

## DEPARTMENT OF EDUCATION

## 34 CFR Part 366

RIN 1820-AA81

## Centers for Independent Living

AGENCY: Department of Education.

ACTION: Final regulations.

**SUMMARY:** The Secretary amends the regulations governing the Centers for Independent Living (CIL) program. These regulations are needed to establish indicators of minimum compliance with the evaluation standards for centers for independent living enacted in the Rehabilitation Act of 1973 (Act), as amended by the Rehabilitation Act Amendments of 1992 (1992 Amendments) and the Rehabilitation Act Amendments of 1993 (1993 Amendments).

**EFFECTIVE DATE:** These regulations take effect August 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** John Nelson, U.S. Department of Education, 600 Independence Avenue, SW., Room 3326, Mary E. Switzer Building, Washington, DC 20202-2741. Telephone or TDD: (202) 205-9362.

**SUPPLEMENTARY INFORMATION:** The CIL program supports the planning for and establishing, conducting, administering, assisting, and evaluating of centers. These regulations add a new subpart G to 34 CFR part 366, which contains the regulations governing the CIL program. Section 725(b) of the Act establishes evaluation standards for centers. Section 706(b) of the Act requires the Secretary to publish indicators of what constitutes minimum compliance with the evaluation standards. Subpart G incorporates these evaluation standards and compliance indicators into the program regulations.

The CIL program is an important part of the National Education Goals. This program supports the National Education Goal that, by the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The Rehabilitation Act Amendments of 1986, Pub. L. 99-506, required that the Secretary publish indicators of what constitutes minimum compliance with the evaluation standards under section 711(e) of the Act, as it existed prior to the 1992 Amendments, Pub. L. 102-569. The Secretary published proposed compliance indicators in the **Federal Register** in an advance notice of proposed rulemaking (ANPRM) on July 10, 1992. The Secretary received over

100 written comments during the comment period on the ANPRM, as well as 35 oral comments during a public meeting held on August 27, 1992. Following the publication of the ANPRM, the Secretary also solicited and received input from experts in the field concerning alternative approaches to the indicators.

The major elements of six of the evaluation standards proposed by the U.S. Department of Education (Department) in the ANPRM were codified as part of the Act by the 1992 Amendments, which was enacted shortly after publication of the ANPRM. In addition, the 1992 Amendments requires that the Secretary publish indicators of what constitutes minimum compliance with the evaluation standards under section 725(b) of the Act.

On October 27, 1993, the Secretary published a notice of proposed rulemaking (NPRM) in the **Federal Register** (58 FR 57942) proposing to amend existing regulations for the CIL program by establishing indicators of minimum compliance with the new evaluation standards. On December 21, 1993 (58 FR 67383), the Secretary extended the comment period on the NPRM to coincide with the comment period on the proposed regulations implementing other changes to Title VII of the Act. The major issues related to the CIL program were discussed in the preamble to the NPRM.

In general, the commenters agreed with the direction that the Department had taken. However, a significant number of the commenters were opposed to the bifurcated approach of demonstrating compliance with the evaluation standards through (1) Baseline requirements that had to be met by all centers and (2) a selection of various activities that centers could choose from to earn a minimum number of bonus points. Some commenters believed that this approach placed small centers at a disadvantage. Another commenter stated that this approach appeared to establish two sets of minimum standards without establishing one absolute minimum standard. The Secretary agrees that the indicators should be simplified by eliminating the requirement that centers engage in various activities within each of the indicators to earn a minimum number of bonus points to comply with the evaluation standards. Therefore, in response to these and other public comments, the final regulations delete the bonus point approach, including all of the bonus point activities. In addition, the final regulations include

other changes to the NPRM made in response to public comment.

The Secretary also is moving to 34 CFR part 366 two of the definitions that were proposed to be added to 34 CFR part 364 in the NPRM.

**Analysis of Comments and Changes**

In response to the Secretary's invitation in the NPRM, 99 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows. General comments are discussed first, followed by comments on specific sections of the regulations. Because the bonus point activities have been eliminated as part of the elimination of the bonus point approach, comments on each of these bonus point activities are not discussed. In addition, technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

**General Comments**

**Comments:** One commenter expressed concern that the proposed regulations did not include or mention assistive technology services and devices. This commenter recommended that centers demonstrate how these services and devices are provided.

**Discussion:** Although a center may provide assistive services and devices to a particular individual, assistive services and devices are not listed in the Act as a specific IL service that a center is required to provide. Therefore, the Secretary does not believe centers should be required to demonstrate that they have provided these services to achieve minimum compliance with the evaluation standards for the CIL program.

**Changes:** None.

**Comments:** Several commenters recommended that the regulations place more emphasis on advocacy activities and less on service delivery. In addition, some commenters recommended that the regulations place more emphasis on outcomes and less on process.

**Discussion:** The Secretary believes that the final regulations properly reflect the emphasis on advocacy activities, service delivery, and outcomes found in the Act.

**Changes:** None.

**Comments:** None.

**Discussion:** Since publication of the NPRM, the Secretary has amended 34 CFR 75.118(a) and deleted the requirement for applications for non-competing continuation awards. In the place of an application, an applicant for