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Independent Living Research Utilization
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The New Roles and Responsibility of the DSE under WIOA for the Independent Living Program

Presenters:

Ann McDaniel

Paula McElwee

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You may contact our presenters for further information on this content:

- Paula McElwee, Technical Assistance Coordinator, IL-NET at ILRU – paulamcelwee.ILRU@gmail.com
- Ann McDaniel, Executive Director, West Virginia SILC – ann.meadows@wvsilc.org

What You Will Learn

- The content of the new regulations for Independent Living and how they will affect what you do.
- How IL Philosophy impacts the role of the DSE.
- How to apply the regulations in your DSE and the DSE relationship to SILC and CIL operations.
- The content of our next webinar and how to access it.

Regulatory Agencies and Laws

- "The Act" - The Rehabilitation Act, as amended
- WIOA - The Workforce Innovation and Opportunity Act of 2014 (amendments)
- HHS - US Dept. of Health & Human Services
- ACL - Administration for Community Living
- ILA - Independent Living Administration
- DSE - State entity that receives and distributes Title VII, Part B funds based on the SPIL (Designated State Entity)
- UAR - Uniform Administrative Requirements

How is the Law implemented?

- Regulations
 - New Regulations for Title VII of the Act (the IL section) went into effect November 26, 2016. Available at: <https://www.federalregister.gov/documents/2016/10/27/2016-25918/independent-living-services-and-centers-for-independent-living>
- Standards & Indicators
 - Standards & Indicators for CILs included in the Act
 - Draft Indicators are currently under review, after soliciting input from the field. Will go through the regulatory process for public comment.
- Guidance

Subpart A—General Provisions

§ 1329.1 Programs covered.

This part includes general requirements applicable to the conduct of the following programs authorized under title VII, chapter 1 of the Rehabilitation Act of 1973, as amended:

- a) Independent Living Services (ILS), title VII, chapter 1, part B (29 U.S.C. 796e to 796e-3).
- b) The Centers for Independent Living (CILs), title VII, chapter 1, part C (29 U.S.C. 796f to 796f-6).

Subpart A—General Provisions, cont'd.

§ 1329.2 Purpose.

The purpose of title VII of the Act is to promote a philosophy of independent living (IL), including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and to promote the integration and full inclusion of individuals with disabilities into the mainstream of American society...

Notice that IL Philosophy is first!

- Consumer control
- Peer support
- Self-help and self-determination
- Equal access
- Individual and system advocacy
- Maximizing leadership, empowerment, independence, and productivity of individuals with disabilities
- Promoting integration and full inclusion of individuals with disabilities into the mainstream of American society...by funding the statewide IL network and centers.

§ 1329.4 Definitions.—

For the purposes of this part, the following definitions apply:

Act means the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended. ***Part B*** refers to part B of chapter 1 of title VII of the Act (29 U.S.C. 796e to 796e-3). ***Part C*** refers to part C of chapter 1 of title VII, of the Act (29 U.S.C. 796f to 796f-6).

§ 1329.4 Definitions.— Administrative support services

Administrative support services means services and supports provided by the designated State entity under Part B, and to Part C CILs administered by the State under section 723 of the Act in support of the goals, objectives and related activities under an approved State Plan for Independent Living (SPIL). Such support includes any costs associated with contracts and subgrants including fiscal and programmatic oversight, among other services.

§ 1329.4 Definitions.— Center for independent living

Center for independent living ("Center") means a consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agency for individuals with significant disabilities (regardless of age or income) that—

1. Is designed and operated within a local community by individuals with disabilities;
2. Provides an array of IL services as defined in section 7(18) of the Act, including, at a minimum, independent living core services as defined in this section; and
3. Complies with the standards set out in Section 725(b) and provides and complies with the assurances in section 725(c) of the Act and § 1329.5.

§ 1329.4 Definitions.— Consumer control

Consumer control means, with respect to a Center or eligible agency, that the Center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or have been recipients of IL services, in terms of the management, staffing, decision making, operation, and provision of services. Consumer control, with respect to an individual, means that the individual with a disability asserts control over his or her personal life choices, and in addition, has control over his or her independent living plan (ILP), making informed choices about content, goals and implementation.

§ 1329.4 Definitions.— Cross-disability

Cross-disability means, with respect to services provided by a Center, that a Center provides services to individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of unserved or underserved populations by programs under Title VII. Eligibility for services shall be determined by the Center, and shall not be based on the presence of any one or more specific significant disabilities.

§ 1329.4 Definitions.— Designated State entity

Designated State entity (DSE) is the State agency designated in the State Plan for Independent Living (SPIL) that acts on behalf of the State to provide the functions described in title VII, chapter 1 of the Act – Sec. 704(c)

Eligible agency means a consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit agency.

§ 1329.4 Definitions.— Independent living core services

Independent living core services mean, for purposes of services that are supported under the ILS or CIL programs—

- A. Information and referral services;
- B. Independent Living skills training;
- C. Peer counseling, including cross-disability peer counseling;
- D. Individual and systems advocacy;

§ 1329.4 Definitions.— Independent living core services, cont'd.

- E. Services that:
 - i. Facilitate the transition of individuals with significant disabilities from nursing homes and other institutions to home and community-based residences, with the requisite supports and services. This process may include providing services and supports that a consumer identifies are needed to move that person from an institutional setting to community based setting, including systems advocacy required for the individual to move to a home of his or her choosing;

§ 1329.4 Definitions.—

Independent living core services, cont'd. 2

- ii. Provide assistance to individuals with significant disabilities who are at risk of entering institutions so that the individuals may remain in the community. A determination of who is at risk of entering an institution should include self-identification by the individual as part of the intake or goal-setting process; and

§ 1329.4 Definitions.—

Independent living core services, cont'd. 3

- iii. Facilitate the transition of youth who are individuals with significant disabilities, who were eligible for individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)), and who have completed their secondary education or otherwise left school, to postsecondary life. Individuals who have reached the age of 18 and are still receiving services in accordance with an Individualized Education Program (IEP) under IDEA have not “completed their secondary education.”

§ 1329.4 Definitions.— State/State Plan

State includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

State plan means the State Plan for Independent Living (SPIL) required under Section 704 of the Act.

Roles



DSE	SILC	CILs
1. Serve as the “grantee” for Part B \$.	1. Develop the SPIL.	1. Provide the Core IL Services.
2. Account to SILC for \$ and disbursement \$ per SPIL.	2. Monitor, review, & evaluate the implementation of the SPIL.	2. Provide other IL services consistent with Federal and State Law.
3. Provide administrative support for IL Program.	3. Meet regularly – open meetings.	3. Comply with CIL Standards & Indicators.
4. Keep records.	4. Submit reports including 704 report SPIL fulfillment portion of 704 report Part I.	4. Develop SPIL with SILC.
5. Submit required reports/information.	5. Coordinate activities with other entities.	5. Implement SPIL.
6. Retain not more than 5% of Part B for DSE administrative costs. The DSE cannot hold funds.	6. Conduct Authorities as described in the law and outlined in SPIL.	6. Conduct Resource Development activities.
7. Sign the SPIL agreeing to serve as the DSE.	7. Shall NOT provide or manage IL services.	7. More than 50% of CIL Directors must sign the SPIL to approve content.
	8. Sign the SPIL to approve content.	

There isn't time to cover the roles of all partners in the network in detail.



This does, however, indicate a definite shift in responsibility and control from the DSU-transitioning-to-DSE to the SILC in regard to the SPIL and Resource Plan. Join us for an upcoming webinar where we will discuss further:

- How the SILC is organized
- The roles of the SILC and SILC autonomy
- How SILC and DSE roles intersect
- The role of the CILs
- A little more about the history and philosophy of IL and how it impacts these roles and the regulations

DSE Roles and Responsibilities

- DSE administers the ILS, Part B. The DSE must: Receive, account for, and disburse funds received by the State under Part B as directed by the SPIL.
- Because the statute and final rule reinforced the autonomy of the SILC, the SILC plays a much larger role than in the past.
- The majority of SPILs retained the DSU (State VR agency) to serve as the DSE and administer the ILS Program. There have been successful transfers of the DSE to other State agencies as allowed in WIOA.
- The DSE may only retain 5% of Part B funds to perform its administrative responsibilities.

Placement and Autonomy of SILC

- The Council shall not be established as an entity within a State agency.
- The conflict of interest policy at Sec. 705(e)(3), precludes staff and other personnel of the SILC from being assigned duties by the DSE or other agencies of the state that would create a conflict.
- It would be an apparent conflict of interest for the SILC to be assigned to DSE staff who also monitor the IL program.

How does the DSE fulfill its responsibilities?



- Follow the SPIL in disbursing funds.
 - Grants or contracts process as defined in SPIL
- Provide administrative support for the program and responsibility for the funding.
 - Receive reports
 - Monitor grants/contracts
- Keep fiscal and program records.

How does the DSE fulfill its responsibilities? cont'd.



- Provide necessary & sufficient funding for the SILC resource plan.
 - Title I, I&E funds (required per Title I, Sec. 101(a)(18))*
 - Part B funds if provided in SPIL and resource plan
 - Other funds

*This section of the law reads: "Innovation and Expansion Activities—The State plan shall (A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 110...(ii) to support the funding of...(II) the Statewide Independent Living Council, consistent with the plan prepared under section 705(e)(1)...."

Final VR Rule, from the Preamble: "We consistently have interpreted the statutory requirement in section 101(a)(18)(A)(ii)(II) that the funding of the SILC be consistent with the SILC resource plan to mean that the State and the SILC may decide to use innovation and expansion funds to support the SILC resource plan, or not to do so as they determine how they will use the sources of funding available under section 705(e) to support the SILC." <https://www.federalregister.gov/documents/2016/08/19/2016-15980/state-vocational-rehabilitation-services-program-state-supported-employment-services-program>

ACL Monitoring of the DSE

- As the grantee of Part B \$, the DSE is accountable to ACL.
 - CILs and SILCs account for their own funds and are accountable to their funders, such as the DSE and other funders.
- To be eligible to receive funds must:
 - Have an approved SPIL.
 - Have a fully constituted SILC.
 - Adopt fiscal control and fund accounting procedures.
 - Comply with all applicable federal and state laws and regulations.

ACL Monitoring of the DSE, cont'd.

- On-Site Review of one-third of DSEs is required per year.
- ACL in monitoring may:
 - Provide notice if State is out of compliance with the Act.
 - Offer technical assistance to develop corrective action plan.

Compliance, Reporting, and Conditions

- As the Independent Living Services, Part B grant recipient, the DSE is responsible for assuring submission of the 704, Part I, consistent with the terms and conditions of their formula grant.
- ACL recognizes historical variances exist in the States on who is responsible for submitting the 704, Part I, and often the SILC fills this roll.
- For the FY16 reporting year, the new ACL Reporting data collection system will allow the submission acknowledgement of both the DSE and the SILC.

The 704 report must be a joint effort

- The DSE is the holder of financial records related to the administration of grant funds.
- The SILC is responsible for monitoring the implementation of the SPIL.
- It seems logical that these two entities must work together to complete the 704 report.
- Further training related to the 704 report is expected soon.

Subpart B—Independent Living Services

§ 1329.10 Authorized use of funds for Independent Living Services.

a) The State:

1. May use funds received under this part to support the SILC resource plan described in section 705(e) of the Act but may not use more than 30 percent of the funds unless an approved SPIL so specifies pursuant to § 1329.15(c);
2. May retain not more than 5% of funds under section 704(c)(5) of the Act; and
3. Shall distribute the remainder of the funds received under this part in a manner consistent with the approved State plan for the activities described in paragraph (b) of this section.

§ 1329.10 Authorized use of funds for Independent Living Services. cont'd.

- b) The State may use the remainder of the funds described in paragraph (a)(3) of this section [as directed by the SPIL] to—
- 1) Provide to individuals with significant disabilities the independent living (IL) services as required by section 704(e) of the Act, particularly those in unserved areas of the State;
 - 2) Demonstrate ways to expand and improve IL services;
 - 3) Support the operation of Centers for Independent Living (Centers) that are in compliance with the standards and assurances in section 725 (b) and (c) of the Act;

§ 1329.10 Authorized use of funds for Independent Living Services. cont'd. 2

- 4) Support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing IL services;
- 5) Conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policy makers in order to enhance IL services for individuals with significant disabilities;

§ 1329.10 Authorized use of funds for Independent Living Services. cont'd. 3

- 6) Train individuals with disabilities and individuals providing services to individuals with disabilities, and other persons regarding the IL philosophy; and
- 7) Provide outreach to populations that are unserved or underserved by programs under title VII of the Act, including minority groups and urban and rural populations.



Comments? Questions?

§ 1329.11 DSE eligibility and application.

- a) Any designated State entity (DSE) identified by the State and included in the signed SPIL pursuant to section 704(c) is eligible to apply for assistance under this part in accordance with section 704 of the Act, 29 U.S.C. 796c.
- b) To receive financial assistance under Parts B and C of chapter 1 of title VII, a State shall submit to the Administrator and obtain approval of a State plan (developed and approved by the SILC and CILs) that meets the requirements of section 704 of the Act, 29 U.S.C. 796c.
- c) Allotments to states are determined in accordance with section 711 of the Act, 29 U.S.C. 796e.

§ 1329.12 Role of the designated State entity.

- a) A DSE that applies for and receives assistance must:
 - 1) Receive, account for, and disburse funds received by the State under Part B and Part C in a State under section 723 of the Act based on the State plan; [Minnesota and Massachusetts]
 - 2) Provide administrative support services for a program under Part B, as directed by the approved State plan, and for CILs under Part C when administered by the State under section 723 of the Act, 29 U.S.C. 796f-2;

§ 1329.12 Role of the designated State entity. cont'd.



- 3) Keep such records and afford such access to such records as the Administrator finds to be necessary with respect to the programs;
- 4) Submit such additional information or provide such assurances as the Administrator may require with respect to the programs; and

§ 1329.12 Role of the designated State entity. cont'd. 2

- 5) Retain not more than 5 percent of the funds received by the State for any fiscal year under Part B, for the performance of the services outlined in paragraphs (a)(1) through (4) of this section. For purposes of these regulations, the 5 percent cap on funds for administrative expenses applies only to the Part B funds allocated to the State and to the State's required 10 percent Part B match. It does not apply to other program income funds, including, but not limited to, payments provided to a State from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes, any other federal funds, or to other funds allocated by the State for IL purposes.

§ 1329.12 Role of the designated State entity. cont'd. 3

- As part of the regulatory process, some commenters were concerned that the 5% was not sufficient given the scope of the administrative responsibilities of the DSE, and that some entities may choose not to serve as a DSE. The 5% is a statutory cap and therefore not subject to change in this regulation.
- Some DSEs use State General Revenue, Social Security Reimbursement, and/or other sources of funds to supplement these funds.

§ 1329.12 Role of the designated State entity. cont'd. 4

- b) The DSE must also carry out its other responsibilities under the Act, including, but not limited to:
 - 1) Allocating funds for the delivery of IL services under Part B of the Act as directed by the SPIL; and
 - 2) Allocating the necessary and sufficient resources needed by the SILC to fulfill its statutory duties and authorities under section 705(c), consistent with the approved State Plan.

§ 1329.12 Role of the designated State entity. cont'd. 5

- c) Fiscal and accounting requirements: The DSE must adopt fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for federal funds provided to CILs, SILCs, and/or other services providers under the ILS program. The DSE must comply with all applicable federal and State laws and regulations, including those in 45 CFR part 75 (Uniform Administrative Requirements or UAR).

While the DSE is the grantee and the CILs and SILC sub-grantees, the oversight role of the DSE may be limited by the autonomy of the SILC.

Oversight Responsibilities and Autonomy



- The DSE is the ILS grantee.
 - The CILs and SILC as sub-recipients are accountable to the DSE for Part B funds.
- The CILs and SILC are governed by their respective boards/council.
 - The law states that the SILC must remain autonomous.
 - SILC members are the governing body of the SILC and supervise the SILC staff.
- DSE oversight of sub-recipients should support and not hinder the goals, mission, and operations of these sub recipients.

Independent Living Program Resources

- To access on-demand webinars, publications, resource materials, future trainings, and contact information for all Centers for Independent Living and Statewide Independent Living Councils: www.ilru.org or www.silc-net.org
- Updated List of IL Project Officers by state: <http://www.ilru.org/guidance-acl-wioa-implementation>
- Key provisions of the Final Regulations and Federal Registry Notice: https://acl.gov/NewsRoom/NewsInfo/2016/2016_10_26.aspx

For on-going technical assistance, contact:



Paula McElwee

Independent Living Research Utilization

- paulamcelwee.ILRU@gmail.com
- 559-250-3082

Ann McDaniel

West Virginia Statewide Independent Living Council

- ann.meadows@wvsilc.org

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