Introduction

On August 7, 1998, President Clinton signed the Workforce Investment Act (WIA) of 1998, replacing the Job Training Partnership Act and other federal training programs. The Rehabilitation Act Amendments of 1998 (the Act) are now included as part of WIA. These amendments change and extend programs funded under the Rehabilitation Act for five more years. The amendments consolidate several employment and training programs into a statewide system of workforce investment partnerships. The amendments also provide for staff training, technical assistance regarding VR services and eligibility, creation of local boards to identify eligible providers of youth activities, and establishment of a one-stop center on the state level where consumers can receive intensive training services and many other activities. Some of the most important provisions of the Act relate to strengthened language on informed choice. The commitment to the principles of informed choice is evident very early in the Act when under Section 2(a)(6)(A), it is stated that:

The goal of the Nation properly includes the goal of providing individuals with disabilities with tools necessary to make informed choices and decisions.

Subsequently in Section 2(c)(1), the Act states:

It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principle of respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities.

Finally, the purpose of Title I of the Act is:

To assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for
and engage in gainful employment [100(a)(2)(B)]. Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners in the vocational rehabilitation process, making meaningful and informed choices during assessments for determining eligibility and vocational rehabilitation needs; and in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services [100(a)(3)(C)].

The rest of the Act follows with numerous references to informed choice throughout the rehabilitation process, as follows:

Definitions

In the definition section, two terms include a reference to informed choice. These are as follows:

Assessment for determining eligibility and vocational rehabilitation needs means, as appropriate in each case, a review of existing data and to the extent additional data is necessary to make a determination of the employment outcome, and the objectives, nature, and scope of vocational rehabilitation services, to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual.

Supported employment means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

Evaluation

Congress stipulated that “The Commissioner shall conduct studies and analyses that identify exemplary practices concerning vocational rehabilitation, including studies in areas relating to providing informed choice in the rehabilitation process.”

Professional Development

The Act makes available grants to States and public or non-profit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.
State Plan

VR agencies are required, each year, to develop a “state plan” which provides information regarding services to be provided and in what manner. The Act requires that the State Plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants’ representatives or individuals’ representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of Section 102(d); [101(a)(19)].

Application and Eligibility

In addition to definitional references and references to informed choice within the context of administrative decisions and planning, informed choice is a critical component of eligibility and service delivery.

The Act presumes eligibility for VR services (absent clear and convincing evidence that the person cannot benefit) and references the importance of informed choice in this process, stating that:

...an individual who has a disability or is blind as determined pursuant to Title II or Title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

If an individual is found to not be eligible, that individual must be “informed in writing” (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination [102(a)(5)(B)].

Individualized Plan for Employment (IPE)

The 1998 Amendments to the Rehabilitation Act made some very positive changes to the way employment plans are developed. The changes are designed to make sure consumers have an opportunity to make informed choices about their employment goal, the services they need to reach their goal, the provider(s) of the services needed, and the methods used to obtain the services.
• You now have the right to develop all or part of the IPE
  ◊ by yourself without any help from a VR counselor;
  ◊ jointly with help from a VR counselor;
  ◊ with technical assistance from a source outside the VR agency; or
  ◊ you may choose to have your representative develop the plan on forms provided by the VR agency with their assistance.

The important thing is that you, as the consumer, have the right to choose how you wish to develop the Plan. However, your Plan must be approved by your VR counselor who will check to be sure that your Plan is consistent with federal and state law, regulation, and policy. Both you and your counselor must sign the IPE and any future changes to the IPE.

The 1998 Amendments broadened the existing language which states that consumers should have a vital part in making meaningful choices related to the development of their employment plan.

• Specific language related to implementing informed choice throughout the rehabilitation process is as follows:

An individualized plan for employment (IPE) shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services [102(b)(2)(B)].

Regardless of the approach selected by an eligible individual to develop an individualized plan for employment, the plan shall contain:

◊ a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting [102(b)(3)(A)];

◊ a description of the specific vocational rehabilitation services that are provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual [102(b)(3)(C)]; and

◊ a description of the entity chosen by the eligible individual, or as appropriate, the individual’s representative, that will provide the vocational rehabilitation services, and the methods used to procure such services [102(b)(3)(C)].
Vocational Rehabilitation Services

Vocational rehabilitation services provided under this title are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

...counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section [100(A)(2)(b); 103(a)].

Vocational Rehabilitation Policy and Procedure

There are also provisions in the Act relating to the importance of the choice issue with respect to the operations of the State Rehabilitation Councils (SRCs). Among other duties, the Councils assist the state vocational rehabilitation agencies to develop policy and procedure. Section 102(d) of the Act states that for agencies that have an SRC, the state agency and the SRC shall develop and implement written policies and procedures that enable each individual who is an applicant or eligible to receive vocational rehabilitation services under this title to exercise informed choice throughout the vocational rehabilitation process carried out under this title, including policies and procedures that require the designated State agency to:

- Inform each such applicant and eligible individual (including students with disabilities who are making transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated state unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process.

- Assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this title.

- Develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services under this title.

- Provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this title in the selection of:
◊ the employment outcome;
◊ the specific vocational rehabilitation services needed to achieve the employment outcome;
◊ service providers;
◊ the employment setting and where the services will be provided; and
◊ the methods available for procuring the services.

Ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated state agency under this title.
Resources

Virginia Office for Protection and Advocacy (VOPA)
202 N. Ninth Street, 9th Floor
Richmond, VA 23219
(800) 552-3962 (toll-free in Virginia)
(804) 225-2042 (Voice/TTY)

Contact VOPA for additional information or to seek services under VOPA's Client Assistance Program (CAP) which provides information, technical assistance, and advocacy services to persons who are applicants for or recipients of vocational rehabilitation or independent living services under the Rehabilitation Act. CAP services are free of charge to eligible individuals. Information on all of our programs can also be obtained at our web site: www.vopa.state.va.us.

Department of Rehabilitative Services (DRS)
P. O. Box K-300
8004 Franklin Farms Drive
Richmond, VA 23288-0300
(800) 552-5019 (toll-free)
(804) 662-7000 (Voice/TTY)

DRS provides vocational rehabilitation services to eligible individuals with disabilities who require these services in order to obtain, maintain, or advance in employment.

Department for the Blind and Vision Impaired (DBVI)
397 Azalea Avenue
Richmond, VA 23227
(800) 622-2155 (toll-free in Virginia)
(804) 371-3140 (Voice/TTY)

DBVI provides vocational rehabilitation services to eligible individuals who are blind, deafblind, or vision impaired who require these services in order to obtain, maintain, or advance in employment.
Virginia Office for Protection and Advocacy

_Richmond and Central Offices_
Ninth Street Office Building
202 North Ninth Street, Ninth Floor
Richmond, Virginia  23219
800-552-3962 (Toll-Free/Voice & TTY)
804-225-2042 (Voice & TTY)
Fax: 804-225-3221

_Staunton Office_
114 MacTanly Place
Staunton, Virginia  24401

_Virginia Beach Office_
287 Independence Boulevard, Suite 120
Virginia Beach, Virginia  23462

For more information about VOPA programs, investigations, publications, and upcoming events, log onto our web site at:  [www.vopa.state.va.us](http://www.vopa.state.va.us)

For other disability agencies visit the Virginia’s Disability Services web site at:  [www.vadsa.org](http://www.vadsa.org)