

ACCES-VR Contract Enforcement Guidelines

March 17, 2008

Introduction:

The New York State Education Department (NYSED), Office of Adult Career and Continuing Education Services-Vocational Rehabilitation (ACCES-VR) is committed to providing the highest level of quality assurance through monitoring of the delivery of independent living services. Education Law Article 23A Section 1121 – 1124 and the Commissioner’s Regulations Part 248 vests authority in ACCES-VR to evaluate the quality, quantity and effectiveness of the New York State Independent living Center program.

Overall Operating Parameters:

As per New York State Finance Law and existing contract language:

ACCES-VR reserves the right to terminate any contract without cause with 30 days notice.

ACCES-VR reserves the right to terminate a contract if the Independent living Center has violated any Federal or State law.

ACCES-VR reserves the right to terminate a contract if the Independent living Center demonstrates significant fiscal instability or lacks fiscal viability based on information in an annual certified financial statement or through agency audit. Significance of fiscal instability or compromised financial viability may be measured by several standards including, but not limited to:

- The program’s ability to repay loans in a reasonable time frame;
- Unresolved substantial deficiencies identified in certified audit statements.

ACCES-VR reserves the right to terminate a contract if the governing body of the Independent Living Center neglects or delegates its responsibility to operate as the principal decision making body or falls below the required fifty-one (51) percent of people with disabilities and is unable to rectify the situation within one cycle of Board of Directors elections.

ACCES-VR reserves the right to request a full agency budget to confirm cost sharing and resource allocations across cost centers.

ACCES-VR contract payments will be withheld in all instances of unmet timelines described in appendix C. of the State Education Department contract or in any instance that an ILC does not meet Program Improvement Plan (PIP) progress reporting timelines.

All references to “days” in the protocol below refer to calendar days based on written dated correspondence.

Performance expectations:

In any instance when performance indicators and measures are not achieved:

- ACCES-VR provides opportunities for the development of mutually agreed upon, time limited, PIP.
- ACCES-VR expects the ILC to maximize the use of existing federal, state and local resources for needed training and technical assistance.
- ACCES-VR provides the option with written approval to reallocate contract resources to meet training and technical assistance needs in successfully carrying out the PIP.
- ACCES-VR expects open communication during the period of PIP activities including prompt 24-48 hour responses to any inquiries, data requests, budget figures and related matters.

If a center fails to develop a PIP, or fails to carry out a PIP subsequent to the development of a ACCES-VR approved plan, the contract may be terminated. The following steps and timelines will be used by ACCES-VR as progressive actions toward contract termination:

1. The ILC does not achieve outcomes of community and systems change in three out of the six domains within a given contract year:
 - Step A. A Program Improvement Plan (PIP) is developed and submitted to ACCES-VR within 30 days of written notification of unacceptable performance with built-in progress updates in 90 day intervals.
 - Step B. ACCES-VR reviews the PIP within 15 days and provides written notice that it either accepts or rejects the plan.
 - Step C. If the PIP is approved, it is implemented according to plan timelines. At the end of the timeline ACCES-VR re-evaluates performance and determines if adequate progress was achieved. If performance remains in need of improvement, a second plan is negotiated following the same protocols and timelines. If adequate progress has not been achieved by the end of the second PPI timeframe ACCES-VR will take steps to rebid the contract.

In addition to contract rebid recommendations following two consecutive cycles of unacceptable program performance, a contract will be recommended for rebid if the program lapses into unacceptable performance three or more times within any five year period.

- Step D. If the initial PIP is not approved, ACCES-VR will propose and negotiate the inclusion of additional PIP components and the Center receives an additional 15 days to resubmit the plan for ACCES-VR approval.

2. The ILC does not meet the required projected average number of people served based on the prior five year period or the baseline of people to be served within ten percent of the contract figure:
 - Step A. A PIP is developed and submitted to ACCES-VR within 30 days of written notification of unacceptable performance.
 - Step B. ACCES-VR reviews the plan within 15 days and provides written notice whether it accepts or rejects the plan.
 - Step C. If the plan is approved then it is implemented according to plan timelines. At the end of the timeline, ACCES-VR re-evaluates plan performance to determine if adequate progress was achieved. If performance remains in need of improvement, then a second plan is negotiated using the same protocols and timelines.
3. The ILC does not meet the required 85 percent satisfaction in all performance measurement categories:
 - The same protocol is followed for steps 1. and 2. with the addition of the following:
 - The ILC will execute the same ACCES-VR approved customer satisfaction survey model during the intervening year of the standard alternate year customer satisfaction assessment model as a measure of performance to determine if improvements have been achieved. The survey will be conducted in the same manner as the statewide survey with all costs budgeted for in the ACCES-VR contract and borne by the ILC.
4. The ILC does not achieve parity of Consumer Service Record (CSR) ethnic breakdown compared with local/county census breakdown:
 - The same protocols as steps 1. and 2. will be followed with the expectation that in addition to any training and technical assistance obtained, the ILC may use existing contract funds with ACCES-VR approval for related marketing and outreach initiatives associated with action steps taken toward performance improvements.
5. When it has been determined that an ILC does not meet NYS CIL standards:
 - The same protocols as steps 1. and 2. will be followed.
 - Depending upon the specific nature and scope of the Performance shortcoming, ACCES-VR may utilize additional resources to assess the situation, i.e.
 - ACCES-VR may conduct staff and Board of Directors interviews;
 - ACCES-VR may work with the Board of Directors to facilitate an anonymous employee satisfaction survey;

- ACCES-VR may conduct consumer interviews;
- ACCES-VR may review personnel files;
- ACCES-VR may employ peer reviewers as independent evaluators;
- ACCES-VR may employ internal or contracted external fiscal audit resources;
- ACCES-VR may employ an internal or contracted external quality assurance program consultant.