

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

POLICY DIRECTIVE  
RSA-PD-03-06  
DATE: AUGUST 8, 2003

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)  
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)  
CLIENT ASSISTANCE PROGRAMS  
REGIONAL REHABILITATION CONTINUING EDUCATION  
PROGRAMS (RRCEPS)  
AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES  
PROGRAMS  
RSA SENIOR MANAGEMENT TEAM  
STATEWIDE INDEPENDENT LIVING COUNCILS  
CENTERS FOR INDEPENDENT LIVING

SUBJECT: Whether Centers that do not Receive Title VII, Part C Grants are Included  
as Centers for Independent Living Under the Rehabilitation Act of 1973,  
as amended and the Implications for SILC Composition, Network of  
Centers, and Part B and Part C Funding.

BACKGROUND: This policy directive is intended to address the issue of whether centers for  
independent living that are funded by sources other than Part C of title VII  
of the Rehabilitation Act of 1973, as amended (the Act), are encompassed  
by the term “center for independent living” in the Act and how these  
centers relate to the statewide network of centers for independent living  
and other references to “centers for independent living” in the Act.

On November 7, 2001, RSA responded to questions posed by the National  
Council on Independent Living (NCIL), in a letter that stated the  
following:

“center for independent living” as used in the Act and the  
regulations in volume 34, Parts 364, 365, and 366 of the Code of  
Federal Regulations refers to the Title VII, Part C Federally funded  
centers for independent living. Entities that provide independent  
living services and that receive funds from Part B of Title VII,  
other Federal or State sources, or private sources, rather than Part

C of Title VII, are not “centers” as the term is used in the Act and the regulations.

RSA has reconsidered its position as stated in the NCIL letter and has determined that based on the definition of “center for independent living” in Section 702 of the Act, the term encompasses entities that meet the requirements of a center under the Act, regardless of whether they receive Title VII Part B or Part C funding, State funding, or any other source of funding. This Policy Directive sets forth the basis for RSA’s position and issues a Policy Statement regarding the matter.

#### DISCUSSION:

- I. References in Parts A and B of the Act to a “center for independent living” include any center for independent living that meets the definition in the Act, regardless of funding sources.
  - A. Statutory language recognizes that centers are not defined by their funding source.

The Act’s definition of “center for independent living” does not include a funding source, such as Part C, as part of the definition of a center. Section 702 states:

As used in chapter 1:

- (1) Center For Independent Living. - The term ‘center for independent living’ means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that-
  - (A) is designed and operated within a local community by individuals with disabilities; and
  - (B) provides an array of independent living services

The Act also includes specific provisions that recognize that some funding for centers for independent living (CILs) will come from either State sources or Part B of the Act, or both. For example, section 704(k) of the Act requires that the Statewide Plan for Independent Living (SPIL) “describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.” In addition, Section 722(d)(3) recognizes as centers, those centers that receive funding under Part B of the Act, and declares that, although it is a current center, such a Part B funded center would still be eligible to compete as a new center for a grant award under Part C. Finally, Section 723 acknowledges that some States provide more State funding to the centers for independent living in the State than the State receives

from the Federal Government under Part C. In such a case, section 723 provides the State with the opportunity to administer the Part C program in that State. Therefore, it appears that in setting forth the funding scheme under title VII, Congress recognized that, in addition to centers that received funding under Part C, there existed CILs that received only State funding, only funding under Part B, or a combination of both.

In light of the statutory definition of “center for independent living,” which does not include the requirement that the center receive Part C funds, RSA has concluded that the references in Parts A and B of title VII to “center for independent living” include all entities that meet the section 702 definition, not only those centers that are funded under Part C.

#### B. Centers and the composition of the Statewide Independent Living Council.

The definition of “center for independent living” affects primarily the composition of the Statewide Independent Living Council (SILC). Under section 705(b)(2)(A), required members of the SILC include “at least one director of a center for independent living chosen by the directors of centers for independent living within the State.” Under this Policy Directive, and in accordance with the statutory definition provided in Section 702, all centers for independent living in the State (those funded with Federal, State, or other resources) are entitled to vote on the center representative to the SILC. That center representative could be a director of a center that does not receive Part C funding. In addition, sections 705(b)(4)(A)(iv)(II) and 705(b)(4)(B)(ii) of the Act require that the majority of the members of the SILC and the majority of the voting members of the SILC not be “employed by any State agency or center for independent living.” Therefore, in determining whether a SILC member is employed by a center for independent living, all centers, no matter their funding source, are considered for the purpose of this requirement.

#### II. Centers for independent living that comply with the standards and assurances set forth in Section 725.

##### A. Statewide network of centers for independent living.

Section 704(g) of the Act requires that the SPIL set forth “a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.” The State’s network of centers provides the Commissioner under section 722, and the Director of the Designated State Unit (DSU) under section 723, with information on areas within the State in which a new center for independent living funded under Part C is needed. The regulation at 34

CFR 364.25 requires the State to identify in its design unserved and underserved areas and to provide an order of priority for serving these areas.

Consistent with the analysis provided in Part I of this discussion and the language of section 704(g), any center for independent living that complies with the standards and assurances in Section 725 may be included in the State's design for the establishment of a statewide network of centers for independent living. Part C funded centers are part of the network because they have to comply with the standards and assurances in Section 725 in order to continue to receive funding under Part C. As outlined more fully in the next section, those centers funded under Part B of title VII also have to comply with the standards and assurances of section 725 if they are receiving Part B funds for their general operation under section 713(3). In addition, some states require any center receiving State funding to comply with the standards and assurances of section 725.

The Act and the regulations recognize that other centers, in addition to those funded under Part C, may comply with the standards and assurances of section 725. However, Congress did make clear in section 704(g) of the Act that only those centers that comply with the standards and assurances set forth in section 725 may be included in the network of centers. Because the Commissioner is responsible for directly monitoring only centers funded under Part C, it is the responsibility of the State to make sure that centers funded by Title VII Part B funds, State funds or other resources are complying with the standards and assurances of Section 725 if those centers are included in the State's network of centers.

B. Authorities under section 713 under which the DSU may disburse Part B funds to centers to provide independent living services require the centers to meet different standards.

Section 713 sets forth the authorized uses of funds provided to the State under Part B. Under section 713(1), the State may use funds "to provide independent living services to individuals with significant disabilities." Under section 713(3), the State may use funds "to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725." The State may provide funds to CILs under either of these provisions.

1. Centers receiving section 713(1) funds.

A State may choose to provide Part B funding to a center under the authority of section 713(1) in order for the State to fulfill its obligation to provide independent living services under section 704(e) of the Act. In accordance with 34 CFR 365.23, the State may meet its obligation to

provide IL services through a grant or contract to centers or other service providers. In order to receive Part B funding to provide IL services under section 713(1), the Act does not require that a center be in compliance with the standards and assurances of section 725, but the regulation makes clear that, in providing IL services for the State, the center has to meet the requirements of Part 365 and Part 364 of the regulations, including the provision of the core IL services. See 34 CFR §§ 365.23 and 365.3.

Although not required to do so, a center that receives Part B funds under section 713(1) may be in compliance with the standards and assurances of section 725. If, however, the center does not comply with the standards and assurances of Section 725, it must meet the standards established by the DSU for service providers under 34 CFR 365.31. Section 365.31 requires the DSU to “develop, establish, make available to the public, maintain, and implement written minimum standards for the provision of IL services to be met by service providers that are not centers.” The “centers” referred to in section 365.31 are those centers that meet the standards and assurances of section 725. The preamble to the Notice of Proposed Rule Making for the Independent Living Services Programs explains that section 365.31 requires all service providers of IL services to meet either the standards and assurances of section 725 or those developed by the DSU. The Department states:

Proposed Sec. 365.31 would require the DSU to develop, establish, and maintain written standards for the provision of IL services to be met by service providers that do not meet the standards and assurances in section 725 of the Act . . . and that are used by the DSU to provide IL services to individuals with significant disabilities. . . Providers used by the DSU to provide IL services that meet the requirements of section 725 of the Act . . . would not have to meet the standards developed by the DSU if the standards developed by the DSU are different than the Federal requirements.

Independent Living Services Programs, 59 FR 24814 (proposed May 12, 1994).

## 2. Centers receiving section 713(3) funds.

If the State chooses to provide funding to centers for their general operation under the authority of section 713(3), the terms of section 713(3) require those centers to comply with “the standards and assurances set forth in subsections (b) and (c) of section 725.” The centers receiving funding under this provision do not also have to be Part C funded centers, but the State is responsible for ensuring that any centers that receive Part

B funding for their general operation are in compliance with the standards and assurances of section 725.

III. The inclusion of non-Part C funded centers, as “centers for independent living” under the Act is consistent with Part C eligibility and funding requirements.

A. Eligibility to compete for funding as a new center under Part C.

The funding priorities under Part C are set forth in sections 722(e) and 723(e). Under Section 722(e) and 723 (e), in allocating funds among centers for independent living within a State, to the extent funds are available, the Commissioner first supports existing centers, as described in subsection 722(c) [or 723(c)] that meet the standards and assurances set forth in section 725. The existing centers described in subsection (c) are the existing eligible agencies that have received awards under Part C by September 30, 1997. Next, the Commissioner shall provide for a cost of living increase for those existing centers. Finally, the Commissioner shall fund new centers for independent living as described in subsection (d) that comply with the standards and assurances set forth in section 725.

Congress stated its intent that only applicants that submit satisfactory applications under the Centers for Independent Living Program will receive financial assistance under Part C. “In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B) and 722(d)(3).” (S. Rep. No. 357, 102d Congress, 2d. Sess. 89 (1992)).

Section 722(d) describes how the Commissioner makes awards for new centers for independent living and explains that current centers receiving Part B funds are still eligible to compete as new centers for Part C funds. Under section 722(d), the Commissioner may award Part C funding to the most qualified applicant, applying as a new center in a State, consistent with the State’s design for establishing a statewide network of centers in its SPIL and shall give priority to applications from applicants proposing to serve geographic areas within each State that are identified by the State in the SPIL as unserved or underserved areas. Although a center receiving funding only from Part B or State sources may be included in the network of centers for independent living as long as it complies with the standards and assurances of section 725, it cannot receive Part C funding unless it submits a satisfactory application to the Commissioner and the Commissioner approves the application for funding. Inclusion of a center in the State’s network of centers does not guarantee Part C funding.

The Act makes clear, however, in section 722(d)(3) that a center receiving funding under Part B is still eligible for a grant under Part C. The Senate

explained that “the bill includes a special provision applicable to centers that have been funded in the past out of the program funding independent living services (Part B). The bill provides that a center that is currently funded under the program funding independent living services for the general operation of centers for independent living shall be eligible for a new grant. In other words, such centers will not be considered ‘existing centers.’” (S. Rep. No. 357, 102d Congress, 2d. Sess. 90 (1992)). Even though a Part B funded center is considered a “current center” under section 722(d)(3), it is not an “existing center” under Part C, and such a center is therefore eligible to compete for a Part C grant award as a new center.

B. State funds earmarked for the general operation of centers meeting the requirements of Part C under section 723 include all centers meeting the standards and assurances of section 725, regardless of funding source.

Section 723 of the Act allows the director of a DSU to award Part C grants to eligible agencies if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of Part C equaled or exceeded the amount of Federal funds allotted to the State and the DSU Director applies for and receives approval to administer the Part C program. When determining the amount of State funds earmarked for centers meeting the requirements of Part C, it is consistent with the legislative history of the Act to include State funds for centers that meet the standards and assurances of Section 725, but do not necessarily receive funding under Part C. Congress explained that, when totaling the amount of State funds earmarked for centers, “The committee intends that the phrase ‘meeting the requirements of Part C’ should be construed to mean identical or equivalent requirements.” (S. Rep. No. 357, 102d Congress, 2d. Sess. 91 (1992)). Therefore, funding in the State earmarked to support the general operation of centers for independent living that meet the requirements of Part C includes State funding used to support centers that do not receive a Part C grant, if those centers comply with the standards and assurances of Section 725.

#### POLICY

#### STATEMENT:

Any entity that meets the definition of “center for independent living” at section 702 of the Act is included in references in Parts A and B of the Act to “center for independent living,” regardless of the center’s funding source, except where the Act clearly identifies centers for independent living funded under Part C. Section 702 defines “center for independent living” to mean “a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that is designed and

operated within a local community by individuals with disabilities and provides an array of independent living services.” Therefore, any center meeting the section 702 definition of center, whether it receives Title VII Part B or Part C funding, State funding, or any other source of funding, is eligible to vote on the center representative to the SILC and is considered to be a center when determining whether the SILC composition meets the requirement that 51% of the members may not be State or center employees.

Any center that meets the definition of a “center for independent living” in the Act and complies with the standards and assurances in Section 725 may be included in the State’s design for the establishment of a statewide network of centers for independent living. In addition to Part C-funded centers that are part of the network because they have to comply with the standards and assurances in Section 725 in order to continue to receive funding under Part C, a State may include in its network other centers as long as those centers comply with the standards and assurances of section 725.

A center to whom the DSU provides Part B funds to provide IL services for the State under section 713(1) is not required to comply with the standards and assurances of section 725, but the center must provide IL services in accordance with the requirements of Part 365 and Part 364 of the regulations, including the provision of the core IL services. Any center that does not meet the standards and assurances of section 725 must meet the standards established by the DSU for service providers under 34 CFR 365.31. If the DSU provides funding for a center’s general operation under section 713(3), the terms of section 713(3) require that center to comply with the standards and assurances set forth in subsections (b) and (c) of section 725, and it is the DSU’s responsibility to ensure that the centers are in compliance.

Although a center funded by sources other than Part C of the Act may still meet the standards and assurances of section 725, its inclusion in a State’s network of centers does not guarantee Part C funding. A center cannot receive Part C funding until it has submitted a satisfactory application to the Commissioner of RSA and the Commissioner has approved its application. Even though a Part B funded center is considered a “current center” under section 722(d)(3), it is not an “existing center” under Part C and such a center is therefore eligible to compete for a Part C grant award as a new center.

For the purposes of considering an application from a DSU Director to administer the Part C program under Section 723, funding in the State earmarked to support the general operation of centers for independent living that meet the requirements of Part C includes State funding used to



support centers that do not receive a Part C grant, if those centers comply with the standards and assurances of Section 725.

**CITATIONS**

**IN LAW:**

Title VII, Part C of the Rehabilitation Act of 1973, as amended;  
Sections 702, 704(e) (g) and (k), 705(b)(2)(A), 705(b)(4)(A)(iv)(II),  
705(b)(4)(B)(ii), 713(1) and (3), 722(c), (e), (d)(2)(B)(3), and (d)(3),  
723(c) and (e), and 725(b) and (c).

**CITATIONS IN**

**REGULATIONS:**

34 CFR Parts 364, 365, and sections 364.25, 365.3, 365.23, and 365.31.

**EFFECTIVE DATE**

**OF POLICY:**

Upon Issuance

**INQUIRIES**

**TO:**

Inquiries should be addressed to James Billy, Chief, RSA Independent Living Branch at (202) 205-9362 or on the Internet at james.billy@ed.gov.

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Joanne M. Wilson  
Commissioner

cc: CSAVR  
NORP  
NAPAS  
NCIL