

Chapter 6

Empowerment and Policymakers

In this chapter, we discuss existing Federal policy that supports empowerment for individuals with disabilities participating in the vocational rehabilitation (VR) program, best practices and model approaches for developing empowerment policies, recommended policy changes or issues to consider with regard to maximizing the extent to which individuals with disabilities become empowered through the VR program, and concluding thoughts.

Background

The foregoing chapters demonstrate that many parties play a key role in empowering individuals with disabilities. Certainly, the individual with the disability holds the primary responsibility for utilizing the information, services and supports he or she receives to pursue and realize his or her own employment and life goals. At the same time, the VR counselor, the agency supervisor or administrator, the education or training professional and others can each employ specific strategies to assist individuals with disabilities in achieving their individual goals. We are confident that many of the strategies outlined in the previous pages will result in a greater number of consumers of VR services taking charge of their plans of services, their employment options and their lives. However, creating a system of VR that is empowering to all individuals seeking services requires a shifting of long-held philosophies and approaches and corresponding changes in the policies under which VR systems operate.

There have been several advances in the Rehabilitation Act and corresponding rules and other policies that have improved the extent to which consumers of VR services can direct, or even develop, their plans of services. In fact, the current Act specifies that the collective purpose of the VR, independent living and other authorized programs for persons with disabilities is to “Empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, inclusion, and integration into society...” (Section 2(b)(1) of the Act). Curiously, this is the sole instance in which “empowerment” is mentioned in the Act. Informed choice provisions within the VR program (calling for individuals to exercise informed choice throughout the VR process in selecting employment goals, services, service providers, employment and service settings, and methods for procuring services) and Individualized Plan for Employment (IPE) provisions (enabling persons to decide the level of assistance that they will receive in developing their IPE) are important advances. [Section 101(a)(19) for the first and Section 102(d)(4)(A), for the second].

Both of these examples relate to a key tenet of the VR program calling for individuals (and, if appropriate, their family members or other representatives) to fully participate in every aspect of the rehabilitation process. From the time the individual is referred or applies for VR services until the individual exits the program, he or she is to be actively engaged in each decision that impacts the services that the individual receives.

On the other hand, the scope of employment options and services under the VR program from which an individual chooses is established by State agencies and while individuals are to be afforded many options in securing technical assistance in developing their IPEs, often the only option made available is that provided by the State agency. Moreover, State-imposed mandates on VR agencies to identify the most cost-effective services and service providers without due consideration of the individual's needs or interests and measurements of "success" that call for recipients of VR services to obtain any job, are also examples of policies that, in practice, often run counter to empowering the individual.

This Primary Study Group (PSG) believes that establishing a VR system in which the empowered consumer is the rule rather than the exception requires changes in attitudes, expectations and service-delivery strategies (as described in the previous chapters). Because those attitudes and expectations are often based on established policies—whether Federal, State, or local—those policies must empower consumers. Thus, policymakers at all levels must rigorously assess whether a given policy initiative will impact service delivery and will result in the empowered consumer, i.e., the individual who "has control over one's own life and has the knowledge, skills, supports, resources and the confidence necessary to exercise that control in determining and achieving one's life goals."

We recognize that policies affecting persons with disabilities are developed at different levels of government (Federal, etc.) and take many different forms at each of those levels. Legislative proposals, regulations and other rules, memoranda and directives, grant criteria, performance measures and reporting requirements are some of the more common initiatives which reflect or drive policies affecting those with disabilities. Some of the recommended strategies discussed in the previous chapters, or in this chapter, may be better suited for certain policy forms. Nonetheless, we believe that policymakers should develop all policy forms in consideration of these recommendations in order to maximize the empowering effect of their policy initiatives.

Developing Policies of Empowerment

The way in which State VR agencies involve persons with disabilities in the policy-making process is instructive. The current Rehabilitation Act and VR program regulations call for State VR agencies to conduct public hearings and solicit input from representatives from disability organizations. Moreover, VR agencies are to "take into account the views of" individuals with disabilities who are recipients of services from the agency in developing matters of policy related to the administration of the agency's VR program (see Section 101(a)(16) of the Act). Many State agencies do a good job of soliciting input from the disability community as they amend existing State rules or policy directives. However, these public input and "outreach" requirements hardly represent a commitment to developing policies that empower individuals. Rather, some States often garner input by inviting public comment on mostly completed policies,

a course that saves time and may be efficient in the short run but is unlikely to result in policies that empower consumers.

In order for Federal, State and local policymakers to produce and implement policies that will result in empowered consumers, policymakers must work closely with individual consumers, and organizations of consumers, in developing those policies. Regardless of whether the policy at issue will affect the coming year's budget priorities for a local VR agency office or will govern the manner in which VR services will be delivered across the country for several years, that policy will be better-received and more likely to result in empowered individuals if current VR consumers, as well as potential VR consumers, are actively involved in its development and implementation.

One effective, national-level outreach model was used by the National Council on Disability (NCD) in the mid and late 1990s. NCD is an independent Federal agency charged under title IV of the Rehabilitation Act to advise the President and the Congress on public policy issues affecting people with disabilities. Under capable leadership, NCD sought to advocate for public policies that reflected the priorities of the grass roots of the disability community. NCD recognized that in order to be effective, it needed to:

- Hold meetings and hearings around the country and work with local disability organizations to help publicize the sessions;
- Reach underserved groups within the disability community, including diverse cultural groups and groups of non-English speaking individuals;
- Have frequent contact between Council members and staff and the broader disability advocacy community;
- Hire well-respected disability community leaders to research and draft reports and recommendations for the Council; and
- Develop an overarching policy framework with broad, grass roots support.

For this last item, NCD convened a national summit of more than 300 grass roots leaders in 1996 to develop recommendations in eleven different areas of public policy. The document that emerged from this summit, *Achieving Independence*, created the framework which guided NCD's work for the remainder of the decade. In selecting participants for the summit, NCD worked hard to ensure that the attendees reflected the diversity of the disability population in the U.S., including young people, people from diverse cultural backgrounds, and people from underserved and emerging disability populations.

NCD's strategy was successful in part because the diverse group of disability leaders on the Council were able to identify and convene consumer expertise on any policy topic before

the Council. For example, when the Council decided to issue a report with recommendations that would articulate a public policy agenda on behalf of people with psychiatric disabilities, NCD held its meeting in conjunction with a large national gathering of the psychiatric consumer-survivor community so that it could hear directly from a broad cross-section of its leaders. This meeting led to a report called “From Privileges to Rights” that set forth an unfiltered policy agenda as articulated by leaders from this community. Similarly, when NCD recognized that it had not heard from many non-English speaking individuals at its various public meetings, it held a hearing in San Francisco with professional interpreters and technology that enabled all in attendance to follow the hearing in English, Spanish and Cantonese simultaneously. NCD partnered with local organizations that had active outreach programs in the Chinese and Latino communities in the Bay Area. Many of the witnesses at this hearing testified in Spanish or Cantonese, and for many of them it was their first opportunity to share their personal experiences and ideas with a federal agency (NCD, 1999).

Overall, NCD accomplished a great deal in a relatively short period with a staff of nine and a miniscule annual budget. It was able to do this because it was able to quickly identify and tap expertise from the disability community to help it carry out its multiple tasks.

Federal organizations such as NCD are not the only policy-making bodies that have committed to infuse people with disabilities into the policy-making process and thereby create policies that truly result in empowered individuals with disabilities. While some State agencies, as noted above, institute efficiencies in fulfilling their statutory obligation to seek public input on policies related to VR program administration, others have proven successful in enabling those with disabilities to influence policy-making. One such State-level strategy has been implemented by the California Department of Rehabilitation through a formal effort to expand consumer participation in the agency’s strategic planning processes. The director of the agency has transformed her periodic visits to the agency’s district offices into sessions in which she solicits and receives policy and other input from consumers with disabilities and community partner organizations (as well as from VR program professionals). A typical visit starts with meetings with agency employees, followed by sessions with the district administrator and the executive director(s) of local centers for independent living [to promote closer collaboration across the VR and IL programs], and finally a full input-gathering session with consumers, representatives of advocacy organizations, service providers and other partners in the disability community. Those community sessions allow for an open discussion of key issues facing persons with disabilities in the district, identification of problems and the sharing of potential solutions to those problems—whether the solutions lie in policy changes or other steps that the agency director can adopt.

Empowering consumers in the policy process begins with the recognition that consumers have valuable expertise grounded in personal experience. It means taking the time to explain how policy is developed to consumer leaders and cultivating them as partners in the VR system. It means being respectful of language and cultural differences and taking the time to identify

diverse sources of input from all segments of the disability community. Ultimately, it means blurring the divisions between “professionals” and “consumers” and recognizing the value that broad input can bring to policy decisionmakers and those charged with implementing those decisions. Congress, the Rehabilitation Services Administration, State VR agencies, and local VR offices can learn from the examples of NCD, California VR agency and other policy-making bodies that have taken steps in that direction. The results of those efforts—greater consumer satisfaction, a more productive and motivated workforce, better outcomes and more empowered VR consumers—are clearly attainable.

Policies That Empower

The following recommended policy changes are provided for the reader’s consideration and are intended as potential means of translating the strategies for empowering consumers set forth in the previous and subsequent chapters into actual policies utilized by VR counselors and others in the field. While some recommendations are more appropriate for policymakers at certain levels, we suggest that all policymakers, individuals with disabilities, advocates, consumer groups and others in positions to influence policy development consider these ideas closely as they look to further empower individuals through the VR program.

Policy Recommendation for Congress

VR eligibility criteria. The Rehabilitation Act criteria that an individual with a disability must meet in order to receive services under the VR program run counter to principles of empowerment. The Act requires an eligible individual, among other things, to have a physical or mental impairment that constitutes a substantial impediment to employment (section 102(a) of the Act). The criteria, in effect, call for applicants to prove they “can’t work because they’re disabled,” fortifying the low self-esteem and low expectations that many potential consumers already hold before coming to the VR agency. It is not surprising, therefore, that many individuals, once they’ve “proved” their limitations during the eligibility process, are unlikely to believe that they are, or can become, empowered to direct their program of services, their employment goals or their lives.

Accordingly, the PSG recommends that Congress simplify the eligibility requirements under the VR program along the lines of those that afford individuals protection under the Americans with Disabilities Act (ADA). In general, individuals regarded as having a disability (or who have documentation of their disability) are included among those covered by the ADA and its non-discrimination provisions. A simple, similar assessment can be established for purposes of determining eligibility under the VR program, thereby minimizing the effort applicants must expend on proving their limitations and focusing, instead, on the services, resources and supports that empowered individuals can utilize in pursuing their preferred employment goals.

The authors recognize that this significant change to the VR program eligibility criteria would need to be implemented in consideration of certain factors. For instance, a less onerous eligibility process does not alter the fact that VR agencies and consumers must still carefully address the individual's comprehensive service needs to ensure that the individual receives, as the Rehabilitation Act intends, the full scope of services that the individual needs to pursue and achieve his or her employment goals. Similarly, State VR agencies operating under an "Order of Selection" [i.e., the statutory mandate that requires VR agencies to first serve individuals with the most significant disabilities when resources are insufficient to serve all eligible individuals] would need to rely on the process of assessing the individual's rehabilitation needs to determine which individuals have the most extensive service needs. Thus, the streamlined eligibility criteria is not an invitation to change the nature or priorities of the VR program, shortchange the assessment of the individual's service needs or alter the scope of services afforded the individual. Rather, this proposal offers an opportunity to shift the individual's first experience (and, thus, impression) of the VR program from the current dis-empowering eligibility process that focuses on limitations to the joint process of planning a comprehensive plan of services that will lead to the empowered individual's attaining his or her goals.

Policy Recommendations for the Executive Branch (Including RSA)

Employment outcomes. A fundamental measure of a VR agency's success under the VR Program is the number of consumers that the agency assists to achieve an "employment outcome," defined in Federal regulations as:

[E]ntering or retaining full-time or, if appropriate, part-time competitive employment . . . in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. (34 CFR 361.5(b)(16))

In rehabilitation vernacular, the number of an agency's employment outcomes is often referred to as its level of "26 closures," a reference to an old designation in RSA reporting instructions for a consumer whose record of services has been closed because the individual has achieved an employment outcome through the VR program. While RSA no longer uses the "26" designation in its reporting instructions, many State VR agencies continue to code the service record of an individual achieving an employment outcome as a "26." Thus, State agencies often refer to their number of consumers who achieve "employment outcomes," which they must report (along with other program data) annually to RSA, as their level of "26s" for a given fiscal year.

Regardless of the designation used to identify successfully employed consumers of VR services, it is commonly understood that, apart from RSA reporting requirements, many agencies emphasize and promote—internally to staff, to its State legislature, and to the public—the extent to which an agency continually increases the number of consumers who achieve employment outcomes. Yet, to many, an emphasis on the agency's number of employment outcomes (or 26s) serves the system rather than the individual. While on the one hand, increasing the number of employed consumers can be used to justify the cost-efficiency or effectiveness of the VR program, that justification is somewhat superficial as pressure (whether internal or external to the agency) to continuously expand its number of employment outcomes can result in serving those who require services the least, causing "creaming"—providing minimal services expeditiously at the expense of quality, comprehensive services. Focusing on increasing the number of employment outcomes can, in effect, dis-empower the consumer with significant disabilities from maximizing his or her employment potential.

In light of the fact that the reporting and performance standards by which State VR agencies must abide greatly influences State agency practice, the PSG recommends that RSA reassess its regulatory definition of "employment outcome," its reporting requirements for VR agencies, and the VR program performance measures in order to better reflect the quality of employment outcomes achieved by consumers. Some in the disability community believe that the Federal definition of "employment outcome," and the agency annual reporting of such, ought to include only competitive employment outcomes chosen by the individual for which the individual earns the appropriate wage and level of benefits for that job (RSA's current definition of "employment outcome," noted above, allows for both competitive employment and jobs in integrated settings in which individuals earn less than minimum wage). Others have advocated for weighted performance measures that attach greater significance to employment outcomes in which individuals receive higher wages and employer-provided benefits. Finally, related, and perhaps more readily available, steps include eliminating the current performance indicator that calls for agencies to increase the numbers of individuals who achieve employment outcomes from one year to the next or to increase the required performance levels under RSA's current "primary" performance indicators (i.e., those that focus on extent of consumers with significant disabilities, extent of competitively employed individuals, and the relationship between consumer wages and that of the general population in the State; 34 CFR 361.81 and 361.84(c)).

No matter which strategy is adopted, however, the PSG stresses that any changes—including those to the current "employment outcome" definition, reporting requirements, or performance measures—facilitate comprehensive planning for each consumer, lead to services and supports that meet the individual's specific needs, and place responsibility for success on both the agency and, more importantly, the empowered consumer. Such an approach will greatly increase the likelihood that VR agencies view each individual consumer in consideration of that individual's unique circumstances, service needs, and (high quality) employment goals and will be less inclined to maximize numbers of outcomes ("26's") at the expense of consumer empowerment.

RSA Grants. This document focuses largely on the VR program, the \$2.6 billion program on which much of RSA’s monitoring, assessment, technical assistance and policy-making efforts are focused. However, RSA also administers several other grant programs authorized under the Rehabilitation Act, including competitive grant programs to support training of rehabilitation professionals, special demonstrations and other projects focused on enhancing service delivery and VR and independent living outcomes for persons with disabilities. The PSG recommends that RSA make consumer empowerment a key focus area of all such competitions and funded projects. The more empowerment-related concepts are built into rehabilitation training curricula, innovative service delivery strategies and other Federally-funded efforts, the greater the potential that such programs will realize their intended result, i.e., empowered individuals succeeding in the workplace in their communities.

Policy Recommendations for State and Local Entities

IPEs. The Individualized Plan for Employment is a highly effective tool that specifies the critical elements (e.g., the individual’s employment goal, services, service providers) necessary to guide an individual’s participation in the VR program and pursuit of high-quality employment. Unfortunately, budgetary limitations are also viewed by State agencies as a key part of the IPE development process to the point that consumer expectations and interests can be relegated to a lower priority than making certain that services are the least costly possible. The PSG believes that a system that focuses on the individual’s service needs and expectations is more likely to foster empowered consumers than those systems that are budget-driven. At the same time, we recognize the fiscal constraints imposed, especially today, on State agencies and emphasize that a system based on service need not weaken an agency’s fiscal accountability. The PSG recommends simply that agencies be sure not to establish budgets at the outset of the IPE process and to develop the appropriate plan as a first step. Fiscal control can be factored in at a later point, and we contend that State officials may be surprised by the extent to which consumers make reasonable—rather than extreme or costly—demands of the agencies from which they receive services.

Pre-vocational services. One of the key features of the VR program that distinguishes it from the generic employment and training programs that serve the general public is the availability of adjustment and other services that assist in readying the individual for employment. Adjustment services may include, for example, teaching orientation and mobility to individuals who are blind; training in the use of communication aids for those who are blind, deaf, or unable to speak; and intensive counseling from VR counselors able to help those with any type of disability to adjust to their impairments, become self-confident and independent, and succeed in the workplace and in their communities. Such services are vitally important to assisting individuals with disabilities in adjusting to living and working with a disability. For that reason, the PSG recommends that State VR agencies ensure that their systems adopt a holistic, or whole person, approach to VR and—absent the individual’s informed choice to

the contrary—avoid quick “assess, place and train” philosophies. The more agencies focus on the entire scope of needed services (that may include adjustment and other pre-vocational supports and is consistent with the individual’s informed choice), the greater the potential for the individual’s long-term success in the workplace will be.

Service Providers. This PSG also recommends that State VR officials re-examine their standards for service providers and assess whether such standards allow for, or preclude, VR consumers’ working with a varied and competent scope of providers. Agencies that require all providers to meet the same, singular set of standards (such as CARF) may be inhibiting individuals from working with providers who might have smaller staffs, fewer resources or different missions, yet still are quite effective in serving and empowering individuals through skills training, on-the-job supports, mentoring and other activities that they offer. For that reason, State VR agencies should ensure that their provider standards are fair and effective, yet afford the individual as many options as possible.

System Evaluations. To their credit, many State VR agencies are committed to continuously improving their programs and to re-assessing the quality of their service delivery processes and consumer outcomes. As those (and, we hope all) agencies continue to critically analyze and evaluate the quality of their programs, we recommend that such evaluations be conducted not only by officials and staff internal to the agency, but by the consumers themselves, community organization representatives and other advocates. By responding to the needs of wider audiences of persons with disabilities, program evaluations will prove more effective and, ultimately, empowering to the consumer.

Investment of Resources. Unlike the specific recommendations above, we close this chapter with a final point for State VR administrators to consider. In a recent colloquy, Dr. Fredric Schroeder, former RSA Commissioner, addressed the delicate balance between maximizing the reach of agency resources and providing high quality services that enable consumers to become all that they can. In determining whether an agency should serve greater numbers of consumers by providing limited, scaled-down services that meet only some of the individual’s needs, or provide high quality, fully comprehensive services to fewer individuals, Dr. Schroeder actively advocates for the latter approach. In using an analogy to a traditional A-B-C-D-F grading system, Dr. Schroeder indicates that while many may “think of the very best services that [VR agencies] can provide as A level services,” the persistent problem is that “there are always more people who need help than there are resources to help them.” In response, agencies may choose to employ the strategy of serving more individuals by cutting back to B+, B-, C+ (and so on) level services depending on the extent to which the comprehensiveness or overall quality of services is compromised (Schroeder, 2001).

Dr. Schroeder’s analogy implies that the lower the grade of the services afforded by an agency is, the less likely it is that the consumer will receive what she/he needs, be satisfied with the program or, most critically, be empowered to succeed after exiting the VR program. A further implication is that agencies that seek to provide “A” level services produce an empowered

and satisfied constituency who will thrive in society and passionately advocate—to Congress, State legislators and government officials, consumer groups, friends and family and all other stakeholders—in support of the VR program and the agency. Such broad support (to complete Dr. Schroeder’s point) could lead to additional resources for the VR program which could, in turn, enable agencies to serve more individuals with disabilities without resorting to providing B, C or D level services.

Take, for example, VR agency policies related to postsecondary education opportunities for consumers as one area in which to consider this “investment” theory. The Bureau of Labor Statistics (BLS) projects that, through 2006, most occupations with the highest number of anticipated new jobs will require a higher education degree (Schroeder, 1999). Moreover, while it is commonly understood that postsecondary training may often lead to greater employment opportunity in terms of salary, benefits and opportunity for advancement, many VR program consumers (for whom college may be appropriate) do not receive training in colleges or universities through the program [Recent RSA-911 (Case Service Report) data indicates that less than 14% of VR consumers receiving services in FYs 2000-2002 had received college or university training.] Investing greater resources in higher education training or other significant services, consistent with the informed choice of the individual consumer, could significantly impact the quality of consumer outcomes and lead more readily to empowered consumers.

The PSG recognizes that the need for any particular service, and the quality of that service, are subjective matters best assessed by the individual consumer with the support of the VR professional with whom he or she works. Nonetheless, we offer the grading analogy above for purposes of perspective, one that may assist State and local officials in identifying broad or innovative strategies for investing limited program resources in ways that more readily empower consumers and, ultimately, their agencies. At the very least, we would agree that agencies are wise to rigorously assess the quality of the services that they provide, as many already do, and that expanding access to existing quality (i.e., “A” level) services, or developing other such services, serve as potential options for further empowering consumers and garnering broad support from both disability constituencies and budgetary decisionmakers.

Conclusion

Whenever new policies are developed, it is imperative that they, first and foremost, be reflective of the needs of individuals with disabilities. That outcome can occur only through a sustained, comprehensive effort to infuse persons with disabilities into the policy-making process from the very beginning. The result will be policies that facilitate rather than impede individual empowerment. Aspects of the Rehabilitation Act provide a good start on which to move the empowerment movement forward. Additional policy changes—either the examples discussed above or others developed at the local, State, or Federal level—are needed in order for the VR system to prove empowering to the greater and greater numbers of persons with disabilities coming through VR agency doors.

Study Questions

1. **Creating a system of VR that is empowering to all individuals seeking services requires**
 - (a) a shifting of long-held philosophies and approaches
 - (b) changes in the policies under which VR systems operate
 - (c) hiring new VR counselors and administrators
 - (d) (a) & (b)

2. **Examples of policies that pose barriers to consumer empowerment include**
 - (a) making the state agency the only option for providing assistance in developing the IPE
 - (b) requiring counselors to use the most cost-effective providers
 - (c) measuring success by whether or not the consumer obtains any job
 - (d) all of the above

3. **Inviting input from the disability community on mostly completed policies is an efficient and effective way of empowering consumers and involving people with disabilities in policy-making.**
True False

4. **Which of the following is not a strategy for empowering consumers in the policy process?**
 - (a) recognizing that consumers have valuable expertise
 - (b) maintaining the distinctions between “professionals” and “consumers”
 - (c) doing outreach to and providing accommodations for underrepresented cultural and disability groups
 - (d) investing in developing consumer leaders as partners

5. **Consumers who have “proved” that they are “too disabled to work” during the eligibility determination process are likely to believe that they can direct their own services and obtain their employment goals.**
True False