

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, D.C. 20202

POLICY DIRECTIVE
RSA-PD-02-03
DATE: July 3, 2002

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

SUBJECT: "SATELLITE" CENTERS FOR INDEPENDENT LIVING

BACKGROUND: This policy directive is intended to clarify under what conditions an existing center for independent living (hereinafter referred to as "CIL" or "center") can expand its service delivery by opening multiple offices. While RSA, specifically in the Commissioner's Memorandum CM-00-05, the States, and CILs have used the terms "satellite" or "branch" office, there is no mention of these terms in the Rehabilitation Act of 1973, as amended, (the Act) and the implementing regulations.

The Act and the regulations provide an order of priorities under part C of title VII for the establishment of CILs. In States where the Secretary is responsible for funding the centers, the order of priorities is contained in section 722(e) and 34 CFR 366.22(a). In States where the director of the designated State unit is responsible for funding the centers, the order of priorities is contained in section 723(e) of the Act and section 366.34(a) of the regulations.

POLICY

STATEMENT: There are two circumstances under which an existing CIL can expand by opening another office. First, a CIL can open an additional office located in and serving the center's geographical service area, which is defined in the CIL's application for funding. However, if an existing center opens an additional office in the geographical service area, the level of funding that

the CIL receives cannot be increased in order to support the additional office because the service area is the same.

An existing CIL also can open an office that provides services outside its defined geographical service area. However, it may receive additional funds to do so only if the center successfully competes for the new funds through the procedures for establishing a new center under part C of title VII.¹ According to section 366.2(b)(2), an applicant is eligible to apply as a new CIL if it:

[p]roposes the expansion of an existing center through the establishment of a separate and complete center (except that the governing board of the existing center may serve as the governing board of the new center) at a different geographical location. . .

Section 366.22(a)(1) clearly states that this type of "satellite office" of an existing center is a new center rather than an existing center:

[A]ny funds received by an existing center to establish a new center at a different geographical location . . . are not included in determining the level of funding to the existing center . . .

Thus, an existing center may establish a "satellite office" that serves a different geographical area. However, the "satellite office" can use part C funds only if it applies for and receives the funds as a separate center. This is true even if the same recipient operates both centers.

In addition to the funds available to establish CILs, the order of priorities also provides for the disbursement of excess funds. According to sections 366.22(b) and 366.34(b), the Secretary may use excess funds in the State to assist existing centers consistent with the State plan (hereinafter referred to as "reallocation") or the Secretary may reallocate these funds to other States in accordance with section 721(d) of the Act.

Assisting an existing center through reallocation does not include providing it funding to open a separate center at a different geographical location. In a manner consistent with the use of part C funds to establish a center, a State cannot use reallocated funds to establish a separate center to serve a different geographical area, even though the new center may share the same governing board with the existing center. As stated above, new centers can only be established on a competitive basis through the procedures under part C.

¹ Although this PD addresses only the use of part C funds to establish CILs, there is nothing here that precludes any State from funding CILs under part B.

In the following scenarios, an existing center is attempting to open a “satellite” office. The geographical area being served and the funding source are the variables in these scenarios.

Scenario One:

The State Plan for Independent Living notes an unserved area in the State. During a competition under part C, an existing center competes for additional funds to open a “satellite” office in this different geographical area to provide services to this unserved population. The existing center and the new center share the same board.

This is the only method of creating a “satellite” office in a different geographical area -- an existing center establishes a separate center under the competitive process for new centers under part C. It does not matter whether the existing center and the new center share the same board.

Scenario Two

Through a reallocation, a center is given an increase in funds to open another office in the same geographical location to provide services to the population already being served by the CIL. The existing center and the new center share the same governing board.

The regulations allow funds to be reallocated to an existing center to serve an area that is the same service area as that specified in the center’s application for funding. A CIL can use reallocated funds only to provide services within the service area specified in the CIL’s application. It does not matter that the two centers share the same governing board since the excess funds are being reallocated to the existing CIL and thus this center must have full control of the use of the reallocated funds.

Scenario Three

The State Plan for Independent Living notes an unserved area in the State. Through a reallocation, a center is given an increase in funds to open another office in this new geographical location to provide services to this unserved population. The existing center and the new center share the same governing board.

The regulations do not allow funds to be reallocated to an existing center to serve an area that is outside of the service area specified in the center’s application for funding. A CIL can use reallocated funds only to provide

services within the service area specified in the CIL's application. The only way for the State to serve this new area is through the competitive procedures for establishing new CILs. Thus, while an existing CIL cannot open a separate office to serve the new area through a reallocation, it may do so by receiving an award of new funds to operate a center through the competitive process. It does not matter whether the two centers share the same governing board since this will be a new award to a new CIL.

There has been some confusion that CM-00-05, which states that "RSA will follow the State plan when it comes to funding CILs, CIL satellites and/or branch offices," should be interpreted to allow the establishment of centers that are authorized in a State plan even if they are not consistent with the requirements in the Act and regulations. However, a State plan may not provide for a means of establishing "satellite centers" that would be inconsistent with these requirements. Thus, a State plan cannot authorize a reallocation of funds to existing centers to operate separate and complete CILs in different geographical locations.

SUMMARY: RSA will not approve reallocations of funding to existing centers in order for them to establish "satellite offices" or otherwise provide services in new geographical areas. Existing centers that want to provide services outside their original geographical service area must compete as an applicant for a new center under a part C competition.

CITATIONS IN LAW: Sections 721(d), 722(e), and 723(e) in the Rehabilitation Act of 1973, as amended.

CITATIONS IN REGULATIONS: 34 CFR 366.2(b), 366.22, and 366.34.

RELATED POLICY ISSUANCES: CM-00-05.

INQUIRIES: Inquiries should be addressed to Thomas E. Finch, Ph.D., Director, Special Projects Division at (202) 205-8292 or on the Internet at tom.finch@ed.gov.

Joanne M. Wilson
Commissioner, RSA

cc: CSAVR
NORP