

September 15, 1993

Compliance Memorandum No. 2

Subject: NISH Representation of Nonprofit Agencies Serving  
Individuals who are Blind

1. Purpose

This memorandum provides guidance regarding the representation of nonprofit agencies serving individuals who are blind by NISH. This memorandum supersedes Workshop Memorandum No. 4 dated July 6, 1977.

2. General

The Committee regulations (41 CFR 51-3.1) direct that nonprofit agencies that serve individuals who are blind be represented by the National Industries for the Blind (NIB) and that nonprofit agencies serving individuals who are blind and/or have other severe disabilities be represented by NISH. To participate under the Javits-Wagner-O'Day (JWOD) Act, a nonprofit agency must be represented by the appropriate central nonprofit agency (41 CFR Part 51-4.1). Thus, for a nonprofit agency to be represented by NISH, it must meet the requirements of Section 5(4) of the JWOD Act and paragraph 1.3 of the Committee's regulations. Both of these documents require that such a nonprofit agency be operated in the interest of persons with severe disabilities who are not blind.

3. Requirements

a. For a nonprofit agency serving individuals who are blind to qualify as a "nonprofit agency employing persons with severe disabilities," the purpose of the corporation contained in the nonprofit agency's articles of incorporation and by-laws must state specifically that it operates in the interest of persons who have severe disabilities other than blindness by the definitions set out in the Committee regulations. An example of suitable terminology in the articles of incorporation follows:

"The purposes of this corporation are the support and promotion of the interests of individuals who are blind and/or severely disabled; and furthermore, to promote . .  
."

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If an agency is incorporated as a "nonprofit agency employing persons with severe disabilities" it is then subject to the Committee regulations pertaining to such a nonprofit agency, which differ from the regulations for a nonprofit agency employing exclusively individuals who are blind (see Committee regulations, 41 CFR 51-4.3).

b. If the by-laws address the purpose of the corporation, they must also agree with the purpose contained in the articles of incorporation.

#### 4. Use of Blind in Title

A nonprofit agency's purpose is governed by its articles of incorporation rather than its title. Thus, a nonprofit agency which changes its purpose to serve both individuals who are blind and/or have other severe disabilities would be able to retain the word "blind" in its title, provided this is permitted by the laws of the State under which it is incorporated.

#### 5. Blind Priority

A nonprofit agency which qualifies as a "nonprofit agency employing persons with severe disabilities" loses its designation as a "qualified nonprofit agency for the blind" under the JWOD Act and the priority accorded qualified nonprofit agencies for the blind by paragraph 2d(2) of the Act and Section 1.2 of the Committee's regulations.

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