



CENTERS FOR INDEPENDENT LIVING

COMPLIANCE REVIEW REPORT

Disability Services and Legal Center (DSLCL)

GRANT # H132A970011 (Napa)
H132A970012 (Santa Rosa)
H132A010058 (Santa Rosa)

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REHABILITATION SERVICES ADMINISTRATION

TABLE OF CONTENTS

I. PURPOSE OF THE ON-SITE MONITORING REVIEW	2
II. METHODOLOGY	2
III. MISSION AND DESCRIPTION	3
IV. ORGANIZATIONAL STRENGTHS AND EMERGING PRACTICES	3
V. OBSERVATIONS AND RECOMMENDATIONS	4
VI. FINDINGS AND CORRECTIVE ACTIONS	5

I. PURPOSE OF THE ON-SITE MONITORING REVIEW

Sections 706(c) and 722 of the *Rehabilitation Act of 1973, as amended* (the act) mandate that the Rehabilitation Services Administration (RSA) conduct on-site reviews of centers for independent living (CILs) funded under Title VII, Part C, Section 722. The objectives of on-site reviews are to:

- assess compliance with the requirements of Section 725(b) and (c)(3) of the act and 34 CFR 366.60-366.63;
- study program operations, organizational structure and administration of the CIL under Section 725(c)(1), (2), (5) and (6) of the act and 34 CFR 366.2 and 366.50;
- review documentation sufficient to verify the accuracy of the information submitted in the most recent 704 Annual Performance Report;
- verify that the CIL is managed in accordance with federal requirements in the Education Department General Administrative Regulations (EDGAR);
- assess CIL conformance with its work plan, developed in accordance with Section 725(c)(4) of the act and 34 CFR 366.50(d)(2), conditions of the CIL's approved application, and consistency with the State Plan for Independent Living (SPIL);
- identify areas of suggested or necessary improvements in the CIL's programmatic and fiscal operation and provide technical assistance resources available on the local, state, regional and national level;
- identify areas of exemplary work, projects and coordination efforts and make this information available to the larger CIL community; and
- provide an opportunity to share information with experienced nonfederal individuals involved in the operations of CILs and make available technical assistance to enhance CIL operations or to minimize or to eliminate problem areas.

II. METHODOLOGY

The on-site review was conducted from March 7-11, 2011. The program review covered the independent living (IL) operations and activities of the Disability Services and Legal Center (DSLCL), and the financial review examined the center's participation in Title VII, Part C, of the act. RSA used the On-Site Review Guide (ORG) to conduct the on-site review. During the review, interviews were conducted with the center's management, staff, consumers, and members of the board of directors. In addition to the interviews, program and financial documents were reviewed in accordance with the protocol required by RSA's ORG, including written policies and procedures, a sample of consumer service records (CSRs), and other documents that verified compliance with standards and indicators. CSRs were selected for review on a random basis. The review team conducted an exit conference at the conclusion of the review to provide feedback on initial impressions from the review.

The RSA review team included the following individuals:

- Elizabeth Akinola, RSA program specialist;
- Wendy L. Gagliardo, nonfederal reviewer; and
- Dwight H. Bateman, representative, designated state unit (California Department of Rehabilitation).

III. MISSION AND DESCRIPTION

The mission of DSLC is to advance the rights of persons with disabilities in the center's service area to equal justice, access, opportunity, and participation.

DSLCL has offices in Santa Rosa, Ukiah, and Napa, California. The center serves Sonoma, Napa, Mendocino, and Lake counties. DSLCL was originally founded as the Community Resources for Independence in 1976.

In addition to providing the four IL core services, DSLCL is involved in the programs and projects described below on behalf of individuals with significant disabilities.

- **Assistive Technology Project** – This project sponsors annual tech-expo to showcase cutting edge technology designed to improve the lives of persons with disabilities.
- **Deaf Services Program** – This program provides services and advocacy for individuals who are deaf/hard of hearing. The program seeks to enhance general community awareness of deaf and hard of hearing issues such as communication, culture, education, and language. All DSLCL offices have video-conferencing equipment to allow staff of the deaf services program to meet with consumers and clients.
- **Transition Project** – This project assists persons with disabilities to relocate into the community from nursing homes and other institutions, affording them greater opportunities and quality of life. DSLCL has a California Community Transition (CCT) certification to provide deinstitutionalization/ nursing home transition services.
- **Housing and Home Modification Program** – This program secures housing or shelter and adaptive housing services, including appropriate accommodations to and modifications of any space used to serve, or occupied by individuals with significant disabilities.

IV. ORGANIZATIONAL STRENGTHS AND EMERGING PRACTICES

Native American Independent Living Services Program: DSLCL received a grant under the American Recovery and Reinvestment Act of 2009 from the California Department of Rehabilitation to operate the Native American Independent Living Services (NAILS) program. The purpose of this program is to expand IL services statewide to Native Americans with disabilities. DSLCL has a long history of outreach related to the Native American population and has established connections with the 26 reservations, rancherias, and tribal offices located within its service area. As part of its outreach, DSLCL's publication, *Accessing Native Americans with Disabilities – Resource Manual*, is distributed throughout Northern California. This manual is primarily made available to other CILs that have historically had difficulty providing culturally competent services to underserved populations, most notably Native Americans. The manual contains resources to enhance the capacity of CILs and other organizations to understand, reach, and serve this population. DSLCL attributes the success of the NAILS program to appropriate staffing. The program director has 14 years experience as an Independent Living Advocate, CAP Advocate, and Native American Outreach Specialist, and is both Native American and a person with a disability. The program director leads a workgroup that represents a broad geographical area and tribal affiliations statewide. The workgroup has created a detailed, two year work plan. The group has also created a website which is a clearinghouse for information and training materials relevant to serving Native Americans with disabilities. The success of the

NAILS program is measured not only in increased numbers of Native Americans served, but also in the increased number of new outreach efforts, contacts, and collaborations within Native American communities.

Legal Services: DSLC provides legal representation and counseling to persons with disabilities within the center's service area. The CIL is staffed with salaried California State Bar licensed attorneys and non-attorney disability rights advocates who are specialists in disability law. DSLC provides legal consultation and representation in matters such as discrimination under the *Americans with Disabilities Act* in housing, employment, and education; and denial of disability benefits under the *Social Security Act*. Persons with disabilities receiving services at DSLC are primarily IL consumers and are assigned an IL specialist who maintains a CSR for each consumer served. However, when a consumer develops an IL goal that requires a legal hearing or legal representation, they become clients of the legal services program, and a legal case file is opened for them. For reasons of confidentiality, CSRs and legal case files are maintained in separate locked filing cabinets. The center represents clients on a contingency basis with no payment required for representation. When DSLC represents a consumer, the person signs a contract that allows the Social Security Administration to pay 25 percent of retroactive benefits (with a cap amount of \$5,300) to DSLC, and all award moneys are used as program income to provide IL services to persons with disabilities. The center accounts for the legal services it provides separately from the services provided through the CIL's program. DSLC's legal advocacy services are also separate from the center's systems change activities.

V. OBSERVATIONS AND RECOMMENDATIONS

During its review activities, RSA identified the observations below and made recommendations that DSLC may consider.

1. Staff Performance Appraisals

Observation: DSLC does not have policies and procedures for staff performance appraisals. Staff evaluations have not been conducted except for the board's evaluation and review of the executive director. Staff indicated that there is no formal mechanism by which they receive feedback about their performance but rather, they receive informal feedback on an infrequent basis.

Recommendation: RSA recommends that DSLC develop written policies and procedures for annual staff performance evaluation and reviews, and implement a schedule for the evaluations and reviews to be conducted consistently. Developing and implementing a performance appraisal system and schedule is one method to ensure that staff are provided feedback about their performance in a timely and consistent manner.

DSLC Response:

DSLC has since hired a Program Manager, who, with the Executive Director, is developing new policies and procedures for formal Staff Evaluation and Performance Review.

2. Website Information

Observation: Information on DSLC's website indicates that the CIL holds an orientation session on Monday afternoons, and that persons interested in receiving services from DSLC should attend one of these sessions in order to become consumers. The number of walk-ins at the center had become unmanageable for the staff and had become a concern for the administrative team. Discussions with DSLC's staff clarified that the orientation sessions were introduced as a means of addressing the increased number of persons interested in receiving services when DSLC began providing legal assistance with social security benefit matters and were not intended to serve as a prerequisite for becoming a consumer of DSLC. While the orientation sessions addressed DSLC's concerns, staff also indicated that individuals could still come into the center without first participating in the orientation sessions. However, DSLC has not updated the information on its website to clarify information related to the orientation sessions.

Recommendation: RSA recommends that DSLC revise the language on its website to indicate that DSLC does not require individuals to participate in the orientation session as a prerequisite for becoming a consumer, and to clarify that walk-ins are acceptable in addition to the Monday afternoon orientation sessions.

DSLC Response:

DSLC will work with its Website Designer to better articulate its policies regarding consumer intake.

VI. FINDINGS AND CORRECTIVE ACTIONS

RSA identified the compliance findings below. Within 30 days of receipt of the final report, DSLC must submit a corrective action plan (CAP) to RSA for review and approval. The CAP should include: (1) the specific corrective actions that the CIL will undertake in response to each finding; (2) the methodology that the CIL will utilize to evaluate if each corrective action has been effective; and (3) the timetable for the implementation and evaluation of the corrective action.

Finding 1: 704 Part II Reporting of Consumer Demographics

Legal Requirement:

34 CFR 364.35

In addition to complying with applicable EDGAR recordkeeping requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will maintain--

- 1) Records that fully disclose and document--
 - a) The amount and disposition by the recipient of that financial assistance;
- 2) The total cost of the project or undertaking in connection with which the financial assistance is given or used;
- 3) The amount of that portion of the cost of the project or undertaking supplied by other sources; and

- 4) Compliance with the requirements of chapter 1 of title VII of the Act and this part; and
- 5) Other records that the Secretary determines to be appropriate to facilitate an effective audit.

34 CFR 364.36

With respect to the records that are required by Sec. 364.35, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will submit reports that the Secretary determines to be appropriate.

Facts and Analysis: The review of CSRs, data collection and recording practices of DSLC demonstrated that the data reported by the CIL in the 704 Report Part II are not statistically accurate. Discussions with the CIL director and staff revealed that the inaccuracies in reporting are due to poor recordkeeping and CSR maintenance, as well as the lack of documentation of services CIL staff provide to consumers and the outreach and community awareness activities conducted by CIL staff. The lack of documentation stems primarily from technology problems with the CIL's management information system and the misunderstanding of staff with respect to the reporting requirements, particularly the need to report all activities related to IL service provision to consumers. The results of a recent review of the CIL conducted by the designated State unit (DSU) revealed similar documentation deficiencies with respect to the individuals served under the CIL's contract with the DSU. The DSU is currently working with DSLC to correct the deficiencies.

Finding: DSLC is not in compliance with the requirements of 34 CFR 364.35 and 34 CFR 364.36 because the review of CSRs, data collection, and recording practices indicated that the data submitted in DSLC's FY 2010 704 Part II Report were not statistically accurate.

Corrective Action: DSLC must take the steps necessary to report accurate data in its annual 704 Part II Report consistent with the requirements at 34 CFR 364.35 and 34 CFR 364.36.

Technical Assistance: To achieve compliance with this finding, RSA encourages DSLC to continue to work with the DSU for hands-on technical assistance to correct reporting deficiencies. The CIL should conduct an assessment of all CSRs to determine those that are active and those that are inactive, and set up a filing system to maintain files in each category.

DSLCL staff should document all IL services provided to consumers. Also, CIL staff, especially staff at the Ukiah and Napa offices, should document all outreach they conduct and community awareness activities in which they participate.

DSLCL staff should develop and implement a plan to perform regular maintenance of its database and assistive technology to ensure that staff have access at all times to enter service data into the system.

DSLCL Response:

DSU Resource Specialists spent 2 days in April of 2011 working with staff from all three offices to review reporting requirements and appropriate collection practices. The DSU staff

has also spent considerable time reviewing our Consumer Database to identify areas in need of update and/or correction. At the end of this process, DSLC will employ a Consultant to make such alterations to the database. Additionally, DSU staff will work with DSLC's Data Entry/Gatekeeper staff to ensure that Consumer Records and Data Reports are being accurately recorded.

Finding 2: Staff Training Plan

Legal Requirement:

34 CFR 364.24

The State plan must assure that the service provider establishes and maintains a program of staff development for all classes of positions involved in providing IL services and, if appropriate, in administering the CIL program. The staff development program must emphasize improving the skills of staff directly responsible for the provision of IL services, including knowledge of and practice in the IL philosophy.

34 CFR 366.50(1) - To be eligible for assistance under this part, an eligible agency shall provide satisfactory assurances that—

(1) Staff at centers will receive training on how to serve unserved and underserved populations, including minority groups and urban and rural populations.

Facts and Analysis: DSLC hires personnel who are specialists in the provision, development, support, and delivery of IL services. However, the center does not have a plan for staff and board training and development. DSLC does not have policies or procedures that address staff training. The staff indicated that there are spontaneous on-the-job trainings mostly regarding social security benefits. There are no specific staff orientations or periodic training on topics such as IL history or philosophy. One staff member indicated that job learning consists of questioning other staff as service provision issues arise. As a result of the lack of a training plan, staff training needs are not being met, particularly in the areas of board roles and responsibilities and IL philosophy.

Finding: DSLC is not in compliance with the requirements of 34 CFR 364.24 and 34 CFR 364.50(1) because the center does not have a plan for staff and board training and development and does not have policies or procedures that address staff training. Staff training needs are not being addressed.

Corrective Action: DSLC must take the necessary steps to develop and implement a staff and board training and development plan based on staff needs consistent with the requirements in 34 CFR 364.24 and 34 CFR 364.50(1).

Technical Assistance: DSLC may consider including such topics as CIL board roles and responsibilities, nonprofit governance, IL philosophy and history, program development and evaluation, as well as fundraising and resource development. As part of its training and development process, DSLC may consider utilizing the training and technical assistance resources offered by the Independent Living and Resource Utilization, IL-NET.

DSLCL Response:

DSLCL's Program Manager and Executive Director have begun developing a Board and Staff Training and Development Plan consistent with the requirements of 34 CFR 364.24 and 364.50.

Finding 3: Ongoing Drug-free Workplace Program

Legal Requirement:

EDGAR 84.215 - You must establish an ongoing drug-free awareness program to inform employees about--

- (a) The dangers of drug abuse in the workplace;
- (b) Your policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (d) The penalties that you may impose upon them for drug abuse violations occurring in the workplace.

Facts and Analysis: DSLCL provides one-time information to all staff about the requirements to have a drug-free workplace when the individual is hired. However, the CIL does not have any ongoing drug-free awareness program to promote the requirements. DSLCL did not indicate any problems with staff in this area.

Finding: DSLCL is not in compliance with EDGAR 84.215 because the CIL does not have ongoing drug-free workplace awareness program.

Corrective Action: DSLCL must develop and implement an ongoing drug-free awareness program that addresses the requirements in EDGAR 34 CFR 84.215.

DSLCL Response:

DSLCL's Program Manager and Executive Director are currently developing an on-going drug-free awareness program addressing all the requirements of 34 CFR 84.215

Finding 4: Draw Down Procedures

Legal Requirement:

EDGAR 74.21(b) Recipients' financial management systems shall provide for the following:

- (5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR

Part 205--Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs.

Facts and Analysis: DSLC has written fiscal management policies. However, these do not contain written procedures that minimize the time between the transfer of funds and the disbursement of funds by the recipient. The review of drawdowns did not disclose any violations with respect to the time between the transfer of funds and the disbursement of funds.

Finding: DSLC is not in compliance with the requirements of EDGAR 74.21(b)(5) because the center's written fiscal management policies do not contain written procedures that minimize the time between the transfer of funds and the disbursement of funds by the recipient.

Corrective Action: DSLC must include written procedures that address how to minimize the time between the transfer of funds and the disbursement of those funds in its fiscal policies.

DSLC Response:

DSLC will amend our financial policies and procedures to include procedures that address minimizing time between transfer of fund and the disbursement of those funds in its fiscal policies.

Finding 5: Purchasing Procedures

Legal Requirement:

EDGAR Sections 74.41 through 74.48 contain standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property, and other services with Federal funds. These standards are designed to ensure that these materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders.

Office of Management and Budget (OMB) Circular A-110, "Cost Principles for Non-Profit Organizations," establishes the principles for determining costs of grants, contracts and other agreements with the federal government.

Facts and Analysis: DSLC has a written purchasing policy. However, the policy does not contain guidance to ensure that requisitions, purchase orders, and receiving slips are safeguarded.

Finding: DSLC is not in compliance with EDGAR requirements regarding purchasing because the center's written purchasing policy does not contain guidance to ensure that requisitions, purchase orders, and receiving slips are safeguarded.

Corrective Action: DSLC must develop and include guidance in its purchasing policy to ensure that requisitions, purchase orders, and receiving slips are safeguarded.

DSLCL Response:

DSLCL intends on developing a purchasing policy to ensure that requisitions, purchase orders, and receiving slips are safeguarded.

Finding 6: Property Procedures

Legal Requirement:

EDGAR 34 CFR 74.34(f)(3). The recipient's property management standards for equipment acquired with Federal funds and federally owned equipment shall include a physical inventory. Equipment inventory must be taken and the results reconciled with the equipment records at least once every two years.

Facts and Analysis: DSLCL has a written policy for property but the policy does not contain requirements that the CIL inventories property regularly. DSLCL staff indicated they did not recall when such an inventory had been conducted. Also, the CIL does not capitalize all capital items whose costs exceed the set limit. For example, telephones are capitalized but computers are not.

Finding: DSLCL is not in compliance with the requirements of EDGAR 34 CFR 74.34 because the center does not maintain current and complete records of all property purchased with grant funds or take a physical inventory of equipment at least once every two years.

Corrective Action: DSLCL must take the necessary steps to ensure that current and complete records are maintained of all property purchased with grant funds and that a physical inventory of equipment is taken at least once every two years, in accordance with EDGAR 34 CFR 74.34(f)(3). The corrective action must include a review and revision of the applicable written policies as well as the corresponding staff and board training.

DSLCL Response:

DSLCL is in the process of completely updating the property list with all properties purchase with grant funds and will conduct physical inventory of all equipment on a yearly basis. This will include an amendment to the policies and procedures manual.