

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF HUMAN DEVELOPMENT  
REHABILITATION SERVICES ADMINISTRATION  
WASHINGTON, D. C. 20201

PROGRAM INSTRUCTION  
RSA-PI-77-26 (Amends RSA PI-75-31)  
July 26, 1977

TO: STATE REHABILITATION AGENCIES (GENERAL)  
STATE REHABILITATION AGENCIES (BLIND)  
DIRECTORS, OFFICE OF REHABILITATION SERVICES

SUBJECT: RSA Policy Statement of Interpretation of State VR Organizational Requirements of the Rehabilitation Act, as amended (PL-75-31, dated June 3, 1975)

CONTENT: Problem Area B-- "Availability of all or substantially all full-time VR staff" of the RSA policy statement (PI-75-31, dated June 3, 1975) has been revised to further clarify RSA's interpretation of the "all or substantially all full time staff" requirement in section 101(a)(2)(A)(iii) of the Rehabilitation Act of 1973, as amended.

This program instruction transmits this revised section which supersedes and replaces Problem Area B on pages 4 and 5 of this policy statement. (PI 75-31)

The significant changes are listed below:

- (1) total staff of the vocational rehabilitation organizational unit includes administrative, clerical and other support staff as well as professional staff;
- (2) no more than 5 to 10 percent of the total staff of the vocational rehabilitation organizational unit can work less than full time on vocational rehabilitation or vocational and other rehabilitation activities; and
- (3) the vocational rehabilitation organizational unit is responsible for determining the percent of time that less than full time staff can spend on activities other than vocational rehabilitation or vocational and other rehabilitation.

INQUIRIES

TO: Directors, Office of Rehabilitation Services

Joseph A. Mottola  
Acting Commissioner  
of Rehabilitation Services

Attachment

Problem Area B. Availability of all or substantially all full-time VR staff

The Act explicitly requires that a vocational rehabilitation organizational unit have staff employed on its vocational rehabilitation or vocational and other rehabilitation work all or substantially all of whom are employed full time on such work (section 101(a)(2)(A)). This means that there may be a proportionately small segment of staff employed less than full time on vocational rehabilitation or vocational and other rehabilitation work.

Where staff of the vocational rehabilitation organizational unit are not full time on vocational rehabilitation or vocational and other rehabilitation work, as an exception to the prevailing pattern, no question will be raised if this group of assignments represents a very small or minimal proportion, i.e., no more than 5 to 10 percent of the total staff of the vocational rehabilitation organizational unit (i.e., at least 90% of such staff must work full time on vocational rehabilitation or vocational and other rehabilitation). Total staff that can be assigned to such activities other than vocational rehabilitation or vocational and other rehabilitation includes administrative, clerical and other support staff, as well as professional staff involved in the provision of vocational rehabilitation or vocational and other rehabilitation services.

With respect to the percentage of time that staff who are not full time on vocational rehabilitation or vocational and other rehabilitation work can spend on such activities, such determination can only be made by the organizational unit responsible for the operation of the vocational rehabilitation program.

In determining the percent of total staff assigned to non-vocational rehabilitation or non-vocational and other rehabilitation work as well as the percent of this group's time spent on such activities, the vocational rehabilitation organizational unit must take into consideration its obligation and commitment to provide a program of vocational rehabilitation services under the annual State plan. If the vocational rehabilitation organizational unit can effectively meet the statutory and regulatory requirements for administering its vocational rehabilitation program by assigning a small number of staff who can spend less than full time on activities other than vocational rehabilitation or vocational and other rehabilitation, the vocational rehabilitation organizational unit would be in compliance with the requirement specified in section 101(a)(2)(A)(iii) of the Rehabilitation Act of 1973, as amended.

In determining the approvability of State plans or plan amendments where staff are assigned to perform work other than vocational rehabilitation or vocational and other rehabilitation, it will be necessary for RSA to have assurance that deployment of such staff will not:

- (1) reduce or dilute the organizational unit's responsibility for administering the State's vocational rehabilitation program in accordance with the approved State plan;
- (2) reduce the decision-making capacity of the State administrator of the organizational unit to direct the vocational rehabilitation program of the sole State agency; and
- (3) remove such staff from the supervision of the administrator of the vocational rehabilitation organizational unit except for the specific percentage of staff time provided to those programs outside of the organizational unit.

Depending on the circumstances, these assurances may be implicit in the annual State plan or made explicit if a particular question is raised.

Federal financial participation

When the administrator of the organizational unit for vocational rehabilitation assigns a small number of vocational rehabilitation staff to activities other than vocational rehabilitation (i.e., to other rehabilitation or to non-vocational or other rehabilitation), Federal financial participation will only be available for the amount of time that such staff devote to vocational rehabilitation activities. The proper direct charges for the time of such less than full time vocational rehabilitation staff must be made in accordance with section 101(a)(6) of the Federal statute and sections

1361.10 and 1361.76 of the implementing regulations as well as cost principles prescribed by Subpart Q of 45 CFR, Part 74 (Administration of Grants).

In the case of administrative support staff which are shared with other units within multi-program agencies or other units of State government, Federal financial participation will be allowed for an appropriate share of the cost of the service rendered by the staff on an agreed upon and approved direct charge plan.

The requirement for "all or substantially all full time staff" does not mitigate against the vocational rehabilitation organizational unit contracting for or sharing in the cost of certain centralized administrative support services (described in the following section: Problem Area C: Centralization or Consolidation of Administrative Functions at State Agency Level) when circumstances clearly indicate this to be advantageous from the viewpoint of efficiency and economy. For example, the vocational rehabilitation organizational unit may either contract for computer services, or share in the cost of a centralized computer service either at a multi-program agency or State level rather than employ direct staff, provided the type, timeliness, and quality of the services are authorized and controlled by the vocational rehabilitation organizational unit and otherwise fulfill the requirements of the Federal statute and regulations for proper and efficient administration of the State plan.