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CLIENT ASSISTANCE PROGRAMS
CONSUMER ADVOCACY ORGANIZATIONS

SUBJECT: Organizational Structure and Non-Delegable Responsibilities of the Designated State Unit for the Vocational Rehabilitation Program

PURPOSE: Through this technical assistance circular (TAC), the Rehabilitation Services Administration (RSA) provides guidance on the federal requirements governing the organizational structure of, and the non-delegable responsibilities to be performed by, the designated State unit (DSU) for the vocational rehabilitation (VR) program, authorized under Title I, Part B, of the *Rehabilitation Act of 1973*, as amended (*Rehabilitation Act*). RSA has determined that clarification of the relevant statutory and regulatory provisions is needed in light of inquiries from VR agencies and the results of its recent monitoring activities.

The guidance contained in this TAC covers each of the federal requirements and further explains:

- the meaning of the term "other rehabilitation" for the purpose of satisfying the organizational requirements for the DSU within the designated State agency (DSA);
- the calculation used to determine the percentage of DSU staff required to perform the vocational or other rehabilitation work of the DSU;
- factors to consider when determining if the DSU is located at a level comparable to other major components of the DSA; and
- additional factors related to the assessment of the DSU's ability to perform its non-delegable responsibilities.

This TAC retires prior guidance issued through RSA-PI-75-31, *RSA Policy Statement on Interpretation of State VR Organizational Requirements of the Rehabilitation Act as amended*, June 3, 1975; RSA-PI-77-26, *RSA Policy Statement of Interpretation of State VR Organizational Requirements of the Rehabilitation Act, as amended* July 26, 1977 (addendum to RSA-75-31); and RSA-PD-96-02, *Special Education Programs as "Other Rehabilitation" for Purposes of the Application of the Provisions of Sections 101(a)(1)(B)(i) and (2)(A)(i) of the Rehabilitation Act of 1973, as amended*, November 7, 1995. These prior issuances contained outdated citations, described regulations that are no longer in effect, or included information that is restated in explanatory guidance to current regulations. However, any still valid statements of policy found in these older issuances are incorporated in this TAC.

FEDERAL REQUIREMENTS: Since 1920, when the VR program was first authorized under the *Smith-Fess Act*, federal requirements governing the organizational requirements for the VR program have changed significantly. The *Smith-Fess Act* required that the VR program be administered by State Boards of Vocational Education. The 1954 amendments to the *Vocational Rehabilitation Act* (*VR Act*), the authorizing federal legislation for the VR program at that time, created another organizational structure option for States in administering the VR program. Specifically, those amendments permitted the VR program to be administered by a state agency that was primarily concerned with VR and other rehabilitation. In other words, an independent state agency could be established to administer the VR program and other programs for individuals with disabilities.

The 1965 Amendments to the *VR Act* contained the last significant change in the statutory provisions related to the state administration and organization of the VR program. In response to a perceived need for greater flexibility at the state level, the 1965 Amendments also allowed the VR program to be administered by a state agency that contained at least two other units administering a program of education, health, welfare, or labor. Congress clearly intended to achieve a balance between state flexibility in the administration of the VR program, while at the same time preserving the integrity and autonomy of the program by imposing the organizational unit requirements described below, which were subsequently incorporated into the *Rehabilitation Act* and have been maintained since that time.

Section 101(a)(2)(A) of the *Rehabilitation Act* and its implementing regulations at 34 CFR 361.13(a) require that the VR State Plan shall designate a state agency as the sole state agency to administer the plan. The state agency designated to administer the VR State Plan must be

either: 1) a state agency primarily concerned with VR, or VR and other rehabilitation, of individuals with disabilities; or 2) a state agency that includes a VR bureau, division or other organizational unit (Section 101(a)(2)(B) of the *Rehabilitation Act* and 34 CFR 361.13(a)).

If the state agency contains a VR bureau, division or other organizational unit, Section 101(a)(2)(B)(ii) of the *Rehabilitation Act* and 34 CFR 361.13(b) require that the VR bureau, division or VR organizational unit must:

- be primarily concerned with VR, or VR and other rehabilitation, of individuals with disabilities, and be responsible for the VR program of the DSA;
- be administered by a full-time director;
- employ staff on the rehabilitation work of the organizational unit all or substantially all of whom devote their full time to such work; and
- be located at an organizational level and have an organizational status within the DSA comparable to that of other major organizational units of the DSA.

In addition, regulations found at 34 CFR 361.13(c) require that certain functions be reserved solely to the staff of the DSU and that these functions may not be delegated to any other agency or individual (34 CFR 361.13(c)(2)). At a minimum, these "non-delegable" responsibilities relate to decisions affecting:

- eligibility, the nature and scope of services, and the provision of those services (34 CFR 361.13(c)(1)(i));
- the determination that individuals have achieved employment outcomes (34 CFR 361.13(c)(1)(ii));
- policy formulation and implementation (34 CFR 361.13(c)(1)(iii));
- the allocation and expenditure of VR funds (34 CFR 361.13(c)(1)(iv)); and
- the participation of the DSU in the one-stop service delivery system in accordance with Title I of the *Workforce Investment Act* (*WIA*) and the regulatory requirements specified in 20 CFR Part 662 (34 CFR 361.13(c)(1)(v)).

TECHNICAL ASSISTANCE:

Although RSA can best determine whether a state is complying with the organizational requirements for the DSU and DSA through the conduct of monitoring (Final Regulations 62 Fed. Reg. 6308, 6316 (February 11, 1997)), it is important that state officials and personnel responsible for the administration of the VR program understand each federal requirement to ensure that the state has in fact created the proper organizational structure

that enables the DSU to exercise its non-delegable responsibilities for the VR program. Therefore, in an effort to assist States outside of the monitoring process, this TAC first provides guidance on each of the organizational requirements and then addresses the non-delegable responsibilities of the DSU.

Administration of the VR Program and "Other Rehabilitation"

The DSA or the DSU, in those States where there is a DSU, must be primarily concerned with VR, or VR and other rehabilitation, of individuals with disabilities (Section 101(a)(2)(B) of the *Rehabilitation Act* and 34 CFR 361.13(a)(1) and (b)(1)(i)). According to these requirements, the primary function of the DSA or the DSU, if one exists, must be the delivery of VR or VR and other rehabilitation services to individuals with disabilities.

Although the statute and regulations permit the DSA or the DSU to administer programs other than the VR program that assist with the rehabilitation of individuals with disabilities, the relevant provisions themselves neither define nor describe the meaning of the term "other rehabilitation." However, the preamble to the 1997 final VR program regulations clarifies that "other rehabilitation" "includes, but is not limited to, other programs that provide medical, psychological, educational, or social services to individuals with disabilities" (Final Regulations 62 Fed. Reg. 6308, 6316 (February 11, 1997)). The preamble to the Notice of Proposed Rulemaking (NPRM) for these final regulations also contains examples of programs or services that constitute "other rehabilitation," including independent living services, programs for individuals with developmental disabilities, services for individuals who are deaf or hearing-impaired, services for individuals who are blind or visually impaired, Social Security disability determinations, or another type of program related to individuals with disabilities (NPRM 60 Fed. Reg. 64476, 64481 (December 15, 1995)).

In light of this regulatory guidance, the determination whether programs located within, or services provided by, the DSU constitute "other rehabilitation" for purposes of the VR organizational requirements is dependent on the provision of services or supports provided by those other programs to individuals with disabilities, as well as the linkage between those services and supports and the VR program. For instance, a DSU may be located within a DSA that provides human services. Although the concept of "other rehabilitation" is very broad as described above, not all human services can be considered to come within its scope. For example, the provision of medical, psychiatric, or social services to individuals with developmental disabilities, mental illness, or with alcohol and drug addictions would fall within the scope of "other rehabilitation" because the

primary purpose of those services is to benefit individuals with disabilities. On the other hand, the provision of other types of human services, such as those for the aging, child welfare, child care licensing, and crisis/emergency response would not fall within the scope of "other rehabilitation" for purposes of the VR organizational requirements because the primary focus of each of these programs is not the provision of VR or other rehabilitation services to individuals with disabilities. The fact that these programs may, on occasion, benefit individuals with disabilities, does not alter the fact that the primary focus of these programs is to benefit a wider population.

Consequently, the DSU must determine the primary purpose of the other programs that fall within its purview to ascertain if those programs constitute "other rehabilitation" within the meaning of VR organizational requirements. Only then can the DSU ensure that substantially all of its staff are engaged in the provision of VR or other rehabilitation services, despite the inclusion of these other human service programs under its purview. As explained further below, an understanding of whether the scope of the programming administered by the DSA or DSU, if one exists, indicates that it is primarily responsible for the provision of VR and other rehabilitation services is critical for determining if all, or substantially all, of the DSU's staff are employed full-time on the VR and other rehabilitation work of the unit.

Full-Time Director

Section 101(a)(2)(B)(ii)(II) of the *Rehabilitation Act* and 34 CFR 361.13(b)(1)(ii) require that the DSU, if one has been established within a larger DSA, employ a full-time director. Pursuant to this requirement, the DSU director must devote his or her full time to the work of the DSU, which would include the VR program and any other program under the purview of the DSU. While the director is not required to devote his or her full time to the VR component of the DSU's work, title I funds must be used only to support the work of the director as it relates to the VR program.

Although this statutory and regulatory provision is as important to the proper organizational structure and administration of the VR program, its language is clear and RSA has received no inquiries or encountered any issues of non-compliance during the monitoring process with respect to its implementation. Thus, no further explanation or guidance concerning this specific requirement is warranted at this time.

Staff Performing VR or Other Rehabilitation Work

The DSU, where one exists, must have "a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work" (Section 101(a)(2)(B)(ii)(III) of the *Rehabilitation Act*). VR program regulations clarify the meaning of "substantially all" by requiring that the DSU have "a staff, at least 90 percent of whom are employed full time on the rehabilitation work of the organizational unit" (34 CFR 361.13(b)(1)(iii)).

The *Rehabilitation Act* recognizes the state's flexibility regarding the manner in which it organizes the DSU and allows for the centralization of its administrative functions. Nonetheless, it remains consistent and clear that the DSA and the DSU, if one exists in the state, must be primarily concerned with the VR or VR and other rehabilitation needs of individuals with disabilities. Although the work of the DSU can encompass activities that extend beyond VR and other rehabilitation, the *Rehabilitation Act* and the VR implementing regulations prescribe that "all or substantially all staff" – e.g., 90 percent -- of the DSU must devote their full time to the rehabilitation work of the unit, i.e., VR or vocational and other rehabilitation. This intention is further supported by guidance contained in the preamble to the 1995 NPRM, which reads as follows:

> This requirement means that if the organizational unit provides other rehabilitation services, in addition to vocational rehabilitation, the 90 percent staffing requirement applies to all unit staff providing rehabilitation services, not to just the vocational rehabilitation staff (NPRM 60 Fed. Reg. 64476, 64481 (December 15, 1995)).

In other words, no more than ten percent of the DSU staff can devote any portion of their time to other programs and activities carried out by the DSU that do not constitute VR or other rehabilitation, as described above.

To determine that the DSU employs a staff at least 90 percent of whom are working full-time on the rehabilitation work of the unit, RSA considers the entire DSU, as defined by the state in the VR State Plan, and all of its activities. RSA then determines which of those activities constitute the VR and other rehabilitation of individuals with disabilities. Once this determination is made, RSA then takes into account the total staff employed by the DSU and the manner in which they are apportioned to each of the DSU's activities to determine the percentage that work full-time on the rehabilitation work of the DSU, as opposed to the percentage that are engaged, full- or part-time, on the non-rehabilitation work, if any, of the DSU.

The Federal requirement refers to 90 percent of the staff, not 90 percent of the staff's work hours, that must be devoted to the performance of matters related to VR or the other rehabilitation work of the DSU. This distinction is important when considering DSU staff who expend any time working on the provision of services or activities that do not constitute VR or other rehabilitation, such as universal and core service activities within Workforce Centers. The DSU must maintain careful time distribution records for any staff, again no more than ten percent, who spend any time working on matters that are not related to the VR or other rehabilitation work of the DSU. These time records are essential to ensure that this requirement is satisfied, as well as compliance with cost allocation requirements under the federal cost principles found at 2 CFR Part 225.

For example, a DSU's staff may be co-located in the state's one-stop centers and it may meet its cost sharing obligations, in part, by paying for a proportionate share of the reception services provided by one-stop staff, or by assigning DSU staff to perform reception duties while again ensuring that the time of these staff is properly allocated to the VR program. Because the receptionists in the one-stop centers perform "universal" activities for all individuals served by the centers, not only individuals with disabilities, they cannot be considered to be engaged in the provision of VR or other rehabilitation services. Therefore, if the DSU chooses to assign its staff to assist with the reception duties at the one-stop centers, it must be careful that the number of staff assigned to these or other such duties, even on a part-time basis do not exceed ten percent of its total staff.

Furthermore, RSA recognizes that staffing of a state agency is a dynamic process in which the number of staff or full-time equivalent (FTE) positions can change on a frequent basis. In an environment where funding may be limited, it is not uncommon for hiring freezes and budget concerns to result in vacant FTE positions that may not be filled or that may be eliminated. Consequently, when reviewing a DSU's compliance with this requirement, RSA only considers staff who are actively employed at a specific point during the review and does not consider vacant positions or FTEs assigned to the DSU, as those positions are not actively contributing to the provision of VR or other rehabilitation services within the DSU. The language of Section 101(a)(2)(B)(ii)(III) and the regulations at 34 CFR 361.13(b)(1)(iii) supports this approach through the use of such words as "staff" and "employed." Additionally, when discussing this requirement, the preambles to both the 1995 NPRM (60 Fed. Reg. 64475, 64481(December 15, 1995)) and the 1997 Final Regulations (62 Fed. Reg. 6307, 6316 (February 11, 1997)) refer to "all unit staff ***providing rehabilitation services***" (emphasis added). Therefore, when making the determination that a DSU is in compliance with the requirement that 90 percent of its staff work full-time on VR or other

rehabilitation activities, only staff actually employed by the unit will be taken into consideration.

Finally, some DSUs include within their structures community rehabilitation programs (CRP) that employ both staff who provide rehabilitation services to individuals with disabilities and staff who engage solely in the production and manufacturing activities of the CRP. When determining whether substantially all of the DSU's staff are engaged full-time in the provision of VR and other rehabilitation services, only those individuals employed within the CRP who provide rehabilitation services are considered to be performing VR or other rehabilitation activities, and not those individuals engaged in its production work.

Organizational Level and Status of the DSU

Section 101(a)(2)(B)(ii)(IV) of the *Rehabilitation Act* and 34 CFR 361.13(b)(1)(iv) require that the DSU, where one exists, must be "located at an organizational level and [have] an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency." This particular requirement has remained unchanged since its inclusion in the 1965 amendments to the *VR Act* and, along with the other requirements discussed above, affirms a cardinal principle concerning the organization of the VR program – that the VR program is an integral categorical program, not to be merged with other organizations of state government.

The requirement that the DSU be located at a level and have a status comparable to that of the other major units of the DSA, in effect, places constraints upon the alternatives available to the State in designating an agency to administer the VR program. As clearly articulated in the Congressional Oversight Hearings of November 30 and December 10, 1973, the objective of these constraints is to prevent the submersion of the VR program within the structure of the DSA, which could reduce the program's scope and effectiveness. The requirements have been consistently interpreted to mean that the VR unit must have clear, direct supervision of VR staff with regard to program policy, operations, and related program matters.

When evaluating whether the DSU is at a comparable level to other major organizational units within the DSA, it has been the long-standing policy of RSA that such an evaluation will take into consideration such factors as:

- the directness of the reporting line from the VR director to the head of the DSA;

- the title, status, and grade of the VR director, as compared with those of the heads of other organizational units within the DSA;
- the extent to which the VR director can determine the scope and policies of the VR program; and
- the kind and degree of authority delegated to the director of the DSU for the administration of the VR program.

Each of these factors should be considered when determining if the DSU is located at a level comparable to other major units of the DSA, and not submerged within the organizational structure of the DSA to such an extent that the DSU director is limited in his or her ability to have input into legislative and other matters affecting the VR program in a manner that is more restricted than that of other directors of comparable programs. However, with respect to the consideration of the title, status, and pay grade of the DSU director, RSA has not historically been involved in providing direction to the states regarding personnel matters, except as they relate to the requirements for a comprehensive system of personnel development. Absent a functional impact, differences in title, status and pay grade between the DSU director and other directors in the DSA may not raise concerns in connection with the federal requirements at Section 101(a)(2)(B)(ii)(IV) of the *Rehabilitation Act* and 34 CFR 361.13(b)(1)(iv). On the other hand, if such differences reflect a devaluation of the DSU, this factor should be considered, along with the others mentioned herein, to determine the state's compliance with the federal organizational requirements for the DSU and the ability of the DSU to carry out the non-delegable responsibilities specified in 34 CFR 361.13(c).

Ideally the DSU director reports directly to the head of the DSA. However, given the complexity of some state government structures, the head of the DSA may find it necessary to require that the DSU director report to a deputy within his or her office instead. Such an organizational structure is permissible within the requirements of Section 101(a)(2)(B)(ii)(IV) of the *Rehabilitation Act* and 34 CFR 361.13(b)(1)(iv), so long as the DSU director and the directors of the other major components are treated similarly. Under such arrangements, the deputy within the DSA's office typically functions as a conduit of information and facilitator of communication between the DSU director and the head of the DSA, as well as with the heads of the other major units.

Unlike the above-described organizational structure, some state government structures include a level of organization outside the head of the DSA's office that incorporates the DSU within its own structure, thus creating an additional organizational layer between the head of the DSA and the DSU. While additional organizational layers between the DSA

and the DSU may be permissible, their presence can complicate the determination of the proper placement of the DSU. When evaluating this intervening organizational level in light of the factors listed above, especially that of the directness of communication between the head of the DSA and the DSU director, RSA considers the role of the head of the intervening organization in terms of the administration of the VR and other programs located within the intervening level. Specifically, RSA considers whether this individual's role interferes with the DSU director's ability to perform the non-delegable functions listed at 34 CFR 361.13(c). For example, RSA will examine the involvement of the head of the intervening organization in decisions related to legislative, budget, strategic planning, policy development, and the allocation of resources (including staff) of the VR program, particularly as compared to the involvement of the heads of intervening levels in matters administered by the directors of other major components within the DSA. Under circumstances where the DSU director does not provide input on such matters directly to the head of the DSA, but rather does so through the head of the intervening organization, RSA will consider whether the input provided by the VR director is marginalized prior to being transmitted to the head of the DSA. The marginalization of such input could have a negative affect on the ability of the DSU director to carry out the non-delegable responsibilities for the VR program set forth at 34 CFR 361.13(c).

In summary, RSA considers many factors when analyzing whether the DSU is located at a level comparable to other major components within the DSA. Except for the factor pertaining to the VR director's ability to carry out the non-delegable functions required by 34 CFR 361.13(c), none of these factors are dispositive on their own. Instead, they all work together to help RSA determine whether the organizational structure established by the state meets the spirit and intent of the federal requirements.

Non-Delegable Responsibilities

As stated earlier in this TAC, Section 101(a)(2)(B)(ii)(I) of the *Rehabilitation Act* and 34 CFR 361.13(b)(1)(i) require that the DSU be responsible for the administration of the VR program. The statute does not describe the nature and scope of this responsibility or how it is to be carried out by the DSU. However, the VR program implementing regulations, found at 34 CFR 361.13(c)(1), require that certain functions be reserved solely to the staff of the DSU and that these functions may not be delegated to any other agency or individual (34 CFR 361.13(c)(2)). These "non-delegable" functions relate to decisions affecting:

- eligibility, the nature and scope of services, and the provision of those services;
- the determination that individuals have achieved employment outcomes;
- policy formulation and implementation;
- allocation and expenditure of VR funds; and
- participation in the One-Stop service delivery system in accordance with Title I of the *Workforce Investment Act* (WIA) and the regulatory requirements specified in 20 CFR Part 662.

RSA has long interpreted these provisions to require that the specified functions and activities be carried out by the DSU's own staff (NPRM, 60 *Fed. Reg.* 64475, 64482 (December 15, 1995) and Final Regulations, 62 *Fed. Reg.* 6307, 6316 (February 11, 1997)). In addition, the VR unit must have clear and direct supervision over VR program staff with regard to program policy, operations, and related program matters.

The non-delegation provisions are intended to, "[strengthen] the role of the State unit by requiring that the unit have a substantial role in all decisions affecting the administration of the VR program whenever management functions within the State agency are centralized" (60 *Fed. Reg.* at 64482). Retaining these non-delegable functions within the DSU:

> Ensure[s] that State agencies that consolidate staff to administer multiple State and federally funded programs do not entrust these key VR programmatic decisions to individuals who lack experience in meeting the needs of individuals with disabilities…[T]he benefits derived from DSU retention of these functions – enhanced program efficiency and effectiveness – outweigh any costs that may be associated with the non-delegation requirements in the final regulations (62 *Fed. Reg.* at 6316).

When certain functions, such as human resource development or financial management, are placed at the DSA or departmental level, it is important to assess the manner in which the DSU exercises a strong voice or provides effective input into the policy, planning, operations or similar program decisions made in these areas. While certain purely administrative functions may be performed by personnel outside the DSU, centralization of functions on the state agency level is impermissible if it results in interference with the decision-making capacity of the administrator of the DSU to direct the VR program in the state, given that the DSU has been designated as the entity responsible for administering the VR program under the VR State plan (34 CFR 361.13(b)(1)(i)).

The following program management activities are among those that typically are carried out by an organization that is responsible for the day-to-day operational administration of a public VR program:

- development of legislative proposals and regulations regarding VR program funding and services;
- program planning and evaluation;
- personnel management;
- implementation and use of management information systems; and
- fiscal and statistical reporting.

When centralization of these or other functions occurs, questions may arise as to whether the DSU has retained an effective voice in the making of key policy decisions to ensure that the DSU has sufficient responsibility for the administration of the VR program, as required by 34 CFR 361.13(c).

In making judgments about the nature and degree of DSU involvement in these activities for the purpose of assessing compliance with the non-delegable functions, RSA recognizes that the *Rehabilitation Act* provides considerable flexibility to the state in the administration of the VR program and that the responsibility for the administration of the state Plan rests with the DSA in accordance with 34 CFR 361.13(a). However, the DSU is responsible for the administration of the VR program under the State Plan (34 361.13(b)(1)(i)), and for the operation of the VR service delivery system (34 CFR 361.13(c)(1)(i)). In assessing the nature and extent of the DSU's authority in carrying out its responsibility to administer the VR program, RSA will determine whether the DSU director indeed has the authority to administer the VR program and, if so, the extent of that authority, i.e., if it affords the DSU adequate input with respect to the administration of the centralized functions. RSA will review the degree of authority and involvement of all of the DSU's functions taken together, and not with respect to one or more of the functions alone.

Regarding the allocation and expenditure of VR funds (an area where questions concerning the DSU's authority are more likely to arise), RSA will determine whether the DSU has responsibility for the approval of expenditures, the development and approval of contracts, budgeting for the program, development of the cost allocation plan and the procurement process. As the head of the DSU, the entity solely responsible for the expenditure and allocation of VR funds pursuant to 34 CFR 361.13(c)(1)(iv), the DSU director must be privy to all financial information about the VR program, not just informed of such information by the DSA, and should be in direct control of the decisions affecting the VR program. Decisions regarding staffing levels, priority setting, and the awarding of contracts fall within the scope of the expenditure and

allocation of VR funds. Therefore, decisions related to these matters require the DSU to determine where to spend its resources for the benefit of the program and to meet the needs of individuals with disabilities within the state. As such, these decisions must ultimately be made by the DSU. For example, while the DSA may centralize contracting processing, decisions involving whether to contract for a service, the amount to be contracted, and the service to be procured, must be retained by the DSU since those decisions pertain to the allocation and expenditure of VR funds and the provision of VR services, both of which are non-delegable functions of the DSU (34 CFR 361.13(c)(1)(i) and (iv)).

In addition, the director and staff of the DSU must have sufficient information regarding the fiscal resources available for use in the VR program, especially in those states where the DSA has centralized the payment and fiscal reporting processes for the entire agency. Because the DSU is solely responsible for the allocation and expenditure of VR funds pursuant to 34 CFR 361.13(c)(1)(iv), the DSU remains responsible for ensuring the accuracy of financial reports and the satisfaction of all fiscal requirements, including match and maintenance of effort. Furthermore, the DSU must have sufficient information about the financial resources available to the VR program in order to avoid the inadvertent and unnecessary reallotment of funds, or, most significantly, the return of funds to the U. S. Treasury -- actions that could occur if the DSU does not maintain control over the expenditure and allocation of VR funds.

Finally, the VR program regulations at 34 CFR 361.23 and Section 121(c) of *WIA*, along with *WIA* implementing regulations at 20 CFR 662.300, require that a memorandum of understanding governing operations of the One-Stop service delivery system in a local area be developed and executed between the Local Workforce Investment Board and the One-Stop service delivery system partners. Because the DSU is solely responsible for its role as a partner in the one-stop system (34 CFR 361.13(c)(1)(v)), it must negotiate its own contracts with the other one-stop partners. This responsibility may not be delegated to another individual or agency, including the DSA (34 CFR 361.13(c)(2)).

SUMMARY: The federal requirements governing the organization of the VR program provide considerable flexibility to the states in recognition of the wide variety and complex nature of the programs and services within their purview, while establishing a framework in which VR services are delivered through an autonomous and distinct unit. This framework enables the officials and personnel of the DSU to conduct those non-delegable functions critical to the administration and operation of the VR

program. It is these persons who possess the knowledge and experience necessary to make decisions regarding the effective and efficient use of

VR program resources to address the unique needs of individuals with disabilities as they engage in the pursuit of quality employment.

CITATIONS: *Rehabilitation Act of 1973,* as amended*,* Section 101(a)(2)
Vocational Rehabilitation Program Regulations, 34 CFR 361.13

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National Council of State Agencies for the Blind
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