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CHANGES IN  
VOCATIONAL REHABILITATION  
PRACTICE SINCE THE  
1992 REHABILITATION  
ACT AMENDMENTS

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*December 1997*

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Changes in Vocational Rehabilitation Practice  
 Since the 1992 Rehabilitation Act  
 Amendments

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## Changes in Vocational Rehabilitation Practice Since the 1992 Rehabilitation Act Amendments

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increase in efforts to serve the most severely disabled population and the 60 day eligibility determination, there was also an increase in the number of individuals not rehabilitated (status 28, 30).

Concerning changes in eligibility, the findings suggest that most applicants are being determined eligible within the 60 day time limit and that the mandated presumption of eligibility is being upheld in practice. Also, both administrators and counselors reported that there has been emphasis on the use of existing information. Both groups of respondents thought the most change occurred in the use of existing information over all other practice areas. An increase in consumer involvement in the development of the Individualized Written Rehabilitation Plan and the assessment process as well as a greater emphasis on consumer choice were also noted.

Both administrators and counselors felt that the consumer was also actively involved in developing assistive technology accommodations, although the rate of using assistive technology was low as reported in the survey. Despite the low numbers, however, administrators and counselors do see an increased use of assistive technology and accommodations, and attribute this change to the increased existence of such technology and an increase in specially trained staff.

The final practice area identified in the survey was the concept of serving individuals who have not been adequately served in the past. Administrators and counselors did agree that increased efforts and plans to target underserved groups are under development but have not been fully instituted. The increase in numbers of people with severe disabilities suggests that a greater number of individuals with severe disabilities, who may have previously been judged ineligible, have gained access to the vocational rehabilitation system. Both groups described an increased awareness and a focus on training around the needs of individuals with HIV, but only 33% of the counselors reported that they were aware of consumers on their caseloads as actually being HIV+ or having AIDS. In general, respondents saw the greatest increase in services to Latin-American, Asian and Native American cultural groups.

Further details of the changes observed by both administrators and counselors regarding these topical areas and others are presented in the following monograph. A comprehensive discussion of administrator and counselor perceptions will lead into implications for practice and culminate with suggestions for future research.



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## Chapter 1

### Introduction

The first years of this decade saw a surge in the rethinking and redrafting of policy related to disability in this country. The Americans with Disabilities Act of 1990, the reauthorization of the Individuals with Disabilities Education Act in 1991, and the 1992 Rehabilitation Act Amendments comprise a body of anti-discrimination legislation and service priorities that emphasize greater access to services and full involvement of individuals with disabilities in community life and service delivery (Goodall, Lawyer, & Wehman, 1994; Weber, 1994). These laws were written through the collaborative efforts of people with disabilities, parents, professionals, elected officials, and those who felt an "emerging power... over their own lives and the services, programs, and laws which affect them" (Shreve, 1994, p. 8). This collaboration reflects an atmosphere of social activism, which sought to empower individuals with disabilities to have greater control over their lives, the services they need, and the level of inclusion in the broader community. National level activism resulted in drafting and passing the legislation of the early 1990's, which mandated social change in places of public accommodation, schools, and employment practice. As the decade draws to a close, it is appropriate to ask how the mandates have been implemented and how practices have changed as a result of this movement and legislation. A great deal of attention has been paid to the implementation and impact of the ADA since its passage in 1990 and its effect on employment and economic opportunity (Blanck, 1995; Klimoski & Palmer, 1993; Pati, & Bailey, 1995), education (Bowman & Marzouk, 1992; Wenkart, 1995), and inclusion in community life (National Council on Disability, 1995). Likewise, the implementation and impact of IDEA has been explored and reported (Apter, 1994; Guy, Merrill, & Johnson, 1993; National Council on Disability, 1996; Schriener, 1995). It is the purpose of this monograph to investigate the implementation of the Rehabilitation Act Amendments of 1992, through data collected in 1996. In order to provide context, however, we will briefly discuss what is known about the implementation of the ADA and IDEA.

The current study looks specifically at the implementation and impact of the 1992 Amendments to the Rehabilitation Act as of 1996. The Amendments were designed to bring vocational rehabilitation services into concert with the ADA, emphasize employment outcomes, and streamline the bureaucratic process of service provision (In the Public Interest, 1992). To remain aligned with other disability-related legislation of the early 1990's, the Rehabilitation Act Amendments intended to (a) increase access, (b) enhance involvement of the consumer, and (c)



broaden the range of service to insure positive employment outcomes (Leuchovius & Parker, 1994). Practices to accomplish these goals were outlined in the law, but for the most part the Amendments established a spirit of change that was to be further delineated through regulations and rehabilitation practice. However, between passage of the Amendments in 1992 and the finalization of national regulations at the end of 1996, the Amendments themselves stipulated changes for daily vocational rehabilitation practice. Through an examination of the implementation of the Amendments prior to regulations, researchers can measure the extent to which the spirit of the law affected practice. This section will discuss how the Amendments have addressed (a) greater access, (b) consumer involvement, and (c) the improvement of services.

### Greater Access

With the goal of helping greater numbers of individuals with disabilities obtain and maintain employment, the Amendments stipulated changes that would increase access to services. The law attempted to increase access by streamlining the eligibility process and by making an explicit commitment to serve those who have not been adequately served in the past. Changes in the eligibility process included (a) reducing the timeline to a maximum of 60 days, (b) emphasizing the use of existing documentation in the determination of disability status, (c) encouraging counselors to act under the presumption that applicants are eligible and will benefit from services, and (d) expanding access to populations previously underserved (In the Public Interest, 1992). Each of these components of the Amendment's new eligibility process will be examined in greater detail.

#### **Reduced Timeline**

The process of eligibility decision-making was changed in ways that would identify a greater number of individuals as eligible in a shorter amount of time and thereby expand services opportunities. The shortened timeline means that an eligibility decision must be made within 60 days following the consumer's initial contact with the vocational rehabilitation system. "The State Agency must make eligibility determinations within 60 days, unless exceptional and unforeseen circumstances exist that are beyond the control of the State Agency, and the individual concurs with the extension or an extended evaluation is required (In The Public Interest, 1992, p. 3)." If an extended evaluation period is used, an assessment must be made every 90 days to determine if the applicant has demonstrated that he or she can benefit from VR services (29 U.S.C.A. sec. 722 (a) **(B)**).

#### **Emphasizing the Use of Existing Information**

The use of existing information in eligibility decision-making was another change intended to streamline the entry process and help consumers gain access to the services and employment they seek. "Assessment information from other sources, including other agencies and individuals with disabilities and their families, is used in conducting the eligibility determination (Guy, Merrill & Johnson, 1993, p.14)." Counselors were encouraged to use pre-existing diagnostic

information from physicians, psychologists, and other specialists to document the existence of a disability rather than purchase additional diagnostic services during the eligibility decision-making process. Along with the 60-day timeline, the use of existing information was meant to alter the rehabilitation process by focusing less on entry and more on the delivery of employment services. In keeping with the shortened eligibility timeline, the use of existing documentation was intended to reduce the number of obstacles encountered during the applicant's initial contact with the vocational rehabilitation agency.

### **Presumption of Eligibility**

The presumption of eligibility is the third element in the eligibility process aimed at reducing the barriers that stand between consumers and their access to services within the rehabilitation system. Prior to the 1992 Amendments, "VR agencies were required to assess prospective clients for rehabilitation potential and future employability. This process often excluded individuals with very severe disabilities because VR counselors did not have reasonable expectation that services would result in gainful employment" (West, 1995, p. 281). The Amendments changed the language of the law to reflect a presumption of eligibility, which assumes that if one has a disability and is experiencing difficulty in securing employment, one can benefit from VR services. The law was also amended to mandate that if an individual is determined unable to benefit from services, the burden rests with the VR agency to document this inability to benefit. With the presumption of eligibility, the vocational rehabilitation agency has the responsibility to show that the individual is unable to benefit through the provision of clear and convincing evidence (1992 Amendments, 123(a)). This change should increase service opportunities to individuals with severe disabilities for whom VR services were formerly deemed inappropriate. According to Weber (1994), "Programs should become prepared to serve more persons whose very severe impairments render them unquestionably disabled and possibly able to benefit in terms of employment outcomes (p. 22)."

### **Expanded Access to Populations Previously Underserved**

In addition to expanding access to individuals previously considered unable to benefit from services, the Amendments emphasize the need for VR agencies to serve people from other groups who have not been adequately served in the past, including racial and ethnic minorities (Goodall et al., 1994; Griffin, 1994, Weber, 1994). As Feist-Price (1995) indicated, a disproportionate number of African Americans received inadequate services within vocational rehabilitation. Differences related to race or ethnicity are apparent in accessibility, service delivery, and outcomes. The findings of Feist-Price indicate that "African Americans are under represented as rehabilitation applicants and clients when compared with disability prevalence data" (Feist-Price, 1995, p. 126). As a result, Griffin (1994) notes the ethical and legal responsibilities of the rehabilitation administration to facilitate and advocate for changes in service delivery that would result in improved rehabilitation services utilization by ethnic/racial groups. Therefore, the Amendments require VR agencies to extend outreach efforts into culturally and

ethnically diverse communities and to provide necessary supports, which enhance consumers' experience with the VR system (Griffin, 1994).

Although the intent of the Amendments was to increase access to services, the law did not guarantee the availability of services once a consumer was deemed eligible. As noted by Schriener (1996), the Rehabilitation Services Administration realizes that the new eligibility guidelines will likely increase the number of individuals making it impossible to assure that services can be provided to all eligible individuals who apply. In these states, an order of selection must be established specifying (a) definitions of severity, and (b) mechanisms for serving those with the most severe disabilities first. Currently, 37 states have an order of selection process in place.

## **Consumer Involvement**

Along with providing greater access to vocational rehabilitation services, a second focus of the 1992 Rehabilitation Act Amendments is to encourage "broad-based stakeholder involvement" (Goodall et al., 1994, p. 67) in both the rehabilitation process and the management of employment-related services. This emphasis on consumer involvement echoes the movement toward self-determination, empowerment, and choice-making opportunities of individuals with disabilities (Campbell, 1991; Harp, 1994; Curl & Sheldon, 1992). The 1992 Amendments seek to increase client choice of employment objectives, providers, and services (Weber, 1994, p. 25). The Amendments emphasize consumer involvement throughout the rehabilitation process as counselors and consumers work together to identify needs, skills, and employment goals.

At the very least, consumers should be actively involved in the development of their Individualized Written Rehabilitation Plan (IWRP), and their family members, advocates, or other representatives should be encouraged to participate in the planning process. For example, provisions of the IWRP include a requirement that the client states in his or her own words how the individual was informed of and involved in choosing among alternative goals, objectives, services, service providers and methods of providing or procuring services (Weber, 1994; Schriener, 1996; In The Public Interest, 1992; West, 1995). The IWRP must be designed to achieve the employment objective of the individual, consistent with his or her unique strengths or priorities, abilities, and capabilities, career goals and job preferences, In The Public Interest, 1992; West, 1995). In addition, the IWRP "must be developed using the native language or mode of communication of the consumer and the consumer must be provided a copy" (West, 1995, p. 282).

The Amendments have not only created an environment where the consumer's involvement is important, but where consumer rights are paramount. It is the responsibility of the vocational rehabilitation system to inform applicants of their rights both under the Rehabilitation Act Amendments and the Americans with Disabilities Act of 1990. Client Assistance Programs must exist to assist consumers with advocacy, legal, and administrative advice, and with issues that directly relate to employment and facilitate access to services.

Consumer involvement throughout the entire VR process should culminate in a choice of services. The Rehabilitation Act Amendments mandate that strategies exist to make consumers aware of options and choices of services available to them. Applicants are encouraged to select the agency or vendor that will provide services and to be actively involved in choosing any necessary assistive technology or appropriate accommodations to facilitate successful employment. For example, a consumer may consider the use of a family member to act as a personal care assistant rather than seeking out a professional. As long as their functions are consistent with the IWRP, the consumer is now allowed to go outside the system if they feel it is in their best interest, as well as exercise choice or independence in the VR process (West, 1995, p. 282).

The increase in consumer involvement has "been matched by an increase in the collective power of persons with disabilities in the operation of rehabilitation service programs" (Weber, 1994, p. 25). The Amendments specify a broader role for consumers in developing the state rehabilitation plan and in evaluating agency performance (Schriner, 1996, p. 39). The 1992 Amendments create a climate where vocational rehabilitation clients and other individuals with disabilities "will have additional ability to affect state programmatic choices by participating in the newly-mandated State Rehabilitation Advisory Councils" (Weber, 1996, p. 25). This includes an assurance that the majority of seats on these advisory councils be held by individuals with disabilities, ultimately giving individuals greater influence over rehabilitation programming and service delivery. These kind of changes reflect the philosophy that people with disabilities should lead, manage, and operate the programs which are of benefit to them and should control the services, programs, and activities they need or wish to pursue (Shreve, 1994).

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### improved Services

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The final focus of the 1992 Rehabilitation Act Amendments includes an expansion of services related to supported employment, on-the-job training, personal assistance services, and a wide range of rehabilitation technology (Goodall et al., 1994, Weber, 1994). New "requirements concerning rehabilitation technology (formerly known as rehabilitation engineering) should help people with disabilities get the technology assistance they need during and after the rehabilitation process" (Guy et al., 1993, p. 15). States are now required to provide training to rehabilitation counselors, Client Assistance Program (CAP) staff and other related service personnel on assistive technology and accommodations (Guy et al., 1993, p. 15).

Changes were also made in the "supported employment provisions of the Act to help ensure that individuals with severe disabilities are provided these services" (Guy et al., 1993, p. 15). The 1992 Amendments emphasize the provision of supported employment services under Title I, the general pool of VR funds, rather than only under specific supported employment programs (Weber, 1994). As a result of the reauthorization, supported competitive employment is given greater emphasis within the context of Vocational Rehabilitation services. For many disability rights advocates this reframing was a step toward the ultimate goal of making segregated employment placements obsolete (West, 1995).

In addition, the reauthorization outlines explicit responsibilities of VR agencies in planning for and providing services during transition from school to work for eligible young people (Brown & Johnson, 1994, Guy et al., 1993, Goodall et al., 1994). The Amendments identify students who receive services under IDEA as one of the groups whose rehabilitation needs must be described in the state plan. In addition, the Amendments strengthen the language pertaining to interagency agreements and now require that such agreements be put in place with the state educational agency (Schriner, 1996). As part of these provisions, state VR systems must now track the number of students who are expected to graduate from high school each year as a way to insure VR counselor participation in the transition of students from the educational arena into the VR service delivery system. In addition, "new eligibility criteria were developed in part as a way to make special education students determined eligible for VR services" (Schriner, 1996, p. 49).

Finally, the Amendments emphasize the importance of personnel development to not only increase the number of qualified counselors but also improve the quality of service delivery (Weber, 1994). The 1992 Rehabilitation Act Amendments offer guidelines for policies that govern the delivery of VR services throughout the country through the creation of statewide professional standards for counselors and other rehabilitation professionals. These include activities for informing office personnel about the Rehabilitation Act Amendments, opportunities for counselor training and professional development, a system for evaluating counselor performance and strategies to recruit counselors from minority communities. Overall, the 1992 Amendments make changes in the training provisions of the law to "promote the upgrading of skills of existing rehabilitation personnel and the provision of training to persons with disabilities and their families..." (Weber, 1994, p. 23).

In general, the 1992 Amendments to the Rehabilitation Act are an expression of a renewed commitment to include individuals with disabilities in community life and improve access to employment opportunities. Given this ambitious agenda for change, however, Shreve (1994) questions how the "traditional system" (p. 8) can and will respond to the call for greater access, consumer empowerment, and improved services. Years after the mandate for these changes we are still left with questions as to whether these changes have found their way into local agency offices and the lives of individuals with disabilities. In order to fully comprehend the impact of this law on practice, an understanding of both administrator and counselor perceptions of change is required. Since there is evidence of different interpretations of the law (Whitney-Thomas & Thomas, 1996), the current investigation of change took this diversity into account. Through a comparison of change across different levels of the agency, researchers were able to consider the differing opinions when asked whether or not day to day practice has changed. The purpose of this study was to gain an understanding of how the amendments have been implemented as of 1996, and whether practice has changed from the perspective of service providers (i.e., administrators and counselors) on a national level. To address this goal the following research questions were asked:

- (1) What are the most important elements in the 1992 Rehabilitation Act Amendments from the perspective of administrators and counselors?
- (2) What has been the impact of the law on practice from the perspective of employees of the VR system?



## Chapter 2

### Method

This study used a national, cross-sectional survey methodology. Data were collected from a sample of Vocational Rehabilitation administrators and counselors about practices carried out in their offices and case loads since 1992. The analysis of the data employed both descriptive and *ex post facto* designs to address the research questions and hypotheses. This section will describe (a) the sample, (b) the instrumentation, and (c) the statistical analysis used in this research.

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### Sample

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In order to initiate this research, the Council of State Administrators of Vocational Rehabilitation (CSAVR) was contacted to approve the research study. The purpose of this approval process was to clarify the goals of the research with this national advisory council. In turn, CSAVR approval of the research increased the participation from state commissioners and improved the response rate at a state level.

The first step in the sampling strategy was to randomly select 25 states and collect staff lists of both VR administrators and counselors from the Commissioners' offices in each of the sampled states. Each state contacted by the researchers agreed to participate in the study, and 23 out of the 25 provided the necessary staff lists. The two states that did not provide lists agreed to participate, but conducted their own random sampling of local office administrators and counselors through an arrangement made with the researchers. The states that participated are listed in Table 1.

From 25 states, random samples of administrators (total N = 321) and counselors (total N = 351) were mailed questionnaires. An intended sample size of no more than 400 administrators and counselors was chosen in order to insure that a large enough final sample would be available for data analysis with the expectation of a response rate of at least 50%. The number of sample members from each state varied and was based on the relative size of the state and its contribution to the U.S. population. The total Ns represent questionnaires mailed to 23 states after cleaning of staff lists and data entry.