A Congressional Insider's Guide to Influencing Disability Policy

Developing Organized Coalitions and Strategic Plans

By Robert Silverstein, J.D., Director
Center for the Study and Advancement of Disability Policy
1730 K Street NW
Washington, D.C. 20006
202-223-5340 (Voice/TTY)
202-467-4179 (Fax)Bobby@csapd.org (e-mail)
Melanie@csapd.org (e-mail)
1999

ILRU
2323 S. Shepherd, Suite 1000
Houston, Texas 77019
713-520-0232 (V)
713-520-5136 (TTY)
713-520-5785 (Fax)
ilru@ilru.org

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About the Author

Robert "Bobby" Silverstein, J.D., is the Director of the Center for the Study and Advancement of Disability Policy (CSADP). Mr. Silverstein has over 25 years of experience providing policy analysis, research and technical assistance to policy-makers and negotiating and drafting public policy at the federal, state and local levels.

At CSADP, Mr. Silverstein gives keynote speeches; conducts advocacy training; assists disability groups, federal, state and local officials in drafting disability policy and conducts action-oriented research. His areas of focus include civil rights, education, work incentives, workforce investment and welfare reform from a disability perspective.

From 1987 to 1997, Mr. Silverstein was the principal advisor to Senator Tom Harkin (D-Iowa), who served as chair of the Senate Subcommittee on Disability Policy (1987-1995), ranking member of the subcommittee (1995-1997) and lead member on disability policy issues on the Committee on Labor and Human Resources (1997). In this capacity, Silverstein played a central role in all important disability policy legislation produced between 1987 and 1997, including the landmark Americans with Disabilities Act, 15 other pieces of legislation and numerous disability-related amendments to other bills concerning, health, civil rights, education and job training.

From 1985 to 1987, Silverstein served as counsel to the Subcommittee on Select Education, Committee on Education and Labor of the U.S. House of Representatives. The subcommittee was chaired by Congressman Pat Williams (D- Montana). Silverstein's responsibilities were similar to those undertaken during his Senate tenure. Among the bills Silverstein was responsible for was P.L. 99-457, which added early intervention programs for infants and toddlers with disabilities to the Individuals with Disabilities Education Act. This program is landmark because of its family-centered focus and its interagency orientation.

Silverstein has won respect from Republicans as well as Democrats, leaders of the disability community and representatives from state and local governments and the business community for his commitment to developing bipartisan consensus legislation that is based on sound research.

Between 1978 and 1985, Silverstein was a principal in the law firm of Long and Silverstein, P.C. The firm's focus included conducting public policy research and analysis and providing technical assistance and training to policy-makers. Projects included directing and serving as the principal investigator of a congressionally mandated policy study and researching and drafting policies, regulations, manuals and handbooks for state and local agencies concerning implementation of various pieces of federal legislation.

In 1978, Silverstein worked for the Office of Civil Rights, Department of Health, Education and Welfare, where he drafted policy interpretations concerning three civil rights statutes: Section 504 of the Rehabilitation Act of 1973 (disability), Title VI of the Civil Rights Act of 1964 (race and national origin) and Title IX of the Education Amendments of 1972 (gender).

Between 1975 and 1978, Silverstein worked at the National Lawyers Committee for Civil Rights under Law as director and principal investigator of a congressionally mandated study of Title I of the Elementary and Secondary Education Act. This multi-billion dollar program provides compensatory education for educationally disadvantaged children residing in low-income areas. In this capacity, he conducted policy research and prepared six comprehensive policy analyses of the Title I legal framework. At the request of the chairs and ranking members of the House and Senate education subcommittees, Silverstein drafted bills and report language used for reauthorizing Title I. In addition, he was invited as an expert witness to testify at subcommittee hearings regarding the findings, conclusions and recommendations of the research study.

Mr. Silverstein received a B.S. in Economics from the Wharton School of Finance and Commerce, University of Pennsylvania, and his J.D. from Georgetown University Law Center.

Preface

As a congressional committee staffer for 13 years (1985-1997), I witnessed the enactment of over 20 bills related to disability policy. The bills included:

- the Americans with Disabilities Act (ADA), omnibus civil rights legislation protecting people with disabilities from discrimination;
- several reauthorizations of the Individuals with Disabilities Education Act (IDEA), including the bill creating the program for infants and toddlers with disabilities and their families and the 1997 reauthorization focusing on quality and outcomes in addition to access for children with disabilities;
- several reauthorizations of the Rehabilitation Act, including the reauthorization in 1992 increasing consumer choice and involvement in the vocational rehabilitation program; and
- several reauthorizations of the Developmental Disabilities Assistance and Bill of Rights Act, promoting the independence, productivity and integration and inclusion into the community of persons with developmental disabilities.

These historic pieces of legislation were the result of effective interaction with policy-makers (elected and appointed officials and their staff) by persons with disabilities, family members, advocates and national, state and local disability organizations. (See *A Congressional Insider's Guide to Influencing Disability Policy: Effective Strategies for Interacting with Policy-Makers* by Robert Silverstein, 1999.)

Effective interaction did not occur by happenstance. Each piece of legislation described above resulted from the efforts of a broad-based organized coalition working in conjunction with policy-makers. The efforts of the coalition were guided by a strategic plan.

The purpose of this guide is to describe the critical characteristics, roles and functions of organized coalitions and the strategic steps necessary to bring about change in public policy.

The approaches suggested in this guide reflect the best practices used in enacting the ADA, IDEA, the Rehabilitation Act and other disability-related legislation. The principles outlined in this guide are generally consistent with much of the research conducted by John W. Kingdon in *Agendas, Alternatives and Public Policies* (Harper Collins College Publishers, 1995); the experience of the Advocacy Institute (Building a Coalition, Washington, D.C., 1995), and the descriptions of the policy-making process by Walter J. Oleszek in *Congressional Procedures and the Policy Process* (CQ Press, 1996).

I hope this guide serves as a resource for those interested in affecting public policy that fosters the independence, inclusion and empowerment of persons with disabilities and their families.

—Bobby Silverstein

Chapter 1

Introduction

Major progressive change in public policy doesn't occur by chance. In fact, change is the exception rather than the rule for many reasons. Extreme competition for time to consider the merits of any given issue makes change unlikely. The conflicts and changing balance of power among organized groups seeking change make it much easier to block a new initiative than to pass it. Policy-makers are often reluctant to devote time to an initiative that may not be successful.

When change does occur, two related conditions are usually present. First, there is a broad-based organized coalition working in conjunction with policy-makers (elected officials and staff) who support change. Second, the actions of the coalition are guided by a strategic plan consisting of a brutally honest and realistic appraisal of the political "lay of the land."

A strategic plan includes, at a minimum:

- what you stand for (describing the coalition's values or guiding principles),
- a reality check (assessing the coalition's strengths, weaknesses and opportunities),
- what you want to achieve (stating goals and objectives),
- steps necessary to achieve goals and objectives, and
- assessment of progress.

Chapter 2

Organized Coalitions: Characteristics, Roles and Functions

Need for an Organized Coalition

A movement is necessary but not sufficient. A campaign to change public policy (a movement) begins with passion, anger, energy and frustration. There must be people who make demands on policy-makers, e.g., demands to expand civil rights protections, eliminate worker disincentives or expand community-based, consumer-directed personal assistance services. But a movement alone is not enough to effect change. To be effective in changing public policy, there must an organized coalition rather than a haphazard response to issues or events.

Why an organized coalition is critical. There are at least three reasons why an organized coalition is a critical component of any campaign to change public policy.

First, policy-makers expect/demand organized coalitions. Policy-makers do not function in isolation; they depend on other stakeholders who share a common vision to bring about change. In general, elected officials do not undertake policy initiatives without broad-based support from other elected officials and members of the public affected by the policy. Staff working for policy-makers do not recommend supporting policy initiatives without substantive backing and day-to-day assistance in building the political base. The organized coalition is the vehicle for providing the support needed and/or expected by elected officials and staff.

Second, a policy campaign depends on power. There is power in numbers, especially when the coalition is cohesive and speaks with a unified voice. Cohesiveness is especially important for the disability community because other sources of power such as wealth and status are rarely available to this community. Thus, keeping the disability community together is essential to avoid the adage by Pogo the comic strip character, "We have found the enemy and they is us."

Coalitions have more power when they include groups representing diverse needs as well as groups that traditionally do not join forces. Policy-makers (particularly elected officials) respond most favorably to broad-based coalitions consisting of "strange bedfellows." The message to policy-makers from such coalitions is that if divergent groups can come together to support a policy proposal, the issue must be compelling and the policy proposal must be viable.

Third, there is synergy—combined or cooperative action or force—when separate organizations join together. A policy campaign depends on rapid, effective, dependable, competent responses to the various exigencies of the political process. For example, staff may need help in preparing "talking points" in response to assertions made by the opposition, garnering grassroots support or vetting proposed solutions. An organized coalition brings together persons with a broad base of knowledge, skills and expertise who are likely to be able to deliver the necessary support in a timely fashion. Diverse members of an organized coalition also

are effective in gathering "intelligence" about what opponents are saying and doing. They report back to key persons who can use the information to further coalition objectives.

Characteristics of Effective Coalitions

Structure. Given the dynamic nature of politics, many coalitions do not have a formal structure; rather, the structure is ad hoc and fluid. A coalition's structure is far less important than the mechanisms used to ensure that the key roles and necessary functions are performed in an effective and efficient fashion.

Leadership. Whether the policy campaign is major or minor, there must be an overall leader who is responsible for keeping the coalition together and functioning. The individual must enjoy the trust and respect of the coalition and be able to assume various roles including visionary, political strategist, facilitator, organizer, bully (taskmaster), powerbroker, scapegoat and psychologist.

Author John Kingdon's Agendas, Alternatives and Public Policies (Harper Collins College Publishers, 1995) uses the term "policy entrepreneurs" to describe persons who are key in moving ahead public policy. Qualities of policy entrepreneurs include:

- the ability to speak for others,
- being known for political connections or negotiation skills,
- persistence and tenacity (i.e., willing to invest large and sometimes remarkable quantities of one's resources),
- creativity,
- ability to anticipate political constraints as proposals are developed,
- excellent antennae to read the "windows of opportunity," and
- to move ahead at the right moment.

Saul Alinsky, community organizer, described the major characteristics of an organizer in Rules for Radicals. The characteristics include:

- curiosity,
- irreverence,
- imagination,
- sense of humor,
- attention to detail,
- an organized personality, and
- a split personality (recognizing the need to polarize an issue to get policy-makers' attention and then change gears once negotiations begin).

Understand each organization's constraints. The coalition must be built on trust and respect for the internal rules of the organizations comprising the coalition. In particular, the coalition must respect the process required for securing formal support of coalition actions by member organizations. Although it is important to understand and respect these constraints, it is also critical that member organizations are capable of responding to the realities of the political process. It is not unusual for a crisis to suddenly develop, necessitating immediate action or reaction by the coalition. As a result, the coalition as a whole must not be hampered by the constraints of some of its members—it must be able to respond rapidly to the exigencies of a situation; otherwise, the coalition's effectiveness and dependability is undermined in the view of policy-makers, particularly staff.

The coalition must also respect the tactics which member organizations are willing to use. It is a mistake to assume that all coalition members abide by the same set of ethical standards or strategies when it comes to the "means" an organization is willing to use to accomplish a particular "end." Some organizations may be willing to or even insist on using direct action techniques such as demonstrations and sit-ins, whereas other organizations believe that dialogue and discussion are more appropriate tactics. Some groups may be confrontational when they meet with elected officials; others may take a more respectful approach.

Effective communication. Given the dynamic nature of the policy process, it is essential that there is effective and timely communication among coalition members. Coalition members cannot be working at cross-purposes or be "in the dark" about what others are doing and saying. Further, the failure to communicate may result in coalition members or the grassroots bolting from an effort. Differences among coalition members will always surface; the key is to resolve the differences behind closed doors. Opponents will wait to pounce on any appearance of disagreement and use it to show that the coalition's proposals lack consensus and therefore are not viable.

Delegation of tasks. Groups work best when individual members are accountable for implementing specific roles and functions. The challenges are to match roles and functions with skills and commitment and to coordinate efforts.

Decision-making. Coalitions must agree to a decision-making process. The coalition must make key decisions together in order to ensure that all member organizations have a stake in carrying out a strategy. It is also important, however, for a small group of key players who understand the nuances of an issue to meet prior to any large group meeting (pre-meeting) to discuss issues, propose courses of action and identify "pluses and minuses" of particular strategies. These planning meetings are not anti-democratic; they are smart politics. The planning is essential because it provides a forum for airing/clarifying controversial options in a "secure" setting. Remember, the larger group can always reject the advice of the planning group.

Keeping everyone informed. Keeping everyone informed is also key to ensuring that coalition members stay committed and have a stake in each strategy. It is also necessary to keep the coalition's message simple, clear and precise. However, it is critical to balance the need to

keep people informed with the reality that information provided to your supporters will also be known by your opponents. You may inadvertently "tip off" the key elements of your strategy to your opponents or unintentionally precipitate a major reaction by your opponents. Thus, the content of the message, what information is shared, when it is shared and with whom it is shared are all key.

Key Roles and Functions

There is no one organizational structure for coalitions that works in all situations. A major policy campaign might require the establishment of committees or subcommittees with chairs. Several needs may be combined under a given committee. A minor policy campaign may be less formal and may be accomplished by various persons assigned responsibility for responding to a number of identified needs. However, in all campaigns, a structure that accounts for key roles and functions is critical.

Developing, implementing and evaluating the political strategy. The coalition must assign members the responsibility to develop, implement and evaluate an overall political strategy in collaboration with allies in the executive and legislative branches of government. This includes conducting the political components of a "reality check" (e.g., capacities of the coalition and the nature and extent of the opposition), identifying the goals and objectives of the campaign and agreeing on the necessary steps to achieve the goals and objectives. It also includes implementing a strategic plan by carrying out agreed-upon strategies and tactics, responding to the day-to day needs of elected officials and staff, as well as responding to the crises that are certain to develop. Ongoing evaluations allow coalitions to fine-tune their efforts.

Policy analysis. The coalition should include persons with working knowledge of and expertise in the current legal framework (i.e., statutes, regulations and guidelines), problems that need to be addressed and viable policy options, including acceptable compromises that may be offered if the legislation is on a fast track. It is also critical that the coalition includes persons who have the capacity to draft legislative language.

Rapid response. The coalition must include persons responsible for developing materials on a moment's notice to help staff respond to needs that surface as the bill makes its way through the legislative process. Materials may include such things as summaries of major studies, reports, surveys (pro and con), talking points, briefing memos and position papers responding to criticism.

Grassroots. The coalition must include persons responsible for keeping the grassroots informed, marshaling support and, when necessary, ensuring that grassroots activity is consistent with and furthers the goals and objectives of the coalition.

Media. The coalition must include persons responsible for ensuring effective and timely media coverage in order to frame the issues and control the dynamics of the debate.

Contacts with policy-makers. The coalition must carefully select and then assign responsibility to individuals for contacting elected officials and staff from the majority and minority parties.

Contacts with other groups not part of coalition. The coalition must assign responsibility to individuals for interacting with "outsider" organizations with whom they agree in principle but who have chosen not to join the coalition. In addition, contacts are needed with organizations that oppose the efforts of the coalition.

Recognition of strengths and limitations. Members of the coalition must recognize their strengths and limitations, the need to have the requisite competencies to perform a task, as well as understand the time commitment and pressures that will be placed on them, depending on the role they assume. In other words, a chair may be on 24-hour call seven days a week when a bill is moving through the legislative process. Being unavailable because, "I have an out-of-town commitment to my organization" is not acceptable. The pressures are sometimes intense—ranging from responding to staff demands for talking points in two hours to orchestrating a grassroots letter-writing campaign by the next morning. At times it also includes ensuring the ongoing effectiveness of the coalition by mediating conflicts among coalition members.

Chapter 3

Articulating What You Stand For:
Values and Guiding Principles

In the course of any policy campaign, hundreds of decisions are made. Decisions range from when to use a given tactic, when to compromise one's public position and the nature of the compromise. Members come to the coalition with a different set of experiences and expectations. Thus, one of the first tasks of the coalition is to formalize the decision-making rules and decide on a common set of principles that will guide the myriad decisions that will be made in the course of a policy campaign.

Too often, this step is skipped, leading to misunderstandings and perceptions of arbitrariness. Discussing principles has another positive result: it provides an important, first opportunity for members of a coalition to recognize each member organization's priorities, motivations, orientations and, based on these understandings, establish effective working relationships.

Chapter 4

Reality Check

Change is the process of getting from where you are to where you want to be. Thus, it is critical to start with a knowledge and understanding of current law and policy, not just where you believe the policy ought to be. Problems must be identified in the context of current law and policy.

Honesty in Assessment

In developing a strategic plan, it is essential that one or more people in the coalition play the role of "devil's advocate" or "nay sayer." Too often, in a group of like-minded people a "holier than thou" or "group-think" mentality takes over. The "devil's advocate" can help ensure that the strategy adopted is specific, immediate, realizable and actionable. As Saul Alinsky, community organizer, stated, "Remember, you can miss the target by aiming too high as well as too low."

Components of a Reality Check

Identify and have a clear understanding of macro issues (major trends) that influence current thinking. Some issues include the national mood, social movements (devolution, market-based solutions), cost-benefit analyses and unfunded mandates.

Describe current status of the policy and its implementation.

Explain why current problems have not been remedied and why remedies are now possible. The explanation makes it possible for policy-makers to believe that positive change is now possible or likely.

List past efforts to change policy. List both the successes and failures. It is important to understand why an initiative failed and to learn from past mistakes.

Identify constraints on achieving success, including:

- costs of new initiatives (assumptions by accountants and financial analysts of the Congressional Budget Office (CBO) and the Office of Management and Budget (OMB)),
- complexity of the issue and the solutions, and
- apathy.

List capacities of the coalition, including such things as:

- organizational maturity of the coalition in working together;
- degree of consensus on alternatives among coalition members;
- degree of communication among interest groups who share the common vision;

- nature and extent of resources, expertise, commitment and the ability to secure additional support; and
- ability to use "smoke and mirrors" to exaggerate power and capabilities and build your perceived power base.

Describe the nature and extent of opposition to your goal, including those who:

- vehemently oppose your goal (those who will not consider other ideas and will do everything possible to block your efforts),
- strongly oppose your goal (those who will talk only if forced to after blocking efforts do not work),
- oppose your goal (are not supportive, but willing to walk away from the fight), and
- are willing to work toward consensus.

Recognize the possibilities of political posturing and turf fights over jurisdiction among elected officials. One bite at the apple. It is important to recognize the "been there, done that" syndrome in public policy. Often if policy-makers enact legislation that "addresses" a problem in any way, they are likely to move on to other issues believing that the problems have been solved. In other words, limited success may foreclose additional near-term action that addresses the issue in a more appropriate/comprehensive manner.

Chapter 5

Where the Coalition Wants to Go

Identify the Prize

It is essential that the coalition identify and reach consensus on "the prize" it is trying to win. At the end of the campaign, what does the coalition hope to accomplish?

- Is the "prize" a bill or a public law?
- Is the "prize" an incremental step, laying the foundation for subsequent action?
- Is the purpose of a bill/amendment to make a point, lay the foundation for future action (legislative or regulatory), or is the purpose to have the bill/amendment become law?
- Does the coalition want to get the issue on the policy radar screen, develop viable policy options, secure enactment or ensure implementation?

Other goals may include making a political statement for organizing purposes or laying a foundation for future action by getting politicians or academics to talk about the issue.

Keep Your Eyes on the Prize

It is also critical that you be able to "keep your eye on the prize." This requires distinguishing between two things:

- the policy you are trying to achieve (which guides future actions), and
- the positions you may take (which may change along the way and are the subject of compromise).

Goals and Objectives

It is also critical that a coalition articulate long-term goals and short-term objectives. Long-term goals may include "substantive goals" (e.g., secure a policy change) or "process goals" (e.g., introduce a bill for purposes of organizing grassroots support and solidifying the cohesiveness of a newly-formed coalition).

These goals and objectives allow the campaign to commence, unify the current members of the coalition, form the basis for expanding the coalition, help guide the coalition on the appropriateness of a given strategy or tactic and serve as the basis for judging success.

Chapter 6

Steps Necessary to Achieve Goals and Objectives

Identify the Audience

The first step is to identify the policy-makers (elected officials and staff) who play an essential role in bringing about the proposed policy changes. They may include members of the Executive branch and members of the Legislative branch holding key positions such as committee chair, ranking member of the committee, leadership or key power-brokers who have the respect of other members.

In addition, it is necessary to identify key stakeholders who have influence on policy-makers. These may be constituents having personal relationships with the key policy-makers who may support or oppose your position.

Further, it is necessary to identify other key players who influence policy-makers such as influential members of the media and public figures.

Control the Dynamics and the Message

The Dynamics

- Define the problem/issue. Controlling the language of the debate has significant ramifications regarding perceptions of and treatment by policy-makers.
- Create a snowball effect, bandwagon, aura of inevitability. The ultimate goal in any policy campaign is to convince the various stakeholders (for and against) that a bill has such a broad base of support among elected officials that its passage is inevitable. Various techniques include: bipartisanship, support by key policy-makers and opinion leaders, endorsement by the Administration and a broad-based coalition that includes atypical partners.
- Recognize the culture of the legislative subject area and the culture of the committee that has responsibility for a given bill. Not all committees operate in the same fashion, nor are all bills treated by committees in the same fashion. The coalition needs to take into consideration the culture of a committee and how it handles a given issue. Disability policy has a history of bipartisanship and consensus. Expected approaches used when considering disability legislation include positive working relationships among elected officials and staff and consensus. In contrast, issues involving workers' rights and protections are often highly partisan and divisive and therefore require the use of different strategies and tactics.
- Cultivate the political playing field. It is important to make judgments about the best approaches for moving a bill through the legislative maze. For example, if complex legislation is being considered that requires referral to a number of committees in the

House of Representatives but only one committee in the Senate, it may make sense to work on the legislation in the Senate first. Additional considerations include garnering support from the leadership, ensuring referral to friendly committees or subcommittees by judiciously worded legislation and the creation of unique entities to consider proposals (e.g., a bicameral working group, a summit).

The Message

- Keep it simple.
- Refer to basic American values such as fairness, personal responsibility, choice and accountability.
- Personalize the issue (use personal profiles).
- Where possible, stress that the policy initiative is incremental (not radical), viable, implementable, balanced and based on precedent – it simply extends current policy.
- Modify the message to be most persuasive to the target audience, while staying true to the core principles.

Identify Problems

Elected officials are in the business of developing policy solutions to problems that affect the public. Staff are in the business of trying to help elected officials identify problems that are real and pressing as well as issues that are better addressed through means other than legislation (e.g., modifying a regulation, leaving its solution to state policy-makers or leaving its solution to the free market).

As a general proposition, there are several steps that should be completed before a "legislative fix" is proposed. First, current law must be reviewed, including the regulations, guidelines and interpretations. Second, current implementation of the law must be assessed. Third, a review of studies, reports and surveys must be completed. Fourth, experts in the field must be identified and consulted. After these steps are completed, it is appropriate to agree on a statement of the problem and the major issues that need to be addressed. Of course, the complexity of the issue will determine the nature and extent of the review required.

Determine Policy Options

Once there is agreement on the statement of the problem and the major issues that need to be addressed, it is important to seriously consider the most appropriate course of action to pursue, which may or may not include a legislative fix.

*"**Go" versus "no go.**"* Identifying a problem does not automatically mean that a legislative fix should be pursued. There are times when the outcome from a new law may be worse than the current problem. Thus, the current political "lay of the land" must be considered before making a decision to proceed. Special care is required in the area of civil rights because the stakes are so high.

Vehicle for change. It is also important to decide on the appropriate vehicle for changing current policy. Can the desired outcome be achieved through:

- legislation?
- regulation or administrative action rather than through legislation? (It is often a lot easier to take the administrative route.)
- the reauthorization of an existing grant program?
- report language?
- the appropriations process (including report language)?
- regulatory or civil rights legislation?
- the establishment of a new or expansion of an existing entitlement (open-ended or capped)?
- the reconciliation process?

Staking out your position. The content of a legislative proposal depends on the purpose you are trying to achieve. If it is possible to obtain broad bipartisan support for a bill that accomplishes the coalition's goals and it is possible to obtain the commitment of key policy-makers that the bill will be considered during the upcoming session, it may be appropriate to include reasonable provisions (with some room for negotiations) to ensure the viability of the proposal. On the other hand, if the coalition anticipates a long, partisan debate with strong opposition, or if the bill is not likely to move any time soon, it may be appropriate to include more extreme positions that can be modified if and when the bill starts to move and negotiations begin in earnest.

Viability of proposal. When the goal is to enact a public law rather than identify an issue for next year's election campaign, it is necessary to ensure that the proposal is viable. Characteristics of viable proposals include:

- technical feasibility (i.e., the policy can work in the real world),
- likeliness to accomplish stated objectives,
- ability to be administered,
- unintended consequences are known or at least analyzed,
- anticipation and identification of constraints (e.g., costs, budgets), and
- indications of a broad base of support.

Get Policy-Makers' Attention and Involvement

Gain the Attention of Policy-Makers

There are many strategies and tactics that may be used to gain the attention of policy-makers. Some effective strategies include:

- bringing home the importance of immediate action by identifying a current crisis, disaster, powerful symbol or personal experience relevant to the policy-maker;
- identifying objective indicators such as studies, reports (including monitoring and evaluations) and surveys describing the problem and possible solutions;
- enlisting the support of interest groups that have a stake in the issue and enjoy the respect of key policy-makers;
- enlisting constituents to ask for the help of an elected official's staff to work on cases or complaints related to the subject matter of the pending legislation;
- securing the media's attention on the issue.

Get Policy-Makers Involved

Policy-makers are inundated with constituents and interest groups that identify problems and proposed solutions. Getting a policy-maker involved does not occur by chance. It takes a concerted effort to cultivate champions or avid supporters – both elected officials and staff. Examples of factors that help policy-makers get involved include:

- describing how the proposal addresses a keen personal interest of the elected official or staff;
- convincing an elected official that sponsorship or involvement will result in positive publicity and will transform them into a heavyweight—a "player";
- getting other members who are sponsors to call in "chits";
- getting the interest groups closely aligned with an elected official to endorse the proposal;
- getting an endorsement of the proposal from the experts and opinion leaders respected by an elected official;
- getting constituents with power, personal relationships and/or campaign contributors to make calls to the policy-maker; and/or
- getting constituents to send handwritten faxes, letters and to attend and speak at open forums in home districts.

Organizing and Interacting with the Grassroots

Elected officials want to be responsive to the needs and concerns of their constituents and, as a result, often listen to lobbyists about these concerns. However, to know more directly about their constituents' concerns, these officials often ask their staff, "What are we hearing from back home about this issue?"

Like everything else in the public policy process, responses from back home just don't occur by chance; responses from constituents back home are usually the result of efforts by members of a coalition to "mobilize the grassroots."

One of the most difficult and sensitive challenges faced by a coalition is understanding the breadth and depth of constituents' interests and expectations and balancing this understanding

with the realities under which elected officials function in the real world of politics and public policy. This is especially true when individual organizations join forces to form a coalition. Lobbyists working for organizations are expected to represent and advance the interests and expectations of their members and at the same time recognize that these interests and expectations may not necessarily conform to the interests and expectations of other coalition members.

- Coalition members face myriad questions in their effort to ensure that grassroots play an effective and positive role in the overall strategic plan to bring about positive change in policy.
- What role should the grassroots play in a campaign to enact or block public policy initiatives?
- What steps should be undertaken to ensure continuous feedback of information to grassroots about the progress of a coalition's efforts?
- When should the grassroots be mobilized to take action?
- What should be included in their message?
- What strategies should be used to lay the foundation for compromises that are an inevitable part of the process?
- What steps should be taken to ensure that the grassroots do not react against the decisions made by their representatives?
- Conversely, what steps should be taken to ensure that the representatives do not compromise heartfelt principles of the grassroots?

The role of the grassroots. The primary role of the grassroots is to send a message to policy-makers that an issue is critical to them. The message may be delivered through various channels (e.g., making a phone call, sending a handwritten letter, attending a town hall meeting or participating in a demonstration or march). A significant grassroots effort can effect the dynamics of a public policy campaign by creating the impression that there is a ground swell of support/opposition, thereby helping establish an "aura of inevitability" that the concerns must be addressed.

Keeping the grassroots informed. It is critical that the grassroots be kept informed about the major events occurring in Washington, D.C., or in a state capitol. Various strategies such as newsletters, faxes and electronic media are appropriate. It is not possible, nor is it advisable, to communicate every problem or setback to the grassroots; people will lose interest, or worse, will react inappropriately to incomplete information or information without a proper context. Furthermore, it is critical to recognize that information provided to fellow supporters will instantaneously be in the hands of those who oppose your position. Thus, the information shared must not only send a message to your grassroots but also to your opponents.

Mobilizing the grassroots. One of the most difficult strategic planning issues is to determine if and when to mobilize the grassroots to take an action. It is difficult because timing is always crucial. Questions to consider include:

- is the issue one in which grassroots support will make a difference?
- how often can the grassroots be asked to take action before they get fatigued and lose hope/interest?
- will your mobilization of grassroots produce an equal or greater mobilization by your opponents?
- can sufficient responses be generated to make it clear that people back home really care about the issue?
- *Framing the message.* The message sent to the grassroots must be simple and yet compelling. The message back from the grassroots to the policy-makers must be clear and personal.

Explaining compromises. Compromising positions without compromising principles is an acceptable and expected outcome of any policy campaign. Deciding when and how to communicate the compromises to the grassroots is important. Your communications should:

- restate the basic principles guiding your actions and explain how these principles have not been compromised, and
- keep the opinion leaders, who enjoy the trust and respect of a given subset of the grassroots, well informed. Ensure that the grassroots opinion leaders understand and approve of the decisions and deliver the message directly to their constituencies.

The Media

The media plays an important role in any public policy campaign, although the impact of the media is sometimes exaggerated. The impact is strongest when the media hooks on to an issue for a period of time, e.g., President Clinton's health care reform initiatives when he first took office. However, in most cases, the media runs a story for only a short period of time before they leave it for the next issue.

Media coverage is important for several reasons. First, the media can help establish a positive dynamic in which a favorable outcome is considered inevitable. Editorial writers may indicate that the bill is going to pass and that it is only a question of when. Second, the media can help garner the attention of policy-makers. If elected officials read an article in the newspaper or see an issue on television, they are more apt to pay attention to it. Third, the media affects public opinion.

Gaining access to the general public through the media is always a key component of any policy campaign. There are a number of sources for guidance on how to use the media to advance your issue such as *Using the Media to Advance Your Issue* by The Advocacy Institute (Washington, D.C.).

Chapter 7

Assessment of Progress

Throughout the course of any policy campaign, it is necessary to continually review the effectiveness of the coalition's strategies and tactics in relationship to the coalition's overall principles, goals and objectives. Though ongoing assessments are critical, members of the coalition must not panic or overreact to setbacks. Nor should "victory" be declared prematurely. Once a strategy is put in place, coalition members should be open and flexible to change and at the same time resist overreaction. The major question should be whether the coalition's goals and objectives are still appropriate and timely.

Appendix A

An Important Note on Lobbying and Independent Living Organizations

…. By Richard E. Petty, IL Net Director

This guide describes highly effective techniques for influencing public policy, many of which constitute lobbying. Centers for independent living may engage in lobbying. They are, however, required to follow federal and state laws and regulations governing nonprofit lobbying activities. There are also certain prohibitions and specific requirements related to the use of federal funds in lobbying. Statewide Independent Living Councils (SILCs) that have established themselves as nonprofit organizations are also covered under these same laws and regulations. There may be additional state prohibitions and requirements related to lobbying which apply to statewide independent living councils.

Centers and SILCs are encouraged to secure the advice of a competent legal professional. Appendix B of this book contains Frequently Asked *Questions* on Lobbying. Below is a listing of several excellent publications on the topic.

Publications on Nonprofit Lobbying

- *Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities*. Alliance for Justice, 2000 P Street, NW, No. 712, Washington, DC 20036, (202) 822-6070, www.afj.org. A comprehensive guide to the IRS rules on lobbying by 501(c)(3) organizations. Price: $15.
- *The Nonprofit Lobbying Guide—Advocating Your Cause and Getting Results. Second Edition*. Independent Sector Publications Center, P. O. Box 343, Waldorf, MD, 20604-0343, (888) 860-8118, www.indepsec.org. A comprehensive, practical guide on how to lobby and lobbying laws. Price: $24.95.
- *Living with A-122: A Handbook for Nonprofit Organizations*. OMB Watch, 1742 Connecticut Avenue, NW, Washington, DC, 20009, (202) 234-8494. This handbook, published after major changes to lobbying rules in OMB Circular A-122, is available in three parts: Part I is a technical analysis of the lobbying rules; Part II describes how to cope with the rules; and Part III is a comparison to other lobbying rules. Price: $20/complete set. $8/part.

Appendix A
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Appendix B

Frequently Asked Questions About Lobbying and CILs

… by Bob Michaels, Laurel Richards, Cynthia Dresden and Dawn Heinsohn

> *"It's easy to tell if a center's doing strong advocacy. Someone from the state is telling them they're not allowed to lobby."* —Ed Roberts

This FAQ addresses lobbying questions that have been raised during our training programs, technical assistance calls and consultant work. It was originally developed in May 1997. We have revised it in response to amendments made to OMB Circular A-122.

In developing this FAQ, a study was conducted of pertinent regulations of the Internal Revenue Service and the Department of Education, and then the answers were reviewed with an attorney specializing in lobbying issues and with John Nelson, chief of Independent Living Branch of Rehabilitation Services Administration, and other officials of the Department of Education. We hope you find this FAQ useful, and we welcome any recommendations for improving it that you care to offer.

1.   Are centers for independent living allowed to lobby?

Yes, CILs may lobby; however, the types of lobbying activities that are permissible vary, depending on whether they are supported with federal or non-federal funds. In addition, a CIL's lobbying activities may be further limited by Internal Revenue Service regulations applicable to nonprofit organizations.

2.   What statutes or regulations do centers need to follow with regard to lobbying?

- The federal government requires granting and contracting agencies, such as the Department of Education, to follow guidelines set out in the *Office of Management and Budget (OMB) Circular A-122* (as amended in August 1997) when awarding federal funds. Additional restrictions may be found in Department of Education regulations 34 CFR Part 82.
- Centers may elect to follow guidelines set out in regulations developed under the *Internal Revenue Code, Sections 501(h) and 4911*.
- Centers that employ lobbyists or direct considerable funds to lobbying activities must meet reporting requirements set out in the *Lobbying Disclosure Act of 1995 (P.L. 104-65)*.

While requirements contained in these three documents will be covered in the remainder of this FAQ, there may be other federal, state or local laws or regulations that affect the lobbying

activities of a center. Center staff should contact the agencies in their states that regulate activities of nonprofits and request provisions related to lobbying activities.

It is imperative that center staff has a thorough understanding of these laws and regulations whenever issues of compliance are raised—and **always** get a second opinion.

3. I have been told that centers that receive Title VII funds are restricted from lobbying. Is this true?

Except as described in #5 below, CILs that receive Title VII funds are restricted from using Title VII as well as other federal funds to engage in lobbying activities. However, as stated above, centers may use nonfederal funds to engage in lobbying activities.

4. What lobbying activities may not be supported with federal funds?

Briefly, lobbying activities that cannot be supported with federal funds include:

- Attempts to influence the outcome of any federal, state or local election, referendum, initiative or similar procedure;
- Supporting in any way a political party, campaign, political action committee or other organization established for the purpose of influencing the outcome of elections;
- Any attempt to influence the introduction, enactment or modification of federal or state legislation, including efforts to utilize state or local officials to engage in similar activities;
- Any attempt to influence the introduction, enactment or modification of federal or state legislation by trying to gain the support of part or all of the general public;
- Legislative liaison activities in support of unallowable lobbying activities;
- Any attempt to influence an executive or legislative branch official with respect to any grant, contract, loan or cooperative agreement.

It is important to note that activities that may not be supported by a center's federal funds may be supported by its nonfederal funds.

5. What lobbying activities may be supported with federal funds?

Non-restricted lobbying activities (that is, those lobbying activities which can be supported with federal funds) include:

- Providing a presentation through hearing testimony, statements or letters in response to a **documented** request, if the information needed for the presentation is readily available. Costs for travel, lodging and meals are not allowed unless testimony is given in response to a written request from the chairman or ranking minority member of a congressional committee or subcommittee;

- Lobbying to influence state legislation, in order to reduce directly the cost of performing the grant or contract or to avoid impairing the organization's ability to do so;
- Any activity specifically authorized by statute to be undertaken with funds from the grant, contract or other agreement.

6.   Will we jeopardize our center's 501(c)(3) status if we lobby?

There are really two questions that must be answered: Is the activity under consideration really lobbying and does lobbying constitute a substantial portion of what the center does, under IRS rules.

Question One: Are the center's activities lobbying or something else?

Direct lobbying is defined in the Internal Revenue Code (IRC) and regulations as "any attempt to influence any legislation through communication with any member or employee of a legislative body or with any government official or employee who may participate in the formulation of the legislation."

This includes such obvious activities as contact with a legislator about a specific piece of legislation, advocating for increases in funding in the budget, opposing a candidate for appointive office and encouraging the general public to support or reject an initiative, referendum or board measure.

Direct lobbying does not include activities such as educating decision makers about issues of importance to people with disabilities, administrative lobbying, surveying candidates for office, attending public hearings or even testifying, if requested by a legislative committee in writing. Nonpartisan analysis and self-defense lobbying also qualify as exceptions under IRS rules.

A communication (with the general public or any segment thereof) will be treated as grass roots lobbying if and only if the communication (1) refers to specific legislation, (2) reflects a view on such legislation, and (3) encourages the recipient to take action with respect to such legislation (for instance, through a "call to action").

Question Two: Is lobbying a substantial part of what the center does?

Centers can either elect to comply with IRC Section 501(h) which requires filing papers with the IRS and reporting annually on lobbying activities—or elect not to file under the law. Compliance with the law allows 501(c)(3) corporations to expend as much as 20 percent of their funds for lobbying activities depending on the size of the organization. Those choosing not to file may only spend an amount that is not "substantial." One court ruled that devoting more than five percent of an organization's resources to lobbying activities was substantial.

So, why doesn't everyone file under IRC 501(h)? Because most organizations haven't learned about it yet. The guidelines are far more generous, yet record-keeping demands for day-to-day lobbying activities are virtually the same.

7. How does lobbying differ from advocacy?

In the regulations for Title VII of the Rehab Act, advocacy is defined as "pleading an individual's cause or speaking or writing in support of an individual. … Advocacy may be on behalf of a single individual . . . A group or class of individuals . . . Or oneself." Note that in this context, "pleading" is a legal term meaning "a formal statement setting forth the defense of a case" (Random House Dictionary). Advocacy, then, is action taken to convince others of the rightness of your cause and of their need to join you in supporting this cause.

Lobbying is a subset of advocacy in that it is a set of activities that plead a cause and set forth the defense of a case in order to influence the voting of legislators. In other words, lobbying is advocacy with a very narrow and specific focus—to convince legislators to vote as you wish them to on specific legislative proposals. Thus, the use of the word "advocacy" does not change the nature of what is or is not permitted as a lobbying activity.

8. Where can our center get more information about compliance with the Internal Revenue Code?

You can always try the IRS itself, but most of its information is not written for people other than certified public accountants. One excellent source of information we've found has been written by Greg Colvin, an attorney who specializes in this area. You can contact Greg at Silk, Adler and Colvin, 415.421.7555 to inquire about resource materials he has developed regarding lobbying and the tax code.

Other sources include Independent Sector (1828 L, N.W., 1200, Washington, D.C., 20036, 202.223.8100); Alliance for Justice (2000 P St., N.W., Suite 712, Washington, D.C. 20036, 202.822.6070); and Chronicle of Philanthropy (1255 23rd Street, N.W., Suite 700, Washington, D.C., 20037, 202.466.1200).

9. How does the Lobbying Disclosure Act of 1995 affect centers?

In most cases, it doesn't. Centers which attempt to influence Congress or top federal executive branch officials may be required to register, to report their areas of interest and to specify the amount of money spent on lobbying activities. A center is required to register under the Act only if: 1) an individual employed or retained by the center makes more than one contact and spends 20 percent or more of his or her time providing lobbying activities for the center during a six-month period, and 2) the center's total expenses in connection with lobbying activities exceed $20,000 in a six-month period.

10.   How may I obtain copies of the documents identified in this FAQ?

The documents referred to in this FAQ are available through the Government Printing Office or from your auditor or congressman. In addition, many codes, regulations and legislation can be downloaded electronically from the Internet.

- To access OMB Circular A-122 online, go to www.whitehouse.gov/WH/EOP/OMB/html/circulars/a122/a122.htm.
- For the Internal Revenue Code (P.L. 94-455), the address is www.law.cornell.edu/uscode/26/4955.html

To find a copy of the Lobbying Disclosure Act of 1995 (P.L. 104-65) Act and other federal legislation, go to the Thomas homepage at http://thomas.loc.gov, probably the best springboard into everything from public documents to the inner workings of Congress.

CONCLUSION

As you know, advocacy is one of the core services of a center, essential to achieving the mission of promoting independent living opportunities for persons with disabilities. This said, among questions most often heard by IL NET trainers and technical assistants are what constitutes advocacy and what distinguishes it from lobbying?

This FAQ is intended to provide the basics. If you need more information, be sure to contact an attorney or your grantor agency.

"Frequently Asked Questions About Lobbying and CILs" is reprinted from the "Readings in Independent Living" series published by ILRU and the IL Net. The information was prepared by Bob Michaels with assistance from Laurel Richards, Cynthia Dresden and Dawn Heinsohn. We extend our appreciation to Greg Colvin; John Nelson of the Independent Living Branch, RSA; Sergio Kapfer, Department of Education General Attorney, Division of Educational Equity and Research; and Susan Winchell, Department of Education Ethics Counsel Staff for agreeing to review these responses.

Appendix B
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