

**Interwork Institute**

## San Diego State University

6367 Alvarado Court, Suite 350

San Diego CA 92120

### VOICE: 619 🞗 594 🞗 2462

### FAX: 619 🞗 594 🞗 4208

http://interwork.sdsu.edu/

**Reimagining Eligibility Criteria for Vocational Rehabilitation Services under WIOA: A Call for Empowering VR Counselors**

*Authors:*

*Peter Blanco, Regional Director, California Department of Rehabilitation*

*Jason Cole, Regional Program Manager, Kentucky Office of Vocational Rehabilitation*

*Tammy Hogan, Pre-Employment Transition Services Bureau Chief, Montana Vocational Rehabilitation and Blind Services*

*Elisha Jenkins, Director, Delaware Division of Vocational Rehabilitation*

*Laura Wallen, Regional Manager, Missouri Division of Vocational Rehabilitation*

**Executive Summary:**

The historical significance of the vocational rehabilitation movement traces back to the latter part of the 19th century. The Rehabilitation Act, a legislative cornerstone in supporting individuals with disabilities, has undergone transformative changes over the years to adapt to societal shifts and the evolving landscape of disability services. The Act, initially established in the early 20th century, laid the foundation for addressing barriers faced by people with disabilities, emphasizing equal opportunities and access to vocational rehabilitation (VR) services.

State VR programs currently offer services tailored to the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with disabilities. The eligibility for the VR program requires individuals to have a physical or mental impairment resulting in a substantial impediment to employment, necessitating VR services for employment readiness and career goal attainment (RSA.ed.gov).

While key legislation, such as the Rehabilitation Act, has significantly improved the lives of persons with disabilities, bureaucratic processes persist as barriers to accessing services. During the six years of 2017 to 2022, 9.4 % of all exits from vocational rehabilitation occurred prior to eligibility determination. That is 242,719 individuals who requested vocational rehabilitation services but decided to exit prior to eligibility. (RSA.ed.gov). This is particularly distressing because states are consistently returning funds. In 2022, the unused portion of the VR federal award at the end of the award period was over 200 million dollars.

(Pope, 2023, slide7).

These unused VR funds could potentially be used by individuals with disabilities if they were able to quickly move through the eligibility process and begin receiving VR services.

This paper advocates for a reinterpretation of eligibility requirements for VR services under the Workforce Innovation and Opportunity Act (WIOA). Specifically, we propose granting VR Counselors greater flexibility in determining the presence of a physical or mental impairment and its impact on employment. Reference is made to the Rehabilitation Services Administration's (RSA) Technical Assistance Circular (TAC) 24-01 (rsa.ed.gov, 2023), which acknowledges the VR Counselor as a qualified professional. However, this TAC limits the counselors' ability to assess eligibility to only visible disabilities, overlooking the potential for informed decisions based on reported treatment history provided by consumers and families. The emphasis on diagnosis is critiqued, highlighting that the law only mandates proof of an impairment, not a specific diagnosis.

**Background:**

The Workforce Innovation and Opportunities Act (WIOA) stipulates that eligibility determination for the VR program must be based on three criteria:

* Determination by qualified personnel that the applicant has a physical or mental impairment (34 C.F.R. § 361.42(a)(1)(i));
* Determination by qualified personnel that the applicant’s physical or mental impairment constitutes or results in a substantial impediment to employment (34 C.F.R. § 361.42(a)(1)(ii));
* A determination by a qualified vocational rehabilitation counselor employed by the designated State unit that the applicant requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interest, and informed choice. (34 C.F.R. § 361.42(a)(1)(iii)).

Until recently, "qualified personnel" has been interpreted to mean personnel meeting existing licensure, certification, or registration requirements. While RSA TAC-24-01 (October 30, 2023) acknowledges that a qualified Vocational Rehabilitation Counselor could be considered a "qualified professional" for eligibility determination, this guidance restricts counselors to assessing only visible disabilities.

The current Vocational Rehabilitation eligibility process heavily relies on obtaining a diagnosis to meet the requirement that the applicant has a physical or mental impairment. This reliance on a specific diagnosis creates an unnecessary barrier to employment that disproportionately affect certain disability types and individuals of lower socio-economic status. Disparities in access to medical and psychological testing result in barriers to vocational rehabilitation services for specific populations. For instance, delays in obtaining a psychological evaluation for a diagnosis such as bipolar disorder can extend beyond a month, negatively impacting consumers and hindering their access to timely services. This delay creates undue harm as some will become discouraged by delays or intimidated by assessments causing them to withdraw from the program. Statistics reveal that 9.4% of consumers exit the VR program before eligibility is determined ((RSA.ed.gov). National data also shows that a quicker determination of eligibility correlates with a higher likelihood of successful employment outcomes. underscoring the urgency of expediting this process

**Proposed Changes:**

In addition to recognizing the VR Counselor's ability to identify a visible impairment, the law should be reinterpreted to allow VR Counselors to determine the existence of a physical or mental impairment based on the VR Counselor's professional assessment. This assessment may include observable limitations and/or reported treatment history, encompassing consumer and family reports of hospitalizations, diagnosis history, medications, symptoms, and educational records such as the use of an Individualized Education Program (IEP) or 504 Plan for secondary education.

This change shifts the focus from diagnosis to the actual impairment(s) experienced by the consumer. It aligns with the definition of disability in WIOA, which does not mandate a diagnosis but includes the existence, history, or assumption of an impairment. This approach recognizes that individuals with disabilities are often the expert of their own impairments, streamlining the eligibility process by eliminating unnecessary barriers and delays.

**Other Considerations:**

**Benefits to implementing:**

1. **Timely Access to Services:**

**Benefit**: By shifting the focus from obtaining a formal diagnosis to assessing the actual impairments experienced by the individual, the eligibility process becomes more efficient. This leads to rapid access to services, helping individuals start their vocational journeys, reducing the time it takes to reach independence and workforce participation.

1. **Reduced Administrative Burden:**

**Benefit**: Eliminating the rigid requirement for a diagnosis can simplify the eligibility process, reducing administrative burdens on both applicants and counselors. This streamlining allows resources to be redirected towards providing services rather than arranging for assessments that may not be needed prior to the initiation of services.

1. **Enhanced Client-Counselor Relationship:**

**Benefit**: Focusing on reported treatment history and observable limitations recognizes the value of the individual's insights into their own experiences. This approach fosters a collaborative and trusting relationship between clients and counselors, as it empowers individuals to contribute actively to the determination of their eligibility. It eliminates a system of distrust that comes from making the applicant prove the existence of a disability.

1. **Addressing Disparities in Access:**

**Benefit**: The proposal helps address disparities in access to diagnostic services, especially for individuals with lower socio-economic status or specific disabilities. By considering treatment history and observable limitations, the change reduces barriers to entry for those who might face challenges in obtaining formal diagnoses.

1. **Cost Savings:**

**Benefit**: Streamlining the eligibility process can result in cost savings to the vocational rehabilitation program. Reductions in unnecessary assessments and administrative complexities contribute to a more cost-effective system.

1. **Promoting a Person-Centered Approach:**

**Benefit**: Shifting the emphasis from a medical model to a person-centered approach aligns with contemporary perspectives on disability. It recognizes that individuals with disabilities are experts in their own experiences and emphasizes their unique strengths, capabilities, and priorities in determining eligibility. This is consistent with the Independent Living Movement which includes “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 the integration and full inclusion of individuals with disabilities into the mainstream of American society.” (*Independent Living Services (ILS) Program | ACL Administration for Community Living*, n.d.)

**Internal Controls:**

This change focuses solely on one aspect of eligibility, confirming the existence of a physical or mental impairment. The other two criteria for VR eligibility, determining whether the impairment results in a substantial impediment to employment and whether the individual requires VR services, remain unchanged. It is essential to emphasize that eligibility is a multi-faceted determination, and this change does not diminish the importance of assessing the other two criteria diligently.

The proposed change does not mandate VR Counselors to diagnose disabilities. The law specifically requires determining the existence of a physical or mental impairment, not a diagnosis. An impairment can be identified based on observable limitations and reported treatment history, which may include information from consumers and family members. While a diagnosis might be valuable for determining appropriate services, it is not a prerequisite for establishing eligibility. It emphasizes recognizing impairments reported by individuals and their families, acknowledging that individuals often have valuable insights into their own experiences. Notably this approach is consistent with self-determination and person driven services.

The passage of WIOA encouraged enhanced partnerships among WIOA agencies. However, partners often feel frustration when the individuals they refer experience delays due to the eligibility process. This may cause hesitation when making future referrals for VR services. Expedited eligibility determination not only benefits the consumer, but it makes VR a better referral resource to partner agencies. Thus, our recommendation will encourage more referrals to VR. In addition, faster determinations of ineligibility will lead to timely referrals to WIOA partners from VR. This strategy will optimize customer service and increase participation in the overall workforce system.

**Organizational Frames:**

The proposed changes align with organizational frames developed by Bolman and Deal (2021):

**Structural Frame:** This change aligns with a structural frame by optimizing the efficiency of the eligibility determination process, ensuring resources are directed towards delivering timely and effective vocational rehabilitation services. There are several considerations for implementation in this frame including ensuring that processes are in place to ensure that the staff members completing the VR application are “qualified personnel” who can accurately observe limitations and complete a clinical interview.

**Human Resource Frame:** Empowering VR Counselors aligns with the human resource frame by recognizing their expertise and allowing them to make informed decisions based on their professional judgment.  A consideration for implementation in this frame is the training of qualified staff and motivating them to rapidly make eligibility determinations. This approach of respecting the professional judgement of qualified rehabilitation counselors is in line with the person center approach and values specific to the human resource frame.

**Political Frame:** This change addresses the political frame by advocating for a reinterpretation of regulations that better serves the interests of individuals with disabilities and enhances the overall effectiveness of the VR program. A consideration for implementation in this frame is networking to gain support at all levels and ensuring that there is sufficient funding for all individuals with disabilities who require VR services.

**Symbolic Frame:** The proposed changes reflect a symbolic frame by emphasizing the importance of a more inclusive and responsive approach that values individuals for their unique strengths and abilities. A consideration for implementation in this frame is sharing the vision of rapid eligibility determination so that staff can work toward a common purpose that everyone can take pride in.

**Conclusion:**

In conclusion, reinterpreting eligibility requirements for vocational rehabilitation services is crucial for fostering a more efficient, equitable, and client-focused system. This approach will reduce the number of applicants who exit the VR program prior to eligibility. Empowering VR Counselors and shifting the focus from diagnosis to impairment will better serve individuals with disabilities, enhancing the overall impact of the VR program. This balances the need for accuracy with the urgency of service provision. This will also speed up service delivery and ensure VR funds are expended in a way that serves the consumer and is in line with the intent of the legislation.

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