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Independent Living Research Utilization

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Top 10 Mistakes that can Put Your CIL or SILC at Risk

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What You Will Learn Today

- Common compliance risks associated with policies and procedures that impact Centers for Independent Living (CILs) and Statewide Independent Living Councils (SILCs).
- Major elements necessary for establishing and maintaining proper internal controls.
- Typical internal control procedures appropriate for CILs and SILCs.
- Responsibilities for recordkeeping for assets and custody of assets.
- Best practices for risk assessment and monitoring.
- Best practices for mitigating risk.

Mistake #1: Operating with outdated governance documents



When was the last time you reviewed your bylaws?

Are you in compliance with your bylaws?

1. Do you have all the committees they require?
2. Do you use the same corporate name?
3. Is the number of board members required consistent with your practice?
4. Do you have the officers the bylaws require?
5. Do you require and fulfill the expectation of consumer control with more than 50% board members with a significant disability?

We recommend an annual review of the bylaws by the board, with amendments as needed to stay up to date.

Other governance documents include:

- Articles of incorporation
- Policies and procedures
- Approved minutes of board meetings AND the materials reviewed with those minutes, filed in a safe place and easily accessible
- Annual budget
- Strategic plan

Mistake #2: Failure to date all documents

Reviewers may ask, “when was this?” so they can determine the board approval timeline. Remember...

- When prior approval is given by the board, the signed, dated minutes of the meeting where approval occurred are needed to prove that approval. If action is retroactive, say so.
- Keep dated minutes of all meetings, including votes by phone or email.
- Be sure to date performance reviews, especially if they relate to a salary increase.
- Date your signature so that approval from staff or board is clear.

Failure to date documents, cont'd.

Suggestion – carry all the amendment dates on policies or other important documents.

- This will show that your organization is continually reviewing and improving its internal operations and procedures.
- The most recent date will trigger your awareness about whether the policy needs to be reviewed.

Mistake #3: Failure to safeguard assets

- Your board or council should regularly review the financial status of the organization.
- The review should be thorough enough for the members to determine the financial status, typically including monthly (or quarterly) and year to date actual spending compared to the approved budget.
- The board needs to assure that there are adequate internal controls to safeguard the organization's assets. This can be determined as part of the financial statement audit, if the board chooses to conduct such an audit. (There are some specific financial requirements if you do.)

Make sure you know where your assets are



- If you purchase equipment with grant funds you need to track the source(s) of funding and the physical location of the item.
- You may choose to do this with smaller but somewhat portable items like tablets or laptops.
- We recommend an asset inventory that is updated annually so that you can report when broken items are disposed of, and where the item is at that point in time each year.

Mistake #4: Thinking you are too small for good internal controls



- Internal controls can include board or council members.
- With one or two staff and one or two board/council members you should be able to make sure that all approvals and spending are checked by a person other than the one who wrote the check or gave the approval.
- If you provide your board/council treasurer with the check register for the period and access to review deposits and expenditures in your bank and/or QuickBooks accounts, they can fairly quickly discern if any checks were in a different amount or to a different recipient.

Internal controls for some important areas

- The person who cuts the checks should not be authorized to sign them.
- The executive director should not sign checks to him/herself.
- The person in charge of writing checks should not be in charge of picking up the mail. (The first clues to misuse of funds often come in the mail – failure to submit withheld taxes to the IRS, a bill from a new or additional credit card, failure to pay unemployment to the state, second notices on unpaid bills.)
- Electronic approvals like Bill.com might be helpful when coming to office might be difficult.

Mistake #5: Thinking you don't need insurance



1. You need general liability insurance.
2. You probably need directors' and officers' liability insurance specifically (D&O).
 - This reduces exposure of upper management and the board related to legal actions against them.
 - This may include coverage of defense costs re: criminal and regulatory investigations.
 - In situations where there has been embezzlement, this may protect the board/council from needing to pay back personally – a possibility if they didn't adequately safeguard the assets of your CIL or SILC.
3. You may want to bond those responsible for financial oversight.

Mistake #6: Failure to check references

- Have you ever said, “It doesn’t do any good to check references. All the former employer will say is when the person worked for them.”
- Whether this is true or not, you have a responsibility to due diligence to hire the best people you can.
- You can Google them or find them on Facebook.
- You may require a criminal background check for positions like executive director or accountant.

Mistake #7: Inconsistent time and effort documentation



- You are required to keep records to show direct staff time spent on a specific grant, including the time of the executive director and accountant, unless all their time is considered indirect.
- Many of you use a Personnel Activity Report (PAR). If this report doesn't serve as your time sheet, the numbers must be consistent with the time sheet.
- The PAR must be signed by a person who knows the time spent and dated after the fact.
- We recommend that you have a place to log time spent in lobbying, fund raising, and resource development so that the indirect costs for each can be calculated.
- Since personnel is your highest cost, this is critical to properly allocating direct and indirect costs.

Do we need a PAR?

Review your current time and effort documentation process

- “If it ain’t broke, don’t fix it.”

If you are having problems following your current process, explore the possibility of modifying the process to take advantage of flexibility options available under 2 CFR 200.

- No specified reporting time frames.
- No required employee or supervisor signatures.

Questions & Answers

Mistake #7: Lack of knowledge

What is the initial training for new staff?

- Do you teach the history of Independent Living?
- Do you talk about how to be true to IL philosophy?
- Do they understand the core services and how to provide them?
- Have you checked to make sure they are entering data correctly so that you can develop useful reports of what you do?

What ongoing training do you provide to staff?

Do you provide board orientation?

Do you provide on-going board training?

Lack of knowledge, cont'd.

How do you communicate your written policies and procedures?

- Are your policies accessible to all staff and board members?
- Do you provide training on key policies?
- When you start something new, do you have a written policy and procedure as part of the structure, including training?

Lack of knowledge, cont'd. 2

If you don't have that structure in policy, and the training to support it, do you think excuses will cover you? I haven't seen a reviewer who accepts excuses like:

- "Whoops, nobody told me."
- "That's not my responsibility."
- "I don't have time."
- "We don't have money for training."

And remember – your practice must follow what your policies require!

Mistake #8: Failure to spend money

We all know that we aren't allowed to spend too much money, money we don't have. It is equally important to spend the money that has been granted to you.

- If you aren't spending as planned, your funder may wonder if your project performance is hurting.
- If you underspend now you will probably need to revise your budget, and may lose what can't be carried over.
- Especially with your largest cost, personnel, be sure that you are streamlining your hiring process both to avoid underspending and to assure that the work continues to get done.

Mistake #9: Lack of transparency

- Do you know the outcomes of your projects? Are you measuring them? If you don't then you cannot address problems promptly.
- When you find errors or areas of non-compliance, be sure to analyze right away. What went wrong? And how can you prevent it from happening again?
- How do you communicate concerns to your board?
- How do you communicate concerns to your consumers?
- How do you communicate concerns to your staff?
- How do you communicate concerns to your funder(s)?

45 CFR §75.113 Mandatory disclosures.

The non-Federal entity or applicant for a Federal award **must disclose, in a timely manner**, in writing to the HHS awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in Appendix XII are required to **report certain civil, criminal, or administrative proceedings to SAM**. Failure to make required disclosures can result in any of the remedies described in §75.371, including suspension or debarment. (See also 2 CFR parts 180 and 376, and 31 U.S.C. 3321).

Mistake #10: Failure to set the tone for the values of the organization



- Do you have a code of ethical conduct for board? Council members? Staff? Does it include conflicts of interest?
- Is the written code consistent with the behavior that the organization expects?
- Is the code presented to new staff and board/council as part of their orientation?
- Do you provide annual training for staff and board on the code of ethical conduct?

Many organizations feel this is so important that they request a signed copy from those attending training.

And once you have reviewed these mistakes?

- Update your policies and procedures
- Correct your own practice.
- Make sure everyone is on the same page.
- Reassess your own compliance regularly.

Resources

- **Uniform Guidance, also known as Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200:**
<https://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1> The HHS version of Uniform Administrative Requirements, 45 CFR 75, is much the same and you may see references to 45 CFR 75 in training materials.

Resources, cont'd.

- **Sample financial policies and procedures:**
<https://www.ilru.org/il-net-sample-fiscal-policies-and-procedures-handbook>
- **FAQ for Centers for Independent Living re: Conflicts of Interest:**
https://www.ilru.org/sites/default/files/resources/il_administration/FAQ%20Conflict%20of%20Interest.pdf
- **Self-study Tutorials for board and staff training:**
<https://www.ilru.org/training-rapidcourses-tutorials>

Questions & Answers

Final Questions and Evaluation Survey

Any final questions?

Directly following the webinar, you will see a short evaluation survey to complete on your screen. We appreciate your feedback!

https://usu.co1.qualtrics.com/jfe/form/SV_5tmerTSrwkDu0m1

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