

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

**TECHNICAL ASSISTANCE CIRCULAR  
RSA-TAC-96-01  
DATE: February 23, 1996**

**ADDRESSEES:** STATE VOCATIONAL REHABILITATION AGENCIES  
(GENERAL)  
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)  
STATE REHABILITATION ADVISORY COUNCILS  
CLIENT ASSISTANCE PROGRAMS  
REGIONAL REHABILITATION CONTINUING EDUCATION  
PROGRAMS  
RSA SENIOR MANAGEMENT TEAM

**SUBJECT:** Conduct of Review and Analysis of the Effectiveness of and Consumer Satisfaction with Functions Performed and Vocational Rehabilitation Services Provided by Public and Private Entities

**CITATIONS:** Section 105(c)(3) of the Rehabilitation Act of 1973, as amended

**CONTENT:** The 1992 and 1993 Amendments to title I of the Rehabilitation Act ("Act") introduced far-reaching provisions to ensure that individuals with disabilities have a strong and substantive role in shaping the vocational rehabilitation (VR) program and services to support their employment goals and aspirations. A key provision in this regard was the establishment of the State Rehabilitation Advisory Council (SRAC) through which individuals with disabilities are provided a formal mechanism to influence at the systemic and policy levels the direction of VR within their States. This Technical Assistance Circular addresses a key function of the SRAC delineated in section 105(c)(3) of the Act relating to the review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by public and private entities for individuals with disabilities and with the VR services provided by those entities.

Based on questions posed to the Rehabilitation Services Administration (RSA), there appear to be three key issues regarding the provisions of section 105(c)(3):

- What entity is responsible for the conduct of the review and analysis when the statute requires the establishment of a SRAC and alternatively when it does not?
- What are some possible approaches that can be used to carry out the required review and analysis? and
- How are the statutory words "to the extent feasible" in section 105(c)(3) to be interpreted?

With respect to the first question, the statute stipulates that:

- For a State VR program that is operated or overseen by an independent commission that meets the requirements of section 101(a)(36)(B) of the Act, such a consumer-controlled independent commission is responsible for the conduct of the review and analysis required by section 105(c)(3). (See section 101(a)(32) of the Act). Such an independent consumer-controlled commission is not required to have a SRAC. (See section 105(a)(1) of the Act).
- For a State VR program that is not operated or overseen by an independent consumer-controlled commission, the State is required to establish a SRAC. (See sections 101(a)(36)(A)(i) and 105(a)(1) of the Act). There is no statutory provision that such a State VR agency is required to conduct the review and analysis addressing the issues identified in section 105(c)(3) of the Act. The statutory responsibility for the conduct of the required review and analysis rests with the SRAC. (See sections 101(a)(32) and 105(c)(3) of the Act).

In summary, the answer to the first question is:

- For a State VR program operated or overseen by a consumer-controlled independent commission, the independent commission is the responsible entity in the State for ensuring that the requirements of section 105(c)(3) are satisfied.
- For a State VR program not operated or overseen by a consumer-controlled independent commission, the responsibility to ensure that the requirements of section 105(c)(3) are met rests with the SRAC.

Since in the instance of a State VR program not overseen by an independent consumer-controlled commission, the SRAC is responsible

for the conduct of the review and analysis required by section 105(c)(3) of the Act, the next question that needs to be addressed relates to the various ways a SRAC can meet its statutory responsibility.

The Act does not specify how a SRAC is to carry out the required review and analysis. This is an operational issue that needs to be decided by the SRAC. Some possible approaches could be:

**SRAC conducts the required review and analysis on its own**

This approach would require the SRAC to be fairly well organized, staffed, sophisticated in terms of developing the necessary methodology to guide the conduct of the review, and also to have the necessary resources to carry out the review and analysis. Within this context and at this point in the developmental phase of the SRACs, such an approach may be beyond the capacities of most SRACs; however, depending on the sufficiency of resource plans required by section 105(d)(1) of the Act, some SRACs may in fact be in the position to conduct their own reviews and analyses.

**SRAC engages another entity (other than the State VR agency) to conduct the review and analysis or uses the review data for its own analysis**

With this approach, the SRAC, as the entity with the ultimate responsibility for the conduct of the review and analysis, would control the nature and scope of the review and analysis but the actual activities would be carried out by another entity, e.g., an university, most likely through some type of mechanism such as a contract. This approach would address the concerns that the SRAC members do not have the time to commit to such an undertaking or the SRAC is not adequately staffed to do this on its own; however, such an approach would require that the SRAC's resource plan as required by section 105(d)(1) be sufficient to financially support such an activity in addition to the other required functions of the SRAC.

**SRAC relies on data from the State VR agency's review and analysis or uses the data for its own analysis**

If a SRAC adopts this approach, the ultimate responsibility for meeting the statutory requirements of section 105(c)(3) still rests with the SRAC and the State VR agency would need to be responsive to the direction and control of the SRAC with respect to the review and analysis. Within this context, the SRAC would need to work closely with the State agency to ensure that the: nature and scope of the review are consistent with the SRAC's thinking on what needs to be assessed; processes used by the State agency to carry out the review are appropriate; and any agency analysis of

data is free from biases. In short, the SRAC would need to adopt and affirm as its own the findings of the State agency's review and/or analysis.

If a SRAC decides to rely on the State VR agency to conduct the required review and/or analysis, attention should be given to the following considerations:

### **Scope of the Review**

The scope of the review provisions identified in section 105(c)(3) indicate that the SRAC's review and analysis are to focus on the:

effectiveness of, and

consumer satisfaction with respect to:

- (1) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities;
- (2) vocational rehabilitation services provided, or paid for from funds made available, under the Act or through other public or private sources; and
- (3) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities.

One of the key considerations in addressing this requirement is whether or not "effectiveness" (the extent to which a program achieves its planned outcomes) and "consumer satisfaction" (the extent to which a program's "customers" feel positive about their experiences with the program) are synonymous terms. The statute does not provide any clarification in this regard. It is the interpretation of RSA that the review and analysis required by section 105(c)(3) must focus on two distinct and separate considerations - program effectiveness (objectively verifiable data) and the satisfaction of the program's "customers" (subjective impressions of the individuals based on their interactions with the program).

The provisions of section 105(c)(3) of the Act do not only relate to the effectiveness of, and consumer satisfaction with, the functions of the State VR agency. The plain wording of the statute is much broader. The review and analysis are to extend beyond the VR program and are to encompass other public and private entities that provide VR services within the State.

## **SRAC Independence from the State Agency**

For a SRAC to utilize the State VR agency to conduct the required review and analysis would reflect a collaborative relationship between the two entities and could conserve valuable resources; however, it also might compromise a SRAC's independence. The plain words of the statute and the legislative history make it clear that while the SRAC is an advisory body, it is also to be independent of the State VR agency. This independence is clear from the following statutory provisions:

- the State (not the State agency) is the entity responsible for the establishment of the SRAC (See section 105(a)(1) of the Act);
- SRAC members are not appointed by the State VR agency but by the Governor or by the State legislature in those States that by State law vest appointment authority in the State legislature or by an independent board that has appointment authority (See section 105(b)(3) of the Act);
- the State agency director is an ex officio member of the SRAC and any State agency counselor is an ex officio and non-voting member of the SRAC (See sections 105(b)(1)(A)(iv) and 105(b)(2) of the Act);
- the majority of Council members must be individuals not employed by the designated State unit (See section 105(b)(4) of the Act);
- disagreements between the SRAC and the designated State unit over the resources necessary to carry out the SRAC's functions are to be resolved by the Governor or the appropriate appointing authority (See section 105(d)(2) of the Act); and
- the designated State unit is not to assign duties to agency staff assisting the SRAC that would create a conflict of interest (See section 105(d)(4) of the Act).

The legislative history is equally clear with respect to the notion of the independence of the SRAC. The Conference Report (page 180) reads:

The Conferees expect that the State Rehabilitation Advisory Council will be fully independent from the State vocational rehabilitation agency even while relying, to the maximum extent possible, on existing resources from the State vocational rehabilitation agency to provide staff and other personnel. The Conferees expect that staff provided by the State vocational rehabilitation agency, when assigned to work for the Council, will work solely on behalf of the Council and will not be assigned

duties that create a conflict of interest. The Conferees expect that administrative arrangements made in the State will be consistent with this expectation so that each State Rehabilitation Advisory Council can operate independently.

In summary, the SRAC, as the entity with the ultimate responsibility to ensure that the review and analysis required by section 105(c)(3) of the Act are carried out, has the flexibility to determine how best to fulfill this responsibility. In making this determination, a SRAC should take into consideration the above discussed factors, particularly when it utilizes the State VR agency to conduct the review and analysis.

With respect to the language "to the extent feasible" in section 105(c)(3) of the Act, this language cannot be read to mean "if feasible" and thus relieve a SRAC from its responsibility to conduct the required review and analysis. Within this context, it is the interpretation of RSA that the wording "to the extent feasible" does not provide a basis for a SRAC not to conduct the required review and analysis. Rather, RSA interprets the wording as a basis on which the SRAC can limit the scope of the mandated review and analysis (focus of the review, data to be collected, review methodology, etc.) thus RSA anticipates that each SRAC will conduct the required review/analysis to the extent feasible in light of considerations determined by the SRAC.

One of the key considerations may entail the adequacy of the resource plan required by section 105(d)(1) of the Act to be prepared by the SRAC and the designated State VR unit to carry out the functions of the SRAC. This resource plan, while relying to the maximum extent possible on using existing resources, must be sufficient to enable the SRAC to carry out its statutory responsibilities in the manner the SRAC determines. If a disagreement arises between the SRAC and the designated State unit about the adequacy of the resource plan, then the disagreement is to be resolved by the Governor or the entity in the State responsible for the appointment of SRAC members.

**INQUIRIES:** RSA Regional Offices

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Fredric K. Schroeder  
Commissioner

CC: RSA Regions II, IV, VII, VIII and X