intent of the definition of "rehabilitation technology" and the requirement to search for comparable services and benefits as they apply to the purchase of computer equipment. Since the purchase of computer equipment is not specifically dealt with in the Act or the proposed regulations, State VR programs are taking different approaches to the classification of computer equipment. While almost all States most likely classify adaptive software as rehabilitation technology, the actual purchase of computer equipment seems to vary greatly from state to state. RSA needs to take a look at the implications of purchasing computer equipment and promote language that would clarify when a computer should be a service which requires a search for comparable services and benefits, and when a computer should be classified as rehabilitation technology and, thus, be exempted from such a search.

Issues Surrounding Eligibility for VR Services: In reference to Section 102(a)(1)(B), the eligibility criterion related to an individual "requiring vocational rehabilitation services to prepare for, enter, engage in or retain gainful employment" has caused some concern for individuals who, despite their disability, can engage in under-employment without the provision of vocational rehabilitation services, (e.g. busboy) but still require vocational rehabilitation services to enter, engage in, or retain gainful employment that is commensurate with their interests and

potential (e.g. teacher). NAPAS has been informed that such individuals are sometimes inaccurately determined ineligible for VR services because they are already employed in an entry level position with little or no opportunity for advancement or because VR has determined that such an individual can prepare for, enter, or engage in some type of employment without the provision of VR services. Hence, NAPAS strongly recommends that the phrase from Sec. 102 (b)(1)(B)(I), "consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities" be inserted following the term "gainful employment" in Section 102(a)(1)(B).

Issues Surrounding the Services Authorized Under the State VR Program: In reference to Section 103(a)(5), NAPAS recommends that the definition of "maintenance" be changed to reflect and expand on the language that was published in the December 15, 1995 Notice of Proposed Rulemaking for Title I of the Rehabilitation Act. Moreover, "maintenance" should be described as "monetary support for living expenses such as food, shelter, and clothing that are in excess of normal living expenses and are necessitated by participation in a program of vocational rehabilitation services **or for the normal cost of such living expenses for homeless or recently deinstitutionalized individuals or individuals whose income is so low that the denial of maintenance assistance would preclude them from participating in the VR program.** The intent of this suggested change is to allow for provision of maintenance assistance to individuals with little or no income, including homeless people. Without allowing maintenance for such individuals, vocational rehabilitation services remain inaccessible to some individuals with disabilities.

Issues Related to Order of Selection Requirements: Given the number of problems that are being reported in reference to States implementing an order of selection or failing to implement an order of selection where there is clear evidence that one is needed, NAPAS questions whether or not the concept of order of selection should be retained as a means of restricting the distribution of limited resources for publicly-funded VR services. Many, if not most, people feel that order of selection is a bad solution to the problem of insufficient resources for the delivery of public VR services. Although this is generally considered to be a bad solution, many State VR agencies still find it necessary to develop restrictive policies (e.g., policies which limit the type and amount of services, creative policies used to determine people ineligible, policies which deny expensive services, etc.) in an attempt to stretch the limited resources available to the State VR program. Some VR agencies do this in lieu of implementing an order of selection. Unfortunately, RSA has not be very aggressive in monitoring the implementation of such inappropriate policies. Consequently, to ensure the individualized nature of publicly-funded VR services, the Rehab Act should specify that VR agencies cannot place caps on services.

As a result of limited resources and RSA failure to closely monitor the State VR agencies, the public VR program has become a program characterized by the denial of eligibility and restrictions in the provision of services. This seems to indicate that the order of selection solution is partial at best. If order of selection is not working, other alternatives need to be considered.

NAPAS believes that one of the problems inherent in the current requirement for an order of selection is the language in the 1992 amendments which gives individual States the authority to

define what constitutes an "individual with the most severe disability" as it will apply to the priorities set for the provision of VR services under an order of selection. As a result of the different definitions used by the States, there is no nationwide data to demonstrate compliance with the 1992 requirement which places increased emphasis on serving individuals with the most severe disabilities. NAPAS also believes that the authority to define "most severe" as it applies to a State's order of selection has made it extremely difficult for RSA to monitor the implementation of an order of selection. Hopefully, the recent finalization of the regulations governing order of selection will result in some increased standardization as to how States are defining individuals with the most severe disabilities for purposes of an order of selection.

NAPAS strongly recommends that one of two things be done to remedy the problems inherent in the current requirements for an order of selection. NAPAS recommends that a federally-mandated definition of "individual with the most severe disability" as it applies to the implementation of an order of selection be incorporated into the Act during the upcoming reauthorization. This definition must be based on functional limitations, particularly functional limitations which are vocational in nature or which have a direct impact on an individual's impediment to employment. As an alternative, NAPAS recommends that the current definition of "individual with a severe disability" found in Section 7 of the Act be redefined to reference "an individual with a disability who has a severe physical or mental impairment which seriously limits at least two or three functional capacities ..... in terms of an employment outcome....".

If this change in definition was accompanied by a new mandate to serve individuals with severe disabilities, the concept of an order of selection could potentially be replaced with a different approach to the delivery of VR services. For example, a two- or three-tiered system for the delivery of VR services could be created. The first tier would be a set of core services which would be federally defined and available to anyone who is determined eligible for VR services under the current eligibility criteria. The set of core VR services would have to be defined in the Act and should not be duplicative of the set of core vocational services being proposed under pending legislation to consolidate federally-funded job training programs. The second tier would be reserved for individuals with severe disabilities, i.e., based on the new federal definition of severe, and would provide for more costly, individualized services which are directly related to a person's disability or the functional limitations resulting from that disability. The third tier would be reserved for individuals with severe disabilities (based on the new definition) who require costly and often long-term services and supports. The provision of these services would be based on financial need. Another option would be to combine tiers two and three and make all services beyond the newly defined "core VR services" available based on the severity of the individuals disability and financial need.

NAPAS offers this concept as a slightly different approach to the delivery of VR services. As mentioned earlier, NAPAS views the upcoming reauthorization of the Rehab Act as a unique opportunity to look at the changing environment for the delivery of VR services to individuals with disabilities. Depending on the passage of other legislation which may have an effect (i.e., either direct or indirect) on the availability of vocational and employment services to the general public as well as to individuals with disabilities, the current approach to the delivery of publicly-funded VR services may need to be redirected.

Issues Surrounding VR's Formal Appeals Process: An issue of concern which is closely related to the CAP program is the formal appeals process spelled out in the Rehab Act for the State VR program. When the draft NPRM for the State VR program authorized under Title I of the Rehab Act was distributed, NAPAS was very concerned to see that the regulatory timelines for the appeals process had been removed. Although these timelines are not universally adhered to by State VR agencies, they do at least provide a solid basis for the pursuit of appeals in a timely fashion. Without these timelines, formal appeals may drag out for months or even years. Consequently, NAPAS strongly recommends that these timelines be reinstated into the Title I regulations or be incorporated into legislative language and that a new provision be incorporated whereby an issue is automatically resolved in favor of the client or client applicant if the State VR agency does not conduct an impartial hearing within those federally-mandated timelines or an agreed upon extension of those timelines. NAPAS also recommends that the Act include language that will ensure a consumer's right to and ability to get an independent evaluation, especially when someone is going to a hearing where such information in needed to challenge experts being brought in on behalf of the State VR agency.

NAPAS still gets numerous reports about the lack of impartiality among impartial hearing officers (IHOs) and about the lack of training for impartial hearing officers or the inappropriateness of the training being provided to IHOs. Consequently, NAPAS recommends that the Act include additional clarification of the IHO requirements and an expanded definition of impartiality. For example, the Act needs to define what constitutes trained and knowledgeable in terms of the qualifications of an impartial hearing officer.

NAPAS strongly recommends that the authority of the VR Director to overturn a decision made by an IHO be removed from the Act. From the perspective of NAPAS and probably most individuals with disabilities, the ability of the VR Director to overturn an IHO decision clearly detracts from the due process found with the VR appeals process. Legislative language should be drafted which would permit the VR Director to overturn an IHO decision that inappropriately goes against a consumer or an IHO decision that is clearly not in keeping with the letter and intent of the Rehab Act. However, one of the major problems with the current legislative language is the caveat allowing the VR Director to overturn decisions "which are erroneous based on federal or state law or regulations, including policy". This allows VR Directors to overturn decisions which they claim are erroneous based on State policy. Unfortunately, State policies are not always in compliance with the law and governing regulations. Hence, NAPAS recommends that this authority be removed from the Act.

On the other hand, if the VR Director's authority to overturn IHO decisions is retained, NAPAS recommends that at least two safeguards be incorporated into the Act. First, VR Agencies must be required to develop and make available to the public the standards that will be used in reviewing IHO decisions. NAPAS recommends that these "standards of review" either be written into the Act (i.e., via providing guidance or setting parameters); developed by RSA with input from the public; or developed by State VR agencies in conjunction with the State Rehabilitation Advisory Council and with input from individuals with disabilities and their representatives. Second, language should be included in the upcoming reauthorization which would necessitate automatic adoption of the IHO decision within a certain amount of time (e.g.,

20 days) after the notification by the VR Director of the intent to review. NAPAS makes this recommendation based on reports from several CAPs that their VR Directors sometimes take months in reviewing IHO decisions.

NAPAS is also concern about the way the 1992 language concerning the continuation of services during an appeal has been interpreted by RSA and State VR agencies. RSA's interpretation that this provision only applies to services included in an individual's IWRP which have actually been initiated has been problematic. If the IWRP represents an agreement between the State VR agency and the individual with a disability, it would seem that such an agreement would be in effect as soon as the IWRP is signed. At times the delay in initiating the services spelled out in the IWRP is the issue that the individual is appealing. In terms of the State VR agencies' interpretation of this provision, some States have interpreted this to mean they can suspend or discontinue services during an appeal if there has been a gap in the services, e.g., while the individual is on summer break from college or taking a break from a training program due to illness or complications resulting from a disability. Consequently, NAPAS recommends that the language in the Rehab Act track the language in IDEA in reference to the continuation of services during an appeal, i.e., requiring VR to move forward with implementing the services spelled out in a signed IWRP regardless of whether those services had been initiated prior to the filing of the formal appeal.

In reference to formal appeals, NAPAS recommends that some consideration be given to creating a formal appeals process which is applicable to the other programs and projects funded under the Act, e.g., independent living centers, community rehabilitation programs, etc. An option to this would be to extend the appeals process spelled out in Title I of the Act to all programs and projects authorized under the Act.

Issues Surrounding the State Rehabilitation Advisory Council (SRAC) and the Independent Consumer Controlled Commission: NAPAS continues to here complaints about the ineffectiveness of the SRACs. In some States the process that was used to appoint people to serve on the SRAC was heavily influenced by the State VR agency. This resulted in many SRACs being created which are under the control, be it direct or indirect, of the State VR agency. For example, some SRACs have members who contract with the State VR agency and, therefore, are not likely to take a stand against the Agency when controversial issues are being discussed. The advisory nature of the SRAC has also been highly criticized because some VR agencies give little, if any, serious consideration to the SRAC's recommendations.

Ways to strengthen the SRAC and make it more independent of the State VR Agency must be considered. For example, the SRAC might be given the authority to sign off on the VR State Plan similar to the authority given to the State Independent Living Council in 1992 in reference to signing off on the State Plan for Independent Living Services.

Another problem that has been identified by CAPs in several States is the option to have a Consumer Controlled Commission in lieu of a SRAC. Currently, the Rehabilitation Act Amendments of 1992 exempt any designated State agency that has a consumer controlled commission or board of directors (at least 51% consumers) from participation in the mandated State Rehabilitation Advisory Counsel. Presumably, this exemption assumes that the VR agency

is, in fact, consumer controlled and that the consumer controlled board has some connection to the disability community and some level of independence that allows for consumer input to the agency. In order to ensure that level of consumer control, several assurances would have to be required of the designated State unit. Those assurances would include:

1) Board member nominees must be solicited through a broad process which reaches out to the disability community in the State.

2) The Governor of the State actually selected the Board members from among the nominees.

3) The Board officers are selected by the Board members.

4) The VR agency provides staff to the Board, but the Board sets its own agenda; compiles an annual report noting recommendations it made to the VR agency and summarizing the VR agency's response to those recommendations; and determines the level of communication and coordination the Board has with other programs in the State which may effect the provision of VR services.

It might be more beneficial to simply increase the independence and enhance the role of already existing State Rehabilitation Advisory Councils, provide technical assistance to those States which are having difficulty developing viable SRACs, and mandate only one SRAC per State. Currently, some States have two SRACs (i.e., one for the general VR agency and one for the blind VR agency) which seems counterproductive to the goal of creating meaningful collaboration and coordination.

Section 105 (b) (3) contains no recourse for possible failure of the Governor or appointing authority to fill vacancies on the SRAC in a timely manner and in accordance with composition requirements mandated in the Act (i.e., including the required majority of individuals with disabilities). NAPAS recommends that additional language be incorporated to provide for the appointment of new members by the existing SRAC membership, as may be needed to assure timely appointments in accordance with all composition requirements, should the Governor or appointing authority fail to do so.

Section 105(b)(6)(A) and (B) limits membership on the SRAC to two three-year terms. This requirement could create difficulties in some of the minimum allotment States in terms of complying with Sec. 105(b)(1)(C) which requires at least one CAP representative serve on the SRAC. Since some CAPs have only one professional staff person who would be representing the CAP on the SRAC, the potential for that person to remain on the SRAC for more than six years is inherent. NAPAS has also be notified of problems in some States where the Governor appoints someone from the umbrella agency housing the CAP to serve as the CAP representative to the SRAC even when that person has no day-to-day responsibility for CAP activities. In an effort to remedy these situations, NAPAS recommends that an exception be made to the limit of two consecutive three-year terms for the CAP representative serving on the SRAC when no other CAP representative is available and that the CAP representative serving on the SRAC must be someone who has substantial day-to-day responsibility for the administration of the CAP and/or for providing CAP services.

In reference to Title VII of the Act, Section 705(b)(1) contains no recourse for possible failure of the Governor or appointing authority to fill vacancies on the statewide independent living council (SILC) in a timely manner and in accordance with composition requirements (including the required majority of individuals with disabilities who are not employed by a state agency or center for independent living). NAPAS recommends that this section include language providing for the appointment of new members by the existing SILC membership as may be needed to assure timely appointments in accordance with composition requirement, should the Governor or appointing authority fail to do so.

Issues Surrounding Informed Choice: Another area of concern to NAPAS and many of its member programs is the concept of informed choice which was incorporated into the 1992 amendments to the Act. Many advocates and consumers report that this language is not being fully implemented. Some VR representatives report that the language has create an unrealistic expectation whereby consumers and advocates think that this means an eligible individual can choose from the laundry list of services authorized under Title I of the Rehab Act. NAPAS recommends that this language be revised and that consideration be given to changing the concept to "informed decision-making" where an individual is presented with viable options based on his/her abilities, capabilities and interests and provided with adequate information to make informed decisions among those options.

Issues Related to Transition Services: IDEA requires that, by age 16 under current legislation and age 14 under proposed legislation, every student in Special Education must have an Individualized Transition Plan (ITP). The intent of this plan is to ensure that students with disabilities, who receive Special Education services, have access to the education, adult services, and supports they will need in order to participate in their communities after school services cease.

If transition planning is to be meaningful, the employment preparation needs of special education students must be addressed in their ITPs. It is unrealistic and inappropriate to assume that school personnel can adequately address these employment preparation needs, and it has been the long-standing assumption that VR counselors and other VR professionals have unique knowledge, skills, and expertise in assisting people with disabilities in preparing for work. Hence, it is crucial that a VR representative be required to participate in the ITP process for students with disabilities who are likely to be eligible for VR services. The Rehabilitation Act, amended in 1992, currently requires VR to collaborate and coordinate with school and other service providers in the area of transition planning and requires VR to report such activities in the State Plan submitted to RSA.

To date, there are many unanswered questions regrading VR's participation in the ITP process. These questions and differing interpretations of legislative language have resulted in a lack of consistency in how VR is represented in this collaborative area. Hence, NAPAS recommends that specific language be incorporated into the Rehab Act during the upcoming reauthorization which clearly addresses VR's role and responsibilities with regard to Transition Planning. Such language should address:

1) How students are identified as "potentially" eligible for VR services and in need of VR participation in the ITP process.

2) What vocational assessments are appropriate for students with disabilities and the respective roles of education and VR in identifying, purchasing, and interpreting such assessments and evaluations.

3) How the VR representative is "invited" or required to participate in ITP development.

4) What should the roles of VR and Special Education be with regard to recommending and/or purchasing vocationally needed goods and/or services, i.e., for Special Education students who would be eligible for VR services and how should a State's order of selection come into play.

5) What role should the Department of Education and/or RSA play in monitoring compliance with Transition Planning requirements.

Consequently, NAPAS recommends that language be incorporated into the Act which would require the State VR agency to enter into agreements with the education system in the State to collaborate with these agencies and coordinate Transition Planning for every student with a disability who might potentially be eligible for VR services, i.e., by the time the student is 14 (or 16) years of age. The Act should require that such agreements be submitted to RSA with the annual State Plan for VR Services. These agreements should address, at a minimum:

1) The method used in the State to identify students who need a VR representative to participate in the ITP process.

2) A process to outreach to all secondary schools in the State by the designated State unit, to ensure that all relevant school personnel are aware of the services provided by VR, the criteria for being determined eligible for VR services, how to refer students to VR, and the role of the VR representative in ITP development.

3) The mutual responsibilities of Special Education and VR with regard to the planning, recommendations for, coordination with, and purchase of employment preparation services for each student in Special Education, by age 14 (or 16). Special Education should provide and purchase services which are of educational benefit, whereas VR should purchase services which are vocational in nature. The Office of Education and Rehabilitative Services (OSERS) should be given responsibility for defining such services or for providing guidelines regarding such definitions. Such definitions or guidelines should be included in both the Rehab Act and IDEA.

4) The method that will be used (i.e., assessment, etc.) to identify a student's vocational preparation needs.

5) Mutual roles and responsibilities to carry out the ITP and how discrepancies will be resolved among the collaborating agencies.

6) Due process for Special Education students, VR applications and clients, and their representatives if they are dissatisfied with Transition Planning.

**Miscellaneous Issues: Funding for Vocational Rehabilitation and Advocacy Services for Native Americans**

NAPAS recommends that Section 130 be revised to guarantee ongoing, permanent funding for any Native American 130 Projects which are well established; have clearly demonstrated their ability to provide vocational rehabilitation services to Native Americans; and have been determined in full compliance with the requirements found in Section 130 of the Act. Such ongoing funding should be dependent upon the submission of a State Plan for the provision of VR services to Native Americans. Such funding would require that part of the 130 appropriation be set aside to be distributed on an annual basis to those 130 projects that have an established track record.

NAPAS also recommends that money be set aside under both the CAP and PAIR programs to establish advocacy services and legal representation for Native Americans living on reservations. This should be done in such a way as to hold the existing CAP and PAIR allotment harmless, i.e. establishing a trigger for when the set aside would take effect. The trigger for both programs should be set at a level that would ensure that no State or Territory would experience a decrease in its current CAP or PAIR allotments, e.g., $11 million for CAP and $9 million for PAIR. This language could be crafted similar to language in the Developmental Disabilities Assistance and Bill of Rights Act (DD Act) which contains a provision requiring that a small percentage of the total appropriation for the Protection and Advocacy Program for Individuals with Developmental Disabilities (PADD) be set aside to establish a P&A program for Native Americans living on reservations. The DD Act language is as follows:

> American Indian Consortium -- Upon application to the Secretary, an American Indian consortium, as defined in Section 102, established to provide protection and advocacy services under this part, shall receive funding pursuant to subsection (c)(5). Such consortium shall coordinate activities with existing systems.
>
> (c)(5) Technical Assistance and American Indian Consortium. -- In any case in which amounts appropriated under section 143 for a fiscal year exceeds $24,500,000, the Secretary shall --
>
> (A) use not more than 2 percent of the amounts appropriated to provide technical assistance (consistent with requests by such systems for such assistance in the year that appropriations reach $24,500,000) to eligible systems with respect to activities carried our under this title; and
>
> (B) provide grants in accordance with paragraph (1)(A)(i) to American Indian consortiums to provide protection and advocacy services.

Once again, NAPAS would like to thank RSA for the opportunity to submit written testimony on the upcoming reauthorization of the Rehab Act. Depending on the results of the Congressional elections next week, NAPAS may be further developing some of the ideas presented in this testimony. NAPAS looks forward to working with RSA, Congressional staff, CCD representatives, and representatives from other federal agencies in an effort to develop a comprehensive system for the delivery of vocational rehabilitation services to individuals with disabilities. NAPAS hopes that RSA will take a leadership role in such efforts.

Sincerely,

Sallie Rhodes
Director of CAP Training

# EVALUATION

# TELECONFERENCE EVALUATION

## CHALLENGE '97: THE REAUTHORIZATION OF THE REHAB ACT

December 3, 1996

1. Describe your basic understanding of these topics BEFORE and AFTER this teleconference by circling the appropriate numbers below (7 being "high, detailed knowledge" and 1 being "none").

| | BEFORE | | | | | | | AFTER | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | none | | | | | | high | none | | | | | | high |
| • Overview of the Reauthorization | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| • Understanding of Issues | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| • RSA Perspective | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| • NCIL Perspective | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| • Blind Community Perspective | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| • NAPAS Perspective | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

2. What parts of the teleconference did you find MOST HELPFUL? Why?

3. What parts of the teleconference would you change? Why?

4. Did this teleconference meet your expectations? If not, what were your expectations? How could the trainers better meet them?

5. This teleconference was: _____ too long _____ too short _____ about right in length

   Comments:

6. Do you think the level of content in this workshop was appropriate? If not, what level would have been better for you?

7. How could the materials be improved?

8. If there was another independent living-related teleconference, what topics would you want covered?

9. Was this teleconference accessible to you as a participant (i.e., equipment, materials, presentation)? What suggestions do you have for improving accessibility?

10. Please make any other comments about this teleconference below.

11. How would you rate the OVERALL QUALITY of this teleconference? (circle number)

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Poor | Fair | Good | Excellent |

12. Rate the following elements of the teleconference from 7 ("excellent") to 1 ("very poor").

| | Very Poor | | | | | | Excellent |
|---|---|---|---|---|---|---|---|
| Sound/clarity | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Rented equipment (if used) | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

Please make any other comments related to this teleconference.

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