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Nebraska IL Network SILC, CILs and DSE

March 28 and 29, 2018

Presenter:

Paula McElwee

We are looking for these outcomes:

- The IL Network (CILs, SILC and DSE) will understand the regulations and indicators regarding the duties and authorities of all the partners.
- The IL Network (CILs, SILC and DSE) will agree on their respective responsibilities and activities related to the current SPIL and the next revision to the SPIL.

What You Will Learn



- The structure and content of what the SILC does – the law, regulations, indicators and assurances
- How to apply the regulations and indicators in your SILC operations
- The roles and responsibilities of the DSE
- The role of the CILs in developing, approving and implementing the SPIL
- A little about lobbying and advocacy
- A little about financial management
- Code of conduct and ethics, including conflicts of interest
- Duties of a non-profit board

We have developed a chart of law and regs

for our SILC Guidebook, released in July and available to you in electronic format. Here is an excerpt:

What the law says:

Sec. 705(c) FUNCTIONS:

(1) DUTIES -The council shall:

(A) Develop the State plan as provided in section 704(a)(2);

(B) Monitor, review, and evaluate the implementation of the State plan;

(C) Meet regularly, and ensure that such meetings of the council are open to the public and sufficient advance notice of such meetings is provided;

(D) Submit to the Administrator such periodic reports as the Administrator may reasonably request, and keep such records, and afford such access to such...

What the regs say:

§ 1329.15 Duties of the SILC.

(a) The duties of the SILC are those set forth in section 705 (c), (d), and (e) of the Act.

(1) The SILC shall develop the SPIL in accordance with guidelines developed by the Administrator;

(2) The SILC shall monitor, review, and evaluate the implementation of the SPIL on a regular basis as determined by the SLC and set forth in the SPIL;

(3) The SILC shall meet regularly, and ensure that such meetings are open to the public and sufficient advance notice of ...

The regs agree with the law, but add detail



- The Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act of 2014, is the law.
- The regulations found in 45 CFR (Code of Federal Regulations) 1329 must be true to the law and cannot ignore it or alter it.
- For simplicity we are going to look at the regs, which have slightly more content, except where only the law addresses an issue.
- Regs are found in **45 CFR PART 1329—STATE INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING**
- The Indicators of minimum compliance for SILCs are included where applicable. <http://www.ilru.org/federal-guidance-il-program>

Subpart A—General Provisions

§ 1329.2 Purpose.

The purpose of title VII of the Act is to promote a philosophy of independent living (IL), including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and to promote the integration and full inclusion of individuals with disabilities into the mainstream of American society...

Notice that IL Philosophy is first! These principles are what bring us together.

- Consumer control
- Peer support
- Self-help and self-determination
- Equal access
- Individual and system advocacy
- Maximizing leadership, empowerment, independence, and productivity of individuals with disabilities
- Integration and full inclusion of individuals with disabilities into the mainstream of American society
...by funding the statewide IL network and centers.

To accomplish the broad purpose of IL ...

- There are **five Duties** that the SILC must carry out,
- **Three Authorities** the SILC may conduct
- **One Limitation** for the SILC.

All activities of the SILC must

- Fall within these duties, authorities, and not the limitation.
- Be described in the SPIL and funded in the Resource Plan
- Be consistent with the purpose of Title VII of the Act.

§ 1329.3 Applicability of other regulations.

Other regulations apply to all activities under this part – for the SILC and the CILs specifically. These include but are not limited to:

- a) 45 CFR part 16—Procedures of the Departmental Grant Appeals Board.
- b) 45 CFR part 46—Protection of Human Subjects.
- c) **45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.**

§ 1329.3 Applicability of other regulations. cont'd.



- d) 45 CFR part 80—Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health and Human Services—Effectuation of title VI of the Civil Rights Act of 1964.
- e) 45 CFR part 81—Practice and Procedure for Hearings under part 80 of this Title.
- f) 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs Activities Receiving Federal Financial Assistance
- g) 45 CFR part 86—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

§ 1329.3 Applicability of other regulations.



cont'd. 2

- h) 45 CFR part 91—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from HHS.
- i) 45 CFR part 93—New Restrictions on Lobbying.**
- j) 2 CFR part 376—Nonprocurement Debarment and Suspension.
- k) 2 CFR part 382—Requirements for Drug-Free Workplace.

How do you apply these other regulations?



- We will touch on the highlighted items – UAR and Lobbying.
- Read all the regs and figure out how they apply.
- Use the actual regulatory language in your policies and procedures. (Yes, as a federal grant recipient you should have written policies and procedures for the things you are required to do. This is true for both the SILC and the CILs.)
- Call me if you aren't sure.
- Or ask your Project Officer, Regina Blye, at ACL (Administration of Community Living), 202-795-7374 regina.blye@acl.hhs.gov

Definitions can help clarify!

- There are several definitions here that are helpful.
- Some we use most often are:
 - Advocacy
 - Consumer control
 - Peer relationships/role models
 - Significant disability (for eligibility for services and for more than 50% of the board members of CILs)

Let's look at these and a few others.

§ 1329.4 Definitions.

Administrative support services means services and supports provided by the designated State entity under Subchapter B, and to Subchapter C CILs administered by the State under section 723 of the Act in support of the goals, objectives and related activities under an approved State Plan for Independent Living (SPIL). Such support includes any costs associated with contracts and subgrants including fiscal and programmatic oversight, among other services.

§ 1329.4 Definitions. cont'd.

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.

(As we will see in a moment, advocacy is an authority for the SILC, meaning it is permissible if it is included in your SPIL. It is required for CILs.)

§ 1329.4 Definitions. cont'd. 2

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

§ 1329.4 Definitions. cont'd. 3

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
 - iii. Oneself, in which case it is *self advocacy*.

Remember advocacy is required for CILs and allowed for SILCs *if it is in your SPIL*.

§ 1329.4 Definitions. cont'd. 5

Center for independent living (“*Center*”) means a consumer-controlled, community-based, cross- disability, nonresidential, private nonprofit agency for individuals with significant disabilities (regardless of age or income) that—

1. Is designed and operated within a local community by individuals with disabilities;
2. Provides an array of IL services as defined in section 7(18) of the Act, including, at a minimum, independent living core services as defined in this section; and
3. Complies with the standards set out in Section 725(b) and provides and complies with the assurances in section 725(c) of the Act and § 1329.5.

§ 1329.4 Definitions. cont'd. 6

Consumer control means, with respect to a Center or eligible agency, that the Center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or have been recipients of IL services, in terms of the management, staffing, decision making, operation, and provision of services. Consumer control, with respect to an individual, means that the individual with a disability asserts control over his or her personal life choices, and in addition, has control over his or her independent living plan (ILP), making informed choices about content, goals and implementation.

A note about consumer control

The old indicators said this meant

- A majority of board have a significant disability (like the persons served)
- A majority of managers have a disability
- A majority of other staff have a disability

These were contained in the old indicators to clarify “management, staffing, decision making, operation and provision of services”.

§ 1329.4 Definitions. cont'd. 7

Cross-disability means, with respect to services provided by a Center, that a Center provides services to individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of unserved or underserved populations by programs under Title VII. Eligibility for services shall be determined by the Center, and shall not be based on the presence of any one or more specific significant disabilities.

§ 1329.4 Definitions. cont'd. 8

Designated State entity (DSE) is the State agency designated in the State Plan for Independent Living (SPIL) that acts on behalf of the State to provide the functions described in title VII, chapter 1 of the Act.

Eligible agency means a consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit agency.

§ 1329.4 Definitions. cont'd. 9

Independent living core services mean, for purposes of services that are supported under the ILS or CIL programs—

1. Information and referral services;
2. Independent Living skills training;
3. Peer counseling, including cross-disability peer counseling; (Many states restrict the word “counseling” to licensed practitioners, so Centers sometimes substitute “support” “mentor” etc.
4. Individual and systems advocacy;

§ 1329.4 Definitions. cont'd. 10

5. Services that:

- i. Facilitate the transition of individuals with significant disabilities from nursing homes and other institutions to home and community-based residences, with the requisite supports and services. This process may include providing services and supports that a consumer identifies are needed to move that person from an institutional setting to community based setting, including systems advocacy required for the individual to move to a home of his or her choosing;

§ 1329.4 Definitions. cont'd. 11

- ii. Provide assistance to individuals with significant disabilities who are at risk of entering institutions so that the individuals may remain in the community. A determination of who is at risk of entering an institution should include self-identification by the individual as part of the intake or goal-setting process; and

§ 1329.4 Definitions. cont'd. 12

- iii. Facilitate the transition of youth who are individuals with significant disabilities, who were eligible for individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)), and who have completed their secondary education or otherwise left school, to postsecondary life. Individuals who have reached the age of 18 and are still receiving services in accordance with an Individualized Education Program (IEP) under IDEA have not “completed their secondary education.”

§ 1329.4 Definitions. cont'd. 13

Independent living service includes the independent living core services and such other services as described in section 7(18)* of the Act.

*7(18) included optional services. It is now empty but we have asked ACL for clarification since they indicated in the letter re: SILC Indicators that the CIL Indicators are in place. We are recommending that we use the old Indicators until something more is available.

These are important to the SILC because...



The one restriction on SILCs is that they cannot provide the core services beyond a simple referral to the appropriate Center.

§ 1329.4 Definitions.

Individual with a disability

Individual with a disability means an individual who—

1. Has a physical or mental impairment that substantially limits one or more major life activities of such individual;
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment, as described in section 3(3) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(3)).

(Applies to the 51% of staff and management of CILs and to the people with disabilities on the Council.)

§ 1329.4 Definitions.

Individual with a significant disability

Individual with a significant disability means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

(Applies to persons served by each CIL and to 51% or more of CIL board members.)

Centers are required to determine eligibility

- At the time a center initiates IL services other than I & R you need an eligibility determination.
- This should be written into your policies and adhered to by staff.
- Typically this is a statement that they individual signs that says they have a significant disability. There is not a requirement for proof of disability.
- 51% or more of board members of CILs are also required to have a significant disability, which they themselves can determine.

§ 1329.4 Definitions.

Majority and Majority group

Majority means more than 50 percent.

Minority group means American Indian, Alaskan Native, Asian American, Black or African American (not of Hispanic origin), Hispanic or Latino (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), and Native Hawaiian or other Pacific Islander.

§ 1329.4 Definitions.

Nonresidential



Nonresidential means, with respect to a Center, that the Center does not operate or manage housing or shelter for individuals as an IL service on either a temporary or long-term basis unless the housing or shelter is—

1. Incidental to the overall operation of the Center;
2. Necessary so that the individual may receive an IL service; and
3. Limited to a period not to exceed eight weeks during any six-month period.

§ 1329.4 Definitions.

Peer relationships and Peer role models

Peer relationships mean relationships involving mutual support and assistance among individuals with significant disabilities who are actively pursuing IL goals.

Peer role models mean individuals with significant disabilities whose achievements can serve as a positive example for other individuals with significant disabilities.

§ 1329.4 Definitions.

Service provider

Service provider means a Center for Independent Living that receives financial assistance under Subchapter B or C of chapter 1 of title VII of the Act, or any other entity or individual that provides IL services under a grant or contract from the DSE pursuant to Section 704(f) of the Act. A designated State entity (DSE) may directly provide IL services to individuals with significant disabilities only as specifically authorized in the (approved) SPIL.

§ 1329.4 Definitions.



State plan and Unserved and underserved groups or populations

State plan means the State Plan for Independent Living (SPIL) required under Section 704 of the Act.

Unserved and underserved groups or populations include populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited English proficiency, and individuals from underserved geographic areas (rural or urban).

§ 1329.4 Definitions.

Youth with a significant disability

Youth with a significant disability means an individual with a significant disability who--

1. Is not younger than 14 years of age; and
2. Is not older than 24 years of age.

Remember the special service of transition for youth is post-secondary so typically begins at graduation from High School, but other youth services are encouraged.

Questions?

So that is your framework.

Questions so far?

Time to look at the regs? After the break!

Break

§ 1329.7 Enforcement and appeals procedures.

b) Process for States.

1. If the Director of the Independent Living Administration determines that a State* is out of compliance with sections 704, 705, 713 or other pertinent sections of the Act, the Director must provide notice to the State pursuant to guidance determined by the Administrator.
2. The Director may offer technical assistance to the State to develop a corrective action plan or to take such other steps as are necessary to ensure that the State comes in to compliance.
3. The State may seek an appeal consistent with the steps set forth in paragraphs (a)(3) and (4) of this section.

*Note that the State is the grantee for Subchapter B dollars and will be reviewed and cited, not the SILC or CILs, which are Subchapter B subrecipients. Subchapter C centers are direct grantees and may be reviewed directly. Since you are both, either review may be pertinent.

§ 1329.7 Enforcement and appeals procedures. cont'd.



4. The Administrator may take steps to enforce statutory or regulatory requirements or to terminate funding if the Administrator determines that the State remains out of compliance.
5. Written notice of the determination by the Administrator shall constitute a final determination for purposes of 45 CFR part 16 with regard to the types of determinations set forth in 45 CFR part 16, appendix A, C.a.(1)-(4). A State that receives such notice may appeal to the Departmental Appeals Board pursuant to the provisions of 45 CFR part 16.

Be sure to notice that...

- The state is considered the direct grantee of Subchapter B. If there are questions around the operation of the SILC, or of CILs receiving Subchapter B funds, the ACL on-site review will look first at state.
- While it is true that the SILC is autonomous, it is a sub-recipient of the DSE, and as such is subject to review regarding the proper use of federal funds that flow through the state *based on the SPIL*.
- The DSE has the right to review the financial and other responsibilities of subrecipients. The SILC and CILs are required to provide them with records for this review upon request. All review is in context of the agreed upon SPIL
- The federal review may start with a records request by ACL. On-site review may happen as well.

UAR 45 CFR 75.2 Definitions

- Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
- Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

45 CFR §75.352

Requirements for pass-through entities.

1. All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. (This is a long list of identifying information like federal ID, corporate name, and award periods, numbers and amounts.)

The DSE can require from the SILC or CIL (as the subrecipient):



(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the HHS awarding agency including identification of any required financial and performance reports;

The DSE can require from the SILC or CIL (as the subrecipient) cont.:



- (4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §75.414(f);
- (5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part.

Questions?



Subpart B—Independent Living Services

§ 1329.10 Authorized use of funds for Independent Living Services.

a) The State:

1. May use funds received under this part to support the SILC resource plan described in section 705(e) of the Act but may not use more than 30 percent of the funds unless an approved SPIL so specifies pursuant to § 1329.15(c); (this is the amount the SILC may spend)
2. May retain funds under section 704(c)(5) of the Act; and
3. Shall distribute the remainder of the funds received under this part in a manner ***consistent with the approved State plan*** for the activities described in paragraph (b) of this section.

§ 1329.10 Authorized use of funds for Independent Living Services.



- b) The State may use the remainder of the funds described in paragraph (a)(3) of this section to—
 - 1) Provide to individuals with significant disabilities the independent living (IL) services required by section 704(e) of the Act, particularly those in unserved areas of the State;
 - 2) Demonstrate ways to expand and improve IL services;
 - 3) Support the operation of Centers for Independent Living (Centers) that are in compliance with the standards and assurances in section 725 (b) and (c) of the Act;

§ 1329.10 Authorized use of funds for Independent Living Services. cont'd.

- 4) Support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing IL services;
- 5) Conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policy makers in order to enhance IL services for individuals with significant disabilities;

§ 1329.10 Authorized use of funds for Independent Living Services. cont'd. 2



- 6) Train individuals with disabilities and individuals providing services to individuals with disabilities, and other persons regarding the IL philosophy; and
- 7) Provide outreach to populations that are unserved or underserved by programs under title VII of the Act, including minority groups and urban and rural populations.

Remember, anything funds are used for must be included in the SPIL and the resource plan.

Comments? Questions?



Break for Lunch

DSE Roles and Responsibilities

- These have changed substantially.
- Because of the autonomy of the SILC, the SILC takes much more of a role than in the past.
- While most SILCs stayed with the Department of Rehabilitation as their DSE, there have been successful transitions to other arrangements such as what you are doing here.
- The DSE is specified in the SPIL and a change can only be made with a new or amended SPIL.
- The DSE can only retain 5% for the administrative operations.

§ 1329.12 Role of the designated State entity.



- a) The DSE that applies for and receives assistance must:
- 1) Receive, account for, and disburse funds received by the State under Subchapter B and Subchapter C in a State under section 723 of the Act based on the State plan;
 - 2) Provide administrative support services for a program under Subchapter B, as directed by the approved State plan;

§ 1329.12 Role of the designated State entity. cont'd.

- 3) Keep such records and afford such access to such records as the Administrator finds to be necessary with respect to the programs;
- 4) Submit such additional information or provide such assurances as the Administrator may require with respect to the programs; and

§ 1329.12 Role of the designated State entity. cont'd. 2



- 5) Retain not more than 5 percent of the funds received by the State for any fiscal year under Subchapter B, for the performance of the services outlined in paragraphs (a)(1) through (4) of this section. For purposes of these regulations, the 5 percent cap on funds for administrative expenses applies only to the Subchapter B funds allocated to the State and to the State's required 10 percent Subchapter B match. It does not apply to other program income funds, including, but not limited to, payments provided to a State from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes, any other federal funds, or to other funds allocated by the State for IL purposes. (Note: Title I Innovation and Expansion funds are often used.)

§ 1329.12 Role of the designated State entity. cont'd. 3



- b) The DSE must also carry out its other responsibilities under the Act, including, but not limited to:
- 1) Allocating funds for the delivery of IL services under Subchapter B of the Act as directed by the SPIL; and
 - 2) Allocating the necessary and sufficient resources needed by the SILC to fulfill its statutory duties and authorities under section 705(c), consistent with the approved State Plan.

§ 1329.12 Role of the designated State entity. cont'd. 4



- c) Fiscal and accounting requirements: The DSE must adopt fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for federal funds provided to CILs, SILCs, and/or other services providers under the ILS program. The DSE must comply with all applicable federal and State laws and regulations, including those in 45 CFR part 75 (Uniform Administrative Requirements).

Assurances also address the DSE, effective October 1, 2018

Designated State Entity Assurances

- The DSE acknowledges its role as the fiscal intermediary to receive, account for, and disburse funds received by the State to support Independent Living Services in the State;
- The DSE must make timely and prompt payments to Subchapter B funded SILCs and CILs:

Designated State Entity Assurances (2)



- a. When the reimbursement method is used, the DSE must make a payment within 30 calendar days after receipt of the billing, unless the agency or pass-through entity reasonably believes the request to be improper;
- b. When necessary, the DSE will advance payments to Subchapter B funded SILCs and CILs to cover its estimated disbursement needs for an initial period generally geared to the mutually agreed upon disbursing cycle;
- c. The DSE will accept requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as necessary when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act ([15 U.S.C. 1693-1693r](#));

Designated State Entity Assurances (3)

- 3) The DSE will abide by SILC determination of whether the SILC wants to utilize DSE staff;
 - If the SILC informs the DSE that the SILC wants to utilize DSE staff, the DSE assures that management of such staff with regard to activities and functions performed for the SILC is the sole responsibility of the SILC in accordance with Sec. 705(e)(3) of the Act (Sec. 705(e)(3), 29 U.S.C. 796(e)(3));
- 4) The DSE will assure that the agency (the DSE) keeps appropriate records, in accordance with federal and State law, and provides access to records by the federal funding agency upon request;

Designated State Entity Assurances (4)

- 5) The DSE assures that the SILC is established as an autonomous entity within the State as required in Sec 1329.14 of the WIOA regulations;
- 6) The DSE will not interfere with the business or operations of the SILC that include but are not limited to:
 - Expenditure of federal funds,
 - Meeting schedules and agendas,
 - SILC board business,
 - Voting actions of the SILC Board,
 - Personnel actions,
 - Allowable travel,
 - Trainings and;

Designated State Entity Assurances (5)

7) The DSE will fully cooperate with the SILC in the nomination and appointment process for the SILC in the State.

These are very new, so there may need to be discussion around the implementation. They are effective October 1, 2018.

Questions?



Break

§ 1329.15 Duties of the SILC.

- 1) The duties of the SILC are those set forth in section 705(c), (d), and (e) of the Act.
- 2) The SILC shall develop the SPIL in accordance with guidelines developed by the Administrator;
- 3) The SILC shall monitor, review and evaluate the implementation of the SPIL on a regular basis as determined by the SILC and set forth in the SPIL;

§ 1329.15 Duties of the SILC. cont'd.

- 4) The SILC shall meet regularly, and ensure that such meetings are open to the public and sufficient advance notice of such meetings is provided;
- 5) The SILC shall submit to the Administrator such periodic reports as the Administrator may reasonably request, and keep such records, and afford such access to such records, as the Administrator finds necessary to verify the information in such reports; and

Right now the reporting is the 704 report submitted to ACL/ILA.

§ 1329.15 Duties of the SILC. cont'd. 2

- 6) The SILC shall, as appropriate, coordinate activities with other entities in the State that provide services similar to or complementary to independent living services, such as entities that facilitate the provision of or provide long-term community-based services and supports.

In carrying out the duties under this section, the SILC may provide contact information for the nearest appropriate CIL. Sharing of such information shall not constitute the direct provision of independent living services as defined in section 705(c)(3) of the Act.

§ 1329.15 Duties of the SILC. cont'd. 3

- c) The SILC, in conjunction with the DSE, shall prepare a plan for the provision of resources, including staff and personnel that are **necessary and sufficient** to carry out the functions of the SILC.
- 1) The resource plan amount shall be commensurate, to the extent possible, with the estimated costs related to SILC fulfilment of its duties and authorities consistent with the approved State Plan. (In other words, the full SILC budget.)
 - 2) Available resources include: Innovation and Expansion (I&E) funds authorized by 29 U.S.C. 721(a)(18); Independent Living Subchapter B funds; State matching funds; other public funds (such as Social Security reimbursement funds); and private sources.

§ 1329.15 Duties of the SILC. cont'd. 4

- 3) In accordance with § 1329.10(a)(1), no more than 30 percent of the State's allocation of Subchapter B and Subchapter B State matching funds may be used to fund the resource plan, unless the approved SPIL provides that more than 30 percent is needed and justifies the greater percentage.
- 4) No conditions or requirements may be included in the SILC's resource plan that may compromise the independence of the SILC.
- 5) The SILC is responsible for the proper expenditure of funds and use of resources that it receives under the resource plan.

§ 1329.15 Duties of the SILC. cont'd. 5

- 6) A description of the SILC's resource plan must be included in the State plan. The plan should include:
 - i. Staff/personnel;
 - ii. Operating expenses;
 - iii. Council compensation and expenses;
 - iv. Meeting expenses, including public hearing expenses, such as meeting space, alternate formats, interpreters, and other accommodations;
 - v. Resources to attend and/or secure training for staff and Council members; and
 - vi. Other costs as appropriate.

§ 1329.15 Duties of the SILC. cont'd 6

- d) The SILC shall carry out the activities in paragraph (a), to better serve individuals with significant disabilities and help achieve the purpose of section 701 of the Act.
- e) The SILC shall, consistent with State law, supervise and evaluate its staff and other personnel as may be necessary to carry out its functions under this section.

Notice the “sufficient funds” requirement...

- (6) The SILC State Plan resource plan includes:
- a. Sufficient funds received from
 - i. Title VII, Subchapter B funds;
 1. If the resource plan includes Title VII, Subchapter B funds, the State Plan provides justification of the percentage of Subchapter B funds to be used if the percentage exceeds 30 per cent of Title VII, Subchapter B funds received by the state.
 - ii. Funds for innovation and expansion activities under Sec. 101 (a)(18) of the Act, 29 U.S.C. Sec 721(a)(18)
 - iii. Other public and private sources.

Resource Plan cont.

- (6) The SILC State Plan resource plan includes:
- b. The funds needed to support
 - i. Staff/personnel
 - ii. Operating expenses
 - iii. Council compensation and expenses;
 - iv. Meeting expenses including meeting space, alternative formats, interpreters and other accommodations;
 - v. Resources to addend and/or secure training and conference for staff and council members and;
 - vi. Other costs as appropriate.

§ 1329.16 Authorities of the SILC.



- a) The SILC **may** conduct the following discretionary activities, as authorized and described in the approved State Plan:
- 1) Work with Centers for Independent Living to coordinate services with public and private entities to improve services provided to individuals with disabilities;
 - 2) Conduct resource development activities to support the activities described in the approved SPIL and/or to support the provision of independent living services by Centers for Independent Living; and
 - 3) Perform such other functions, consistent with the purpose of this part and comparable to other functions described in section 705(c) of the Act, as the Council determines to be appropriate and authorized in the approved SPIL (including advocacy).

§ 1329.16 Authorities of the SILC. cont'd.

- b) In undertaking the foregoing duties and authorities, the SILC shall:
- 1) Coordinate with the CILs in order to avoid conflicting or overlapping activities within the CILs' established service areas;
 - 2) Not engage in activities that constitute the direct provision of IL services to individuals, including the IL core services; and
 - 3) Comply with Federal prohibitions against lobbying.

Questions?



How are we doing on learning objectives?



- The structure and content of what the SILC does – the law, regulations, indicators and assurances
- How to apply the regulations and indicators in your SILC operations
- The roles and responsibilities of the DSE
- The role of the CILs in developing, approving and implementing the SPIL
- A little about lobbying and advocacy
- A little about financial management
- Code of conduct and ethics, including conflicts of interest
- Duties of a non-profit board

How are we doing on outcomes?

- The IL Network (CILs, SILC and DSE) will understand the regulations and indicators regarding the duties and authorities of all the partners.
- The IL Network (CILs, SILC and DSE) will agree on their respective responsibilities and activities related to the current SPIL and the next revision to the SPIL.

Break for the Day

How are we doing on learning objectives?



- The structure and content of what the SILC does – the law, regulations, indicators and assurances
- How to apply the regulations and indicators in your SILC operations
- The roles and responsibilities of the DSE
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Many of the things we are discussing require policies and procedures for the SILC

- Whether or not your SILC is a 501(c)(3) you need written and Council approved policies and procedures.
- The new SILC Indicators (effective January 31, 2018) include some areas for policies, and we will mention those as we go through some practical tips around membership, meetings, record keeping, etc.
- If you don't have a copy of the SIL Indicators and the SILC and DSE Assurances you can find them on our website at <http://www.ilru.org/federal-guidance-il-program> It is the first item under "SILC and DSE Guidance"
- Your SILC has these policies completed for Council approval. Here are a few you want to know about.

Appointment process

- (2) The SILC maintains regular communication with the appointing authority to ensure efficiency and timeliness of the appointment process.

Training for Council members

(3) The SILC maintains individual training plans for members that adhere to the SILC Training and Technical Assistance Center's SILC training curriculum.

ILRLU and the IL-Net are the SILC Training and Technical Assistance Center.

Go to <http://www.ilru.org/projects/silc-net> for resources. At a minimum we recommend that you use the Guidebook for SILC Chairpersons, Members and Administrators as a training resource, using the chapters as your training curriculum.

Public input into development of SPIL

- (4) The SILC receives public input into the development of the State Plan for Independent Living in accordance with 45 CFR 1329.17(f) ensuring:
- a. Adequate documentation of the development process, including but not limited to a written process setting forth how input will be gathered from the state's centers for independent living and individuals with disabilities without the state, and the process for how the information collected is considered.

Public input into development of SPIL

- (4) The SILC receives public input into the development of the State Plan for Independent Living in accordance with 45 CFR 1329.17(f) ensuring:
- b. All meetings regarding State Plan development and review are open to the public and provide advance notice of such meetings in accordance with existing State and federal laws and 45 CFR 1329.17(f)(2)(i)-(ii).

Public input into development of SPIL

- (4) The SILC receives public input into the development of the State Plan for Independent Living in accordance with 45 CFR 1329.17(f) ensuring:
- c. Meetings seeking public input regarding the State Plan provide advance notice of such meetings in accordance with existing State and federal laws, and 45 CFR 1329.17(f)(2)(i)

Public input into development of SPIL

- (4) The SILC receives public input into the development of the State Plan for Independent Living in accordance with 45 CFR 1329.17(f) ensuring:
- d. Public meeting locations, where public input is being taken, are accessible to all people with disabilities, including, but not limited to:
 - i. proximity to public transportation
 - ii. physical accessibility, and
 - iii. effective communication and accommodations that include auxiliary aids and services, necessary to make the meeting accessible to all people with disabilities.

Public input into development of SPIL

- (4) The SILC receives public input into the development of the State Plan for Independent Living in accordance with 45 CFR 1329.17(f) ensuring:
- e. Materials available electronically must be 508 compliant and, upon request, available in alternative and accessible format including other commonly spoken languages.

Monitors, reviews and evaluates the implementation of the SPIL

(5) The SILC monitors, reviews and evaluates the State Plan in accordance with 45 CFR 1329.15(a)(2) ensuring:

- a. Timely identification of revisions needed due to any material change in State law, state organization, policy or agency operations that affect the administration of the State Plan approved by the Administration for Community Living.

Are you considering an amendment to your SPIL? Is the change “material”?

An interesting fact...

The SILC cannot provide any direct services except referring someone to a CIL.

- So if the SPIL you develop addresses service needs for your state and for your unserved or underserved folks, the CILs will have to provide those services.

So if the CIL is doing a lot of the work...

- How can the SILC monitor the implementation of the SPIL?
- What measures are in your plan and how are the CILs reporting on them?

Roles



DSE	SILC	CILs
1. Serve as the “grantee” for Part B \$.	1. Develop the SPIL.	1. Provide the Core IL Services.
2. Account to SILC for \$ and disbursement \$ per SPIL.	2. Monitor, review, & evaluate the implementation of the SPIL.	2. Provide other IL services consistent with Federal and State Law.
3. Provide administrative support for IL Program.	3. Meet regularly – open meetings.	3. Comply with CIL Standards, Assurances & Indicators.
4. Keep records.	4. Submit reports including 704 report SPIL fulfillment portion of 704 report Part I.	4. Develop SPIL with SILC.
5. Submit required reports/information.	5. Coordinate activities with other entities.	5. Implement SPIL.
6. Retain not more than 5% of Part B for DSE administrative costs. The DSE cannot hold funds.	6. Conduct Authorities as described in the law and outlined in SPIL, including advocacy and resource development.	6. Conduct Resource Development activities.
7. Sign the SPIL agreeing to serve as the DSE.	7. Shall NOT provide or manage IL services.	7. More than 50% of CIL Directors must sign the SPIL to approve content.
	8. Sign the SPIL to approve content.	

State Independent Living Council Assurances



- 1) The SILC regularly (not less than annually) provides the appointing authority recommendations for eligible appointments;

State Independent Living Council Assurances (cont.)



2) The SILC is composed of the requisite members set forth in the Act (Sec. 705(b)(2):

(2) COMPOSITION.—The Council shall include—

(A) among its voting members, **at least** 1 director of a center for independent living chosen by the directors of centers for independent living within the State;

(B) among its voting members, for a State in which 1 or more centers for independent living are run by, or in conjunction with, the governing bodies of American Indian tribes located on Federal or State reservations, at least 1 representative of the directors of such centers; and

State Independent Living Council Assurances (cont.)



2) Compositions cont.

(C) as ex officio, nonvoting members, a representative of the designated State entity, and representatives from State agencies that provide services for individuals with disabilities.

NOTE: The SILC determines what state agencies they want to be represented, and request those from the appointing authority. You don't want ex officio members to dominate your meetings.

State Independent Living Council Assurances (cont.)



3) The SILC terms of appointment adhere to the Act Sec. 705(b)(6).

(6) TERMS OF APPOINTMENT.—

(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

- (ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority described in paragraph (3)) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

How SILC is established

4) The SILC is not established as an entity within a State agency in accordance with 45 CFR Sec. 1329.14(b)

SILC oversight of staff

- 5) The SILC will make the determination of whether it wants to utilize DSE staff to carry out the functions of the SILC;
 - a. The SILC must inform the DSE if it chooses to utilize DSE staff;
 - b. The SILC assumes management and responsibility of such staff with regard to activities and functions performed for the SILC in accordance with the Act. (Sec. 705(e)(3))

Program access and SILC autonomy

- 6) The SILC shall ensure all program activities are accessible to people with disabilities.
- 7) The State Plan shall provide assurances that the designated State entity, any other agency, office or entity of the State, will not interfere with the operations of the SILC, except as provided by law and regulation

Unserved and underserved populations

8) The SILC actively consults with unserved and underserved populations in urban and rural areas that include, indigenous populations as appropriate for State Plan development as described in Sec. 713(b)(7) which includes as an activity:

713(b)(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

Comments? Questions?



Break

Let's talk about advocacy and lobbying...

The new regulations: **45 CFR 93.100 Conditions on use of funds**

No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for **influencing or attempting to influence** an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and **the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.**

Definition:

(h) *Influencing or attempting to influence*

means making, with the intent to influence, any communication to or appearance before an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

This is in addition to the definition we are used to, to attempt to influence a specific vote.

Other political activity

- CILs are required to be 501(c)(3) organizations, and SILCs often choose to be.
- There are IRS restrictions for 501(c)(3) organizations and their involvement in promoting a specific party or candidate.
- Your CIL or SILC cannot endorse a specific candidate or party, not even on unpaid time and with discretionary funds.
- <https://www.irs.gov/charities-non-profits/lobbying>

New Authorities – Advocacy

- A key area of discussion, especially between the ex officio members who are state employees, regards restrictions on lobbying.
- System advocacy is allowed as a new authority, (Sec. 705 (c)(2)(C)) stating that “the Council may, consistent with the State plan described in section 704, unless prohibited by State law – (C) Perform such other functions, consistent with the purpose of this chapter and comparable to other functions described in this subsection, as the Council determines to be appropriate. The IL regulation (45 CFR §1329.16) adds ‘and authorized in the approved SPIL’.”

Advocacy Efforts May Include:

- Developing and presenting state-wide reports regarding the needs of people with disabilities to public policy makers (legislators and state agencies) and the governor.
- Developing and presenting reports on the successes of the IL Network in the state, to public and private boards, commissions or other entities interested in Independent Living and/or people with disabilities.
- Presenting the SPIL to policymakers and sharing the funding needs to fully implement it.
- Representing the needs of people with disabilities on boards and councils.

Advocacy efforts may include, cont'd.

- Providing comment on revisions to or new policies and/or programs that affect services for people with disabilities.
- Providing comment at public hearings.
- Holding public forums to gather input/feedback from people with disabilities and stakeholders on issues, programs, needs, etc. and sharing a report with the governor and policymakers.

These are advocacy efforts that are allowed as identified in your SPIL. These are not lobbying.

You are allowed to lobby if . . .

1) You do not use federal funds (including paid time, equipment, supplies or property and indirect costs) to support lobbying efforts;

and

2) For 501(c)(3) organizations, is not conducted with a “substantial portion” of the CIL or SILC (more than 20%).

If you lobby, you will need careful records including staff time keeping to assure costs of lobbying including indirect costs are not charged to a federal grant but are paid for with discretionary funds.

Lobbying does include:

- Influencing or attempting to influence legislators and their vote on legislation.
- Taking a position on legislation and sharing that position with legislators or staff.
- Influencing or attempting to influence officers or employees of an agency or Congress in connection with the awarding of any federal contract, grant, loan, or cooperative agreement.

Lobbying, cont'd.

- Paying for a person, advertisement, telegram, telephone, letter, printed or written material, 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. This does not prevent you from responding to direct requests from legislators or Congress or their staff.

Lobbying, cont'd. 2

- Providing information to stakeholders on legislation and asking them to influence or attempt to influence legislators.

REMEMBER: Individual SILC members may lobby as they wish as long as SILC funds are not used to pay for their time, travel, indirect costs or other expenses.

REMEMBER: A 501(c)(3) organization may not publish or distribute printed statements or make oral statements on behalf of, or in opposition to, a candidate for public office. Written or oral endorsement of a candidate is strictly forbidden.

<https://www.irs.gov/charities-non-profits>

Comments? Questions?



Break for Lunch

Financial Management for DSE, CILs and SILC

Reasonable, necessary, allowable, allocable



- These are the words that are repeated most often in the guidance.
- All expenditures of federal funds must be reasonable. When in doubt, get bids or compare prices and maintain that research with the record of the expenditure to be able to show reasonableness.
- You may need to make a case that the expense is necessary to your project.
- Only allowable costs will be permitted. More about that in a moment.
- Expenses must be allocated among “cost objectives” or funding sources, if you have more than one.

Some of most common non-allowable costs...



The Uniform Administrative Requirements include dozens of pages of explanation about whether costs are allowable, unallowable, or subject to special rules; they aren't always clear, but they are alphabetic. Many expenses have strings attached... “allowable with restrictions”.

- Alcoholic beverages
- Bad debts
- Donations
- Entertainment costs
- Fines and Penalties
- Goods and services for personal use
- Housing and personal living expenses
- Lobbying
- Losses on other contracts
- Selling and marketing costs

Fiscal Management

- Accurate, current and complete disclosure of the financial results of each federally-sponsored project in accordance with the reporting requirements of the Federal financial report, including program income, federal and recipient shares of expenditures, indirect costs, etc.
- Records that identify adequately the source and application of funds for federally-sponsored activities.
- Effective control over and accountability for all funds, property and other assets in order to safeguard all assets and ensure they are used solely for authorized purposes.
- Comparison of outlays with budget amounts for each award.

Fiscal Management cont.



- Written procedures that minimize the time between the transfer of funds and the disbursement of funds by the recipient.
- Written procedures for determining costs are reasonable, allocable and allowable.
- Accounting records, including cost-accounting records, supported by source documentation and timely entries.
- An approved cost allocation plan (CAP) or indirect cost rate.
- Administrative costs are distributed among various funding sources in an equitable manner as described in the CAP.

Requirements from the new SILC Indicators

The SILC State Plan resource plan includes:

- a. Sufficient funds received from Subchapter B, I and E and other public and private sources.
- b. Costs are clearly documented regarding staff, operation, meeting and other costs as appropriate.

Travel Cost Requirements

- Travel costs are **reasonable and allowable**, i.e. do not exceed charges allowed under the written travel policy.
- Travel costs reimbursement requests are justified and documented e.g. through travel authorizations, receipts, etc. in accordance with the SILC's travel policy.
- The policy provides for **reimbursement** by either **actual or per diem**, based on the your policy and within the costs allowed.

Are bids required to show reasonableness?



- UAR no longer requires you to show your bidding process for products or services that are less than \$3,500 over the period of the year. (If your monthly cost is \$292, x 12, that exceeds \$3,500 for the year and must be bid.)
- Your own policies and procedures may be more restrictive, requiring bids or proof of reasonableness at \$1000 or some other number.
- The DSE may have set a lower amount for when bids are required. The SILC and Subchapter B CILs need to follow the DSE policy if the threshold for requiring bids is lower than \$3,500.

Methods of Procurement 45 CFR 75.326-332



- Micro-purchase (less than \$3,500)
Purchase orders may be awarded without soliciting any competitive quotations if the NFE (non-federal entity) considers costs to be reasonable. In this case the NFE must, to the extent practicable, distribute these purchases equitably among qualified suppliers, if they offer the same rate.
- Small purchase (more than \$3,500 and less than \$150,000)
- Sealed bid purchase (more than \$150,000)
- Competitive proposal purchase (more than \$150,000)
- Non-competitive purchases (special circumstances which are applicable for all purchase levels)

More Specifics About Purchases

- Micro-purchase (less than \$3,500)
How do you “distribute these purchases equitably among qualified suppliers, if they offer the same rate”?
- Small purchase (over \$3500 but less than \$150,000)
Procedures are “relatively simple and informal.”

Price or rate quotations must be obtained from at least two sources, and can be written, oral, a page from a website, etc.

- You must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises and labor surplus area firms are used when possible.
- Did you know that the geographic location of a vendor is not an acceptable reason for choosing a vendor?

Procurement

- Both the CILs and the SILC must have **written procurement procedures** complying with **the Uniform Administrative Requirements**.
- These procedures consider costs, quality, delivery, competitive bidding, inspection and acceptance, as well as reasonableness, allocability and allowability of costs.
- There is separation of responsibility for the authorization for purchasing and the subsequent payment. For example payments are made to the person who signs checks only if disbursements or checks are countersigned.
- Payment vouchers are identified as to funding sources, expense classification and transaction date.
- Approval limits for staff and director are identified.
- Person responsible for purchasing is identified.

Property

- Maintains current and complete records of all property purchased with grant funds.
- Has a system for controlling inventory (general ledger control account, card reports, property labels.)
- Keeps records of maintenance of property and equipment
- Inventories property at least once every two years.
- Adjustments to inventory accounts are made only on written authority of a designated official.
- Guards against loss, damage or theft of property.
- Has policies, procedures and controls for purchasing AND disposing of property.

Property records include

- Description of equipment
- Purchase date
- Cost
- ID number including manufacturer's serial number, model number etc.
- Source of equipment award number
- Where title vests
- Information from which federal participation can be calculated
- Location and condition of equipment
- Date information was reported
- Ultimate disposition

Records Retention and Audit

- Financial, consumer records and documentation are maintained and retained for a minimum of five years in accord with federal requirements. If related to litigation records for at least one year following the termination of litigation and appeals.
- You must grant the State and Federal reviewers access to all books, documents, papers, records and other evidence involving your performance of the grant. (Required in the conditions of your grant award.)
- Delivery of records is at no cost to the state.
- If the recipient expended \$750,000 or more in federal awards and is a non-profit, an annual nonfederal audit including funds received under Title VII has been conducted and a copy submitted to the Federal Audit Clearinghouse.

Sample financial policies and procedures

- These will have to be reviewed and individualized to the SILC, but do provide an funder-approved version of policies and procedures for CILs (which can be adapted).
- We are still getting guidance and will constantly be updating these documents. The most current version will continue to be available at http://ilru.org/publications/sample_fiscal_policies_handbook.pdf

Records of staff time

Compensation for Personnel Services:

- If federal funds used for salaries, then time distribution records are required.
- Must demonstrate—If employee paid with federal funds, then employee worked on that specific federal program/cost objective.
- This is required even if the staff person is except for purposes of overtime pay.
- This does not have to be the same as a time sheet, but must agree if the employee has both.
- Either all time is charged directly or a Personnel Activity Report (PAR) is used to allocate time.

Allocability

- A cost is allocable to a particular cost objective, such as a grant, contract, project, service, or other activity, in accordance with the relative benefits received.
- You must allocate shared expenses to the different projects, including staff time.
- Your cost allocation plan will be replaced next year with an Indirect Cost Rate.
- You must apply allocation consistently so that each funding source pays its fair share of indirect costs.

PAR Requirements

- An after-the-fact record (dated);
- That accounts for the total activity for which employee compensated;
- Signed by the employee or a responsible supervisory official having first hand knowledge of the activities performed;
- Prepared at least monthly; and
- Must coincide with one or more pay periods.

Comments? Questions?



Break

Monitoring and evaluating the state plan

From the Indicators:

5) The SILC monitors, reviews and evaluates the State Plan in accordance with 45 CFR 1329.15(a)(2)

ensuring:

- Timely identification of revisions needed due to any material change in State law, state organization, policy or agency operations that affect the administration of the State Plan approved by the Administration for Community Living.

Comments? Questions?

- You do have an approved plan in place
- This is a three-year plan
- You will began Year 2 on October 1, 2017.
- How are you monitoring and evaluating your plan?
- Do you anticipate the need for revising the plan prior to its required update by June 30, 2019?

How can we find qualified council members?



A majority of the council as a whole, and of the voting membership, must be people with disabilities who do not work for either the State of Nebraska or a CIL.

CIL board members and volunteers with disabilities **are** included in the majority count, as are all other people with significant disabilities.

Please Note: this majority requirement applies to both the **voting** membership and to the **total** membership of the SILC.

A SILC can operate only if:

- There is a current, complete and approved SPIL
- The Council is properly constituted (meeting the membership requirements)

If a SILC is found out of compliance on either of these, it is possible that funds will be held up for both Subchapter B and Subchapter C centers until the SILC is back into compliance.

Another policy for SILC operation

- b. A method for identifying and resolving actual or potential disputes and conflicts of interest that are in compliance with State and federal law;

This is also good practice for CILs.

Codes of Ethical Conduct



Your policies should include a code of ethics and standards of professional conduct. Standards expected of members could include:

- Acting professionally, competently and honorably.
- Fulfilling assigned duties.
- Complying with standards established in performance appraisals.
- Maintaining an acceptable level of performance and conduct on all verbal and written job duties.
- Using funds prudently.
- Reporting conditions and circumstances that may prevent the member from performing their duties effectively and safely.

Examples of Unacceptable Conduct

- Taking a public position criticizing the organization (CIL or SILC).
- Inefficient, careless or unsatisfactory council member performance.
- Bringing a negative personal agenda to Council discussions.
- Failure to get along, cooperate, or work harmoniously with council members, co-workers, vendors, or the public.
- Damaging, wasting, destroying, abusing, stealing, misappropriating or unauthorized use of property, funds, equipment, or supplies.
- Speaking on behalf of CIL or SILC without communicating with Chair and/or full board.
- Violating policies regarding discrimination and sexual harassment or other forms of harassment.
- Falsification or making material omissions on employment applications, time records, or other documents or records.
- Conducting personal business on paid work time.

Examples of Unacceptable Conduct, cont'd.

- Failing to abide by occupational health and safety guidelines.
- Engaging in immoral or indecent conduct in the workplace or while representing the CIL or SILC in any capacity.
- Engaging in the use, possession, or distribution of sexually oriented or indecent materials.
- Engaging in business or activities that constitute a conflict of interest.
- Abuse of sick, vacation, holiday, family and medical leave.
- Excessive tardiness or absences from work.
- Reporting for duty while under the influence of alcohol or controlled substances.
- Downloading non-work related software or applications from the Internet.

Conflicts of Interest

Council members and employees should avoid any activity, investment, or association that might interfere or conflict with their judgment or duties.

- Conflicts of interest must be disclosed as soon as possible.
- Members should immediately disqualify themselves prior to discussion or voting on any matters where there is a conflict of interest.
- The policies and code of ethics should state that members must reveal the conflict as soon as possible and refrain from voting, discussing, or making decisions related to the conflict.

Council member duties

As a Council responsible for the oversight of your autonomous SILC, the council has some responsibilities or duties specific to that role.

- Duty of Obedience
- Duty of Care
- Duty of Loyalty

CIL non-profit boards have these same responsibilities to their Center.

Duty of obedience

- Council/board members must be true to the mission of the SILC/CIL.
- Council/board members must not act in a manner that is inconsistent to the mission.
- Council/board members must act in observance of local, state and federal laws and regulations that apply.

Duty of Care

- The council/board must act in a manner that assures there is no foreseeable physical harm as a result of its work.
- This applies the concept that council members will make reasonable decisions based on fact that will assure there is no negligence on the part of the organization.
- This includes overseeing the financial accountability to assure that the public funds received are treated with care.

Duty of Loyalty

- This includes the principle that the council/board members will make all decisions without personal conflict of interest.
- A failure to meet a duty of loyalty may result in payment of restitution.

A word about open meetings

- The law requires that your meetings are open.
- The law around open meetings varies from state to state, but typically allows public attendance at most meetings. (Exceptions may relate to personnel, or to legal actions.)
- The agenda may include a time for public comments.
- In most states the council cannot speak to new issues brought up at the meeting, unless the topic is already on the published agenda.

What about Executive Sessions?

The new indicators require that your policies and procedures include:

- e. A process and timeline for advance notice to the public for SILC “Executive Session” meetings, that are closed to the public, that follow applicable federal and State laws;
 - i. “Executive Session” meetings should be rare and only take place to discuss confidential SILC issues such as but not limited to staffing.
 - ii. Agendas for “Executive Session” meetings must be made available to the public, although personal identifiable information regarding SILC staff shall not be included.

Dealing with conflict

A “rubber stamp” council is not as functional or useful as one with members who express strong opinions and consider issues from a variety of viewpoints. Still, the council must function to be effective.

- When emotions are running high, take a break and let things cool down.
- After everyone returns, start with discussing the shared purpose of helping people with disabilities live more independently, the SILC goals, and/or the specific goal of the task at hand.
- Ask members not to think about winning or losing their arguments, but to focus on maintaining good council relationships and being effective.

Conflict, cont'd.

- Let members explain why they prefer their ideas or methods.
- If the council is going in circles, ask everyone to brainstorm new or different approaches that might work and try to think outside the box.
- If there is still disagreement, form a committee or work group to examine the ideas in more depth, present pros and cons, and recommend the two best solutions to the council.

Notice this is conflict within the council. Conflict with the public or other members of the network is not part of the SILC meeting except to hear public comment.

Conflict, cont'd. 2

- Whenever a person criticizes an idea or strategy, ask what they think would work better. You can also change the subject or ask for other opinions.
- If there is any type of bullying or abusive behavior, stop it immediately. Make sure that your policies include anti-bullying. Remind members that the council is committed to a safe and healthy, inclusive environment with a culture of respect for everyone.
- Try to remain calm and not take things personally.

Conflict, cont'd. 3

- It may be helpful to meet with the member creating the conflict one-on-one to understand the person's perspective. Ask if there is a problem and try to resolve it. Suggest other ways of communicating and addressing the concerns. Sometimes just asking what the problem is makes that member feel respected and heard and ultimately moves things along more constructively.

A few tips about *ex officio* members

- Remember that *ex officio* members specifically cannot vote in the case of the SILC.
- Non-voting *ex officio* members can participate in discussion unless your council chooses to adopt a policy that limits that discussion.
- You may want to specify in policy whether or not *ex officio* members can make or second motions, but typically if you can't vote you shouldn't make motions.

A few more tips about public comments

- Typically public comments are given during a specific comment time on the agenda.
- The public is not at the table or engaged in the discussion as the meeting proceeds.
- Having public comment at the beginning of the meeting allows council to hear public concerns about specific agenda items.
- Public comments are typically limited to a specific period of time.
- The chair (not staff or DSE staff) controls the meeting through the agenda and deciding who to recognize. Only those recognized by the chair should speak.

Comments? Questions?



Evaluation

Please take a few minutes to complete the evaluation and leave it on the table. Your feedback will assist us to improve our technical assistance.

For on-going technical assistance, contact:



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