



Frequently Asked Questions:

Advocacy and Lobbying in Centers for Independent Living

A publication of the National Council on Independent Living

Centers for Independent Living (CILs) as defined by the Rehabilitation Act of 1973, as amended (Rehab Act), play an essential role in making change in their communities. In fact, advocacy to bring about that change is a core service of CILs. If a CIL is not conducting individual and systems advocacy, they are not meeting the basic requirements of a CIL.

Advocacy in its fullest definition includes many types of activities, including lobbying. CILs have a long history of working to influence policy and legislation to advance the rights of the disability community. However, there has sometimes been confusion about what CILs are required to do versus what they are allowed to do with federal dollars. Advocacy and lobbying are two important tools CILs use to create change. This Frequently Asked Questions (FAQ) document is intended to provide guidance for CILs on the difference between lobbying and other forms of advocacy, and how CILs can lobby while complying with relevant federal laws.

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Question 1: What is advocacy?

Answer 1: Let’s start with some definitions. The Code of Federal Regulations, at 45 CFR § 1329.4, quoted below, lists three parts to advocacy under the Rehab Act: Advocacy means pleading an individual’s cause or speaking or writing in support of an individual. To the extent permitted by State law or the rules of the agency before which an individual is appearing, a non-lawyer may engage in advocacy on behalf of another individual. Advocacy may—

1. Involve representing an individual—
 - i. Before private entities or organizations, government agencies (whether State, local, or Federal), or in a court of law (whether State or Federal); or
 - ii. In negotiations or mediation, in formal or informal administrative proceedings before government agencies (whether State, local, or Federal), or in legal proceedings in a court of law; and
2. Be on behalf of—
 - i. A single individual, in which case it is individual advocacy;
 - ii. A group or class of individuals, in which case it is systems advocacy; or oneself, in which case it is self-advocacy.

- iii. These regulations are stated broadly enough that they provide for flexibility in how advocacy is accomplished. Most advocacy is done without lobbying. Examples are covered in the next question.

Question 2: What are examples of advocacy activities that are not lobbying?

Answer 2: In this section we will talk about several different types of advocacy, except lobbying. Remember that all lobbying is advocacy, but not all advocacy is lobbying. We will deal with lobbying in question 3.

Advocacy can include public education, policy research, position papers or statements on issues, get out the vote efforts, coalition participation or building, litigation, and boycotts, along with direct action such as that led by ADAPT at the local and national levels. All of these things are allowable for CILs as part of the required core service of advocacy, and do not constitute lobbying as long as they are not designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order. When they are not lobbying, it is permissible to pay for the time and cost of doing these activities through the federal funds in your grant.

Here are some of the most typical forms of advocacy that enable CILs to have impact on the lives of people with disabilities in their communities and states:

1. Non-partisan¹ analysis of a bill or law that provides sufficient information to allow people to come to their own conclusions, even if it reflects a particular position on the part of the CIL (but does not encourage action). [See Bolder Advocacy Fact Sheet \(PDF\)](#).
2. Meeting with policymakers to provide information about the activities the CIL conducts and the people who benefit from those activities.
3. Inviting legislators to visit your CIL to learn more about your work and community.
4. Meeting with members of Congress to explain how a particular issue affects members of the community your CIL serves without expressing a view on specific legislation.
5. Educating your consumers and/or community about the legislative process, which can include introducing them to the legislators who represent them.
6. Litigating a case in the courts (or communicating as a party to litigation).

¹ Non-partisan means not influenced by, affiliated with, or supportive of any political party or candidate.

7. Participation as a member with disability expertise on governmental committees, councils, or commissions.
8. Hosting or attending a conference where the goal is to gather, network, educate, share information, plan, and/or discuss advocacy – but not lobby.
9. Communications in response to a written invitation/request for technical advice or assistance from a legislative body, committee, or subcommittee (information provided at the request of a particular legislator does not meet this criteria). This may include providing testimony (when you specifically are invited to testify—not in response to a notice to the general public) or providing input on a specific bill upon request. This communication must be made in response to a written request by a legislative body or a legislative committee or subcommittee and made available to all members of the requesting body.
10. Communications with executive or administrative bodies on issues regarding implementation of its regulations and/or policies. (For example: a CIL representative, Jane, could inform executive agency X, that a regulation X enforces is adversely affecting the CIL’s consumers with facts about that impact. That would not constitute lobbying. However, that line would be crossed if Jane went on to say that X’s regulation needs to be changed.)
11. Voter education activities conducted in a non-partisan manner, including (but not limited to) voter registration and get-out-the-vote drives, conducting candidate questionnaires, creating voter guides, hosting candidate debates, conducting voter protection activities, advocating for accessible voting options.
12. Communications with legislators about possible actions that could affect the CIL’s existence, powers or duties, tax-exempt status, or the deductibility of contributions to the CIL. This is often referred to as the “self defense” exception. (Note: this does not apply to activities that would constitute grassroots lobbying, discussed below.)

Question 3: What is lobbying?

Answer 3: Lobbying is attempting to influence specific legislation, appropriations, regulations, administrative action, or Executive orders through communicating – directly or indirectly – with policymakers. All of those pieces are key – communication must be done with a policymaker (or their staff), or with the general public (grassroots lobbying), and it must relate to a position on specific legislation. It is considered lobbying when directed toward legislation and policymakers at any level (local, state, or federal).

Lobbying is a form of advocacy. **CILs CAN lobby.** In fact, based on the definition of advocacy in the Rehab Act’s implementing regulations (above), lobbying plays an

important role in the advocacy services a CIL provides. However, CILs must lobby within specific guidelines and restrictions.

Question 4A: What advocacy activities count as lobbying?

Answer 4A: Lobbying is an attempt to influence legislation, either through a legislative body (direct lobbying) or the general public (grassroots lobbying). Some examples of advocacy activities that count as lobbying (and, thus, cannot be paid for with federal dollars) include (but are not limited to):

- Urging policymakers to support or oppose proposed legislation.
- Sending action alerts to your organization's members with instructions to contact their policymakers to support or oppose a bill.
- Creating an online petition to generate public support or opposition to a bill.
- Urging an ally in Congress to introduce legislation.
- Proposing specific changes be made to a bill.
- Drafting legislation with policymakers.
- Urging the President to veto a bill.
- Speaking with or appearing in front of a legislative committee or subcommittee to advocate for specific action about legislation, even if invited to do so. (It would not be lobbying to provide factual information about how the bill would affect CIL operations or consumers' lives.)
- Attending a protest/rally in support of (or in opposition to) a specific piece of legislation.
- Preparation and research time spent in anticipation of lobbying.
- **Note: Trying to influence regulations, administrative actions, and/or Executive Orders are activities that are considered administrative advocacy. While these activities are not treated as lobbying by the IRS, the language in the appropriations bills specifically prohibits CILs from using federal funding for these activities. As a result, these activities should be treated as lobbying activities for purposes of funding it: CILs CAN do this type of advocacy, but they CANNOT use federal funding to pay for it.**

Question 4B: What is the difference between “direct lobbying” and “grassroots lobbying”?

Answer 4B: *Direct lobbying* is attempting to influence legislation through communication with a member or employee of a legislative body, or with a government official who participates in formulating legislation. The communication must refer to a specific piece of legislation and express a view on whether to enact or modify the legislation. It is also considered direct lobbying when an organization asks its **members** to contact legislators in support of (or in opposition to) legislation.

Grassroots lobbying is attempting to influence legislation by encouraging the **general public** to contact legislators with respect to specific legislation. The communication must refer to a specific piece of legislation, express a view on whether to enact or modify that legislation, and encourage the recipient to take lobbying action with respect to that legislation.

These concepts are the same for administrative advocacy discussed above.

Question 5: Is organizing or attending a march, demonstration, or rally considered lobbying?

Answer 5: When a march, demonstration, or rally is in support of or opposition to an **issue** – and not in support of or in opposition to specific legislation – it is considered advocacy, and not lobbying. (For example, proclaiming that voting must be accessible). **CILs may organize and attend these events using federal funds.**

If a march, demonstration, or rally is in support of or opposition to **specific legislation, regulations, and the like**, it is considered lobbying. **CILs may still organize and attend these events, but they may not do so using federal funds.**

Question 6: What are the restrictions around lobbying for CILs?

Answer 6: CILs CAN lobby; they just can’t use federal funding to do so. Restrictions on lobbying for CILs primarily come from language in appropriations bills (not the Anti-Lobbying Act, which only applies to federal agencies and employees—not grantees like CILs). The appropriations language prevents federal appropriations from being used for lobbying activity in federal, state, and local legislatures and executive agencies. The current language (in the Consolidated Appropriations Act, 2023²) is similar to language that has been used in previous appropriations bills, and it reads:

² HR 2617, Sec. 503(b), p. 449, retrieved from [BILLS-117hr2617enr.pdf \(congress.gov\)](#)

“No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111–148 shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.”

This language means that CILs cannot use federal funding for lobbying activities or certain other advocacy activities not officially considered lobbying by the IRS (more information in the last bullet of Q4). **However, CILs can lobby and use other funding sources to pay for it. CILs should document the amount of time and funding source(s) for all lobbying activities to be able to show those activities are not being supported by federal funding.**³ Expenses that must be considered include staff time, travel costs, use of CIL technology, supplies, and office space funded with federal dollars.

Question 7: What are the consequences of violating these restrictions?

Answer 7: If a CIL uses federal funds to lobby, ACL can take enforcement action. This can include, but is not limited to, withholding cash payments, disallowance (including interest) of unallowable expenses that include the total direct and indirect costs, and award termination.

Question 8: How much lobbying can a CIL do?

Answer 8: All 501(c)(3) organizations are limited in the amount of lobbying they can do (with or without federal funds) by the Internal Revenue Service (IRS). Since all CILs are 501(c)(3) organizations, lobbying cannot make up a “substantial” part of a CIL’s overall activities. Too much lobbying risks loss of your tax-exemption status.

The IRS has different methods for determining if the lobbying a nonprofit does is “substantial.” One method only looks at how much the organization has spent on lobbying (“Expenditure Test”). The other method looks at both the money spent and the

³ See [Being a Player – A Guide to the IRS Lobbying Regulations for Advocacy Charities](#), Alliance for Justice, pp. 27-33 for tips on recording and accounting for lobbying activities.

time the organization devotes to lobbying (“Substantial Part Test”). The IRS has more information here:

- [IRS: Measuring Lobbying Activity: Expenditure Test](#)
- [IRS: Measuring Lobbying Activity: Substantial Part Test](#)

Question 9: How does lobbying differ from supporting political campaigns?

Answer 9: Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.⁴

Further Reading

- [Blue Avocado: A Beginner’s Guide to Lobbying for Nonprofits](#)
- [Bolder Advocacy: The Nonpartisan Analysis, Study, or Research Exception to IRS Lobbying Rules](#)
- [ILRU: A Congressional Insider’s Guide to Influencing Disability Policy](#)
- [ILRU: Section 14: Advocacy vs. Lobbying](#)
- [Business Law Today \(American Bar Association\): Nonprofits and Lobbying](#)
- [ILRU: Influencing Policy Webinar](#)

The National Council on Independent Living has acted with due diligence to thoroughly research the rules governing lobbying for CILs and offers this information as accurately as possible. This FAQ has been reviewed by legal counsel, however, if your CIL has any concerns about any of the information, you are advised to seek your own legal counsel.

⁴ [The Restriction of Political Campaign Intervention by Section 501\(c\)\(3\) Tax-Exempt Organizations | Internal Revenue Service \(irs.gov\)](#)