



FREQUENTLY ASKED QUESTIONS CENTERS FOR INDEPENDENT LIVING

Allowable Advocacy Activities for Federal Grantees

Introductory Note: The 1973 Rehabilitation Act as Amended (“the Rehab Act as Amended”), requires Centers of Independent Living (CILs) to perform Core Services, including systems advocacy (29 U.S.C §§ 705(17)(D) & 796f-4(b)(5); defined at 45 C.F.R § 1329.4). ACL and ILA have received several requests for guidance describing allowable advocacy activities to help ensure that ACL grantees, including CILs, can best serve their target populations and meet their grant obligations without violating federal law.

Federal laws and regulations prohibit federal grantees, which includes recipients of funding related to the Rehab Act as Amended, from using federal funds to lobby government officials (18 U.S.C. § 1913; 31 U.S.C. § 1352; 2 C.F.R § 200.450).

The following frequently asked questions (FAQs) are to help clarify how these laws function for ACL grantees. This guidance is intended to help ACL grantees better understand their rights and obligations. It is not a comprehensive guide to every circumstance that could be a violation of the regulations cited above. ACL grantees are responsible for understanding the full scope of their legal responsibilities as federal grantees, and are strongly encouraged to reach out to ACL program officers with any questions about the appropriate use of federal funds.

For the purposes of these FAQs, a “grantee” includes employees; board members; and council members acting on behalf of the grantee, and not in their individual capacity. Grantees should note that they may not act in their individual capacity while they are also operating in an official capacity. (For example, a grantee could not attend a meeting in an official capacity and avoid anti-lobbying regulations by claiming to speak briefly “in their individual capacity” or “in their personal opinion.”)

Q1: What is the difference between advocacy and lobbying?

A1: Advocacy is the act of engaging with government officials to educate and provide technical, factual, and non-partisan information about relevant issues. For example, a grantee could meet with an elected official to provide information about grant activities and educate them about the beneficiaries of those activities. They may also respond to written requests from government officials for testimony. Advocacy is a permissible use of federal funding, and

certain ACL grantees, including CILs, are required to engage in advocacy. (See 45 C.F.R § 1329.4 for the regulatory definition of “systems advocacy.”)

Lobbying is the act of engaging with local, state, or federal government officials (including elected officials, their staff, and other government employees) with the intent to influence funding, support for, or opposition to a particular issue or piece of legislation or potential appointment. The Anti-Lobbying Act prohibits the direct or indirect use of appropriated funds to pay for "any personal service, advertisement, telegram, telephone, letter, printed or written matter or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law ratification, policy or appropriation." 18 U.S.C. § 1913. While advocacy may inform an official on an issue, lobbying is meant to influence an official’s opinion in a specific way and for a specific purpose. Lobbying is not an allowable use of federal funding, and ACL grantees should be able to provide documentation to show that non-federal funds were used for any lobbying activities.

Example: It would be **lobbying** if a CIL grantee asked their representative to support or introduce legislation or a specific issue, or allocate more funding to a program such as Money Follows the Person. Since **lobbying** is an impermissible use of federal funds, any money used to support a meeting discussing support for or opposition to a specific bill or funding stream, including funds used to pay the salaries of individuals engaged in such work, would need to come from a non-federal funding source that permits lobbying activities. In this example, the grantee could instead **advocate** in a non-partisan, fact-based way by presenting research and data to their federal representative about the impact of Money Follow the Person programs. It would also be **advocacy** to explain, in a non-partisan and fact-based way, the resources that were (or were not) available to people with disabilities. If both advocacy and lobbying take place during a meeting, the entire meeting is considered a lobbying meeting.

Grantees should carefully document the funding source for any lobbying activity. Upon request, grantees should be able to provide documentation to ACL demonstrating that no federal funding was used to engage in lobbying activities.

Q2: What is the difference between “direct lobbying” and “grassroots lobbying”?

A2: Direct lobbying is an attempt to influence deliberations or actions by Federal, state, or local legislative or executive branches. Lobbying government officials, as in the example above, is considered “direct lobbying.” **Grassroots lobbying**, or indirect lobbying, includes efforts that encourage members of the public to contact their local, state, or federal elected officials urging their support or opposition of a specific issue or piece of legislation. In effect, grassroots lobbying involves a federal grantee encouraging stakeholders to lobby. **Direct lobbying and grassroots lobbying are both unallowable uses of federal funds.** (2 C.F.R § 200.450).

Example:

Direct Lobbying: An ACL grantee meets with their state legislators to ask for their support for a law that would expand protections for people with disabilities. The grantee did not support the

meeting using federal funding. Although this is direct lobbying, it is permissible because the grantee can provide documentation that shows the meeting was not supported by federal funding.

Grassroots Lobbying: An ACL grantee sends out an action alert urging supporters to contact Congress. The alert asks people to tell their representatives to vote "yes" or "no" on pending legislation. The grantee used office equipment and staff time funded by a federal grant to send out the action alert. This is an impermissible use of federal funds because it is lobbying.

Q3: If I travel to Washington, D.C., for a conference using federal grant funding, can I also visit Capitol Hill to meet with my elected officials? What can we talk about?

A3: Yes, although whether you can use grant funds to pay for the visit depends on whether you lobby your elected officials. There are no restrictions on a grantee's ability to meet with their federal representatives or attend meetings that are open to the general public, regardless of where you are meeting with them. However, if any part of a meeting involves lobbying, federal funding may not be used to support the costs associated with the meeting, including travel, lodging, or meals.

Example A: A grantee travels to Washington, D.C., for an annual two-day conference, and stays for an extra day to set up meetings with their federal representatives to persuade them to vote a particular way on an upcoming piece of legislation. Because this is lobbying, federal funds may not be used to support this third day of travel, and one third of all costs associated with the trip should be paid for using non-federal funds. The cost of the conference registration may be paid for using federal grant funding only if the grantee does not participate in lobbying as part of the conference.

Example B: A grantee travels to Washington, D.C. for an annual conference, and participates in a "Hill Day" and protest organized by the conference. The grantee meets with federal representatives to encourage support for pending legislation. They also attend a committee hearing and hold up a sign asking representatives not to confirm a candidate for a position. The grantee may not use federal funds to support travel or participation in this conference. If there are other days of grant-related travel that do not involve lobbying, federal funding can support that part of the trip.

Example C: A grantee travels to Washington, D.C. for an annual conference and to meet with their federal representatives to educate them about grantee programs. They arrange to share the meeting with a lobbyist colleague and intend to split time in the meeting; the grantee will advocate about issues related to their grant, and the lobbyist will encourage the federal representatives to allocate more funding to the grant programs. This is considered an impermissible use of funds because the grantee is being used to influence legislation even though they are not actively discussing legislation with their representatives. A grantee would have to give a factual presentation in a way that was sufficiently distinct from the lobbying activity (such as at a different time or location) in order to use federal funds to support this portion of the trip.

Q4: Can federal funding support participation in or preparation for a march, demonstration, or rally? What if the event takes place during an annual conference?

A4: Regardless of when or where the event is taking place, whether or not this is permissible depends on the intent of the event and its scheduled participants. If the march, demonstration, or rally intends to specifically encourage or discourage a Congressional decision, it cannot be supported by federal funding. Federal regulations prohibit grantees from using federal funding to support these types of activities (2 C.F.R § 200.450) where they are intended to influence the “enactment or modification of any pending Federal or state legislation.” Individuals may exercise their right to free speech by participating in such activities in their individual capacity, and federal funding cannot support this portion of the trip. (Refer to Q3, Example A for additional details on which portion of the trip must be supported by non-federal funds.)

If the march, demonstration, or rally will not endorse or condemn a particular piece of legislation, a grantee may participate. Because the grantee may not be able to anticipate whether the event will involve lobbying, grantees are strongly encouraged to review their Annual Notice of Award and consult with their project officer before participating in such activities.

Example: A grantee organization prints flyers and posters announcing a march during their annual meeting, and encouraging members to join them in calling on Congress to take up legislation to improve community living outcomes for people with disabilities. This is not an allowable use of federal grant funding, even if the grantee ultimately does not actually take part in the march.

Q5: Can my organization or I use grant funds at the federal or state level to develop or distribute materials, do phone campaigns, letter writing campaigns, issue actions alerts, urge members of Congress to support legislation, or urge elected or appointed officials to support positions?

A5: No. As discussed above, these are all examples of grassroots lobbying.

Q6: Can my organization inform the public of proposed changes that would impact the populations we work with?

A6: Yes, grantees can and should share this kind of relevant information with stakeholders. The communication should be factual, technical, non-partisan, and related to the specific topic. The materials cannot suggest specific actions or positions, which would be lobbying.

Q7: Can I comment on proposed legislation or regulations?

A7: Yes, at the request of a Member of Congress or federal official, grantees may submit factual, non-partisan comments through official channels related to the proposed legislation or regulation and its potential impact on the populations with which the grantee organization works.

Q8: What are the consequences for using federal funds for lobbying?

A8: If a grantee organization uses federal funds to lobby, ACL may take enforcement actions that include, but are not limited to, withholding cash payments, disallowance, including interest, of unallowable expenses that include the total direct and indirect costs, and/or termination of the award.

Example: An ACL grantee was found to have misused their office equipment by using it to print fliers for a lobbying event. The grantee had to return the costs associated with preparing and printing those fliers to ACL.

Additional Resources:

- [Federal Restrictions on Lobbying for HHS Financial Assistance Recipients](#)
- Annual Notices of Awards

For More Information: Please contact your Independent Living Project Officer.