**Lobbying vs. Educating/Advocating**

Information comes from:
DD Act Final Rule (2015) (DD Act Sec. 125 (c)(5)(L))

Public Law 106-402, Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq).

Information and Technical Assistance Center (ITACC) for DD Councils

**DD Councils Must Advocate**

**The Developmental Disabilities Assistance and Bill of Rights Act of 2000**[**https://www.acl.gov/sites/default/files/about-acl/2016-12/dd\_act\_2000.pdf**](https://www.acl.gov/sites/default/files/about-acl/2016-12/dd_act_2000.pdf)

**From the DD Act:**

SEC. 125. STATE COUNCILS ON DEVELOPMENTAL DISABILITIES AND DESIGNATED STATE AGENCIES.

(c) COUNCIL RESPONSIBILITIES.—

 (2) **ADVOCACY, CAPACITY BUILDING, AND SYSTEMIC CHANGE ACTIVITIES**.—The Council shall serve as an advocate for individuals with developmental disabilities and conduct or support programs, projects, and activities that carry out the purpose of this subtitle.

Our MOU mimics the DD Act and DHHS has committed to ensuring our independence is protected.

**Permissible Advocacy/Education Activities in DD Act**

* Educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families, including training in self-advocacy, education of policymakers, and citizen leadership skills.
* Support coalitions that support the policy agenda of the Council, including training in self-advocacy, education of policymakers, and citizen leadership skills.
* Provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations.
* Provide the information directly to Federal, State, and local policymakers, including Congress, the Federal executive branch, the Governors, State legislatures, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services to meet the needs of, or provide specialized services to, individuals with developmental disabilities and their families.
* “Other Activities.” (DD Act Sec. 125 (c)(5)(L))

**“Advocate/Education” v. Lobbying Regulation**

DD Act Final Rule (2015) –

Broadened “Advocacy activities” definition:

* “[A]ctive support of policies and practices that promote systems change efforts and other activities that further advance self- determination and inclusion in ***all aspects of community living*** (including housing, education, employment, and other aspects) for individuals with developmental disabilities, and their families.”

Provided additional guidance on activities:

* Maintained that advocacy should be balanced and non-partisan.
* Clarified that “grantees may use non-federal funds for other policy related activities in accordance with relevant federal and state laws.”
* Required Designated State Agency to determine all activities in plan are “consistent with applicable State laws, and obtain appropriate State plan assurances.”

HHS Grant Recipients CANNOT Lobby.
<https://www.hhs.gov/grants/grants/grants-policies-regulations/lobbying-restrictions.html#ftn5>

In general, recipients of federal funds *are not allowed* to use said federal funding to lobby federal, state, or local officials or their staff to receive additional funding or influence legislation such as:

* Spending federal funds to influence an officer or employee of any agency or Congressional member/staff regarding federal awards;
* Using grants funds provided to influence an election, contribute to a partisan organization, or influence enactment or modification of any pending federal or state legislation; or
* Expending federal funds to influence federal, state, or local officials or legislation.

EXCEPT they *may* engage in:

* Technical or factual presentations on topics related to the performance of a grant in response to a documented request made by the member of congress or legislative body.
* Any lobbying in order to influence state legislation in order to directly reduce the cost, or to avoid material impairment of the non-federal entity’s authority to perform the grant.
* Nonpartisan analysis, study, or research reports and examinations and discussions of broad social, economic, and information provided upon request by a legislator for technical advice and assistance, as defined by the Internal Revenue Code.
* ***Any activity specifically authorized by statute to be undertaken with funds from the federal award*.**

**Educating Policymakers**

**Question: Our state plan includes public policy and educating policymaker activities. Are we allowed to say we support a specific piece of legislation being considered?**

Answer: Yes, the Council can educate a policymaker on the positive and negative aspects of a public policy issue and present full and fair information that is not biased or inflammatory. However, the Council cannot tell a policymaker how to vote on an item or make an “ask” of the policymaker.

In short, we ***CAN*** sign up to testify in support or opposition of a bill.  We can say the Council supports a bill because of "x" by explaining how the bill will positively or negatively impact people with I/DD.

What we cannot do is tell a policymaker how to vote – so we cannot say "...this is why we urge you to vote yes on Bill 'x" or no on Bill "x". If a policymaker asks us, “how do you want us to vote?” – we ***CANNOT*** answer.