

System-wide Policy: HR0527 - Federal Lobbying Activities (Superseded by GE0003 - State and Federal Government Relations Activities)	
Version: 1	Effective Date: 10/01/2017

HR0527 – Federal Lobbying Activities

Objective:

To provide employees of the University of Tennessee with guidance on the proper coordination and reporting of federal lobbying activities.

Policy:

Introduction

1. The purpose of this policy is to facilitate compliance with federal law and enhance the effectiveness of contacts with federal government officials.
2. The President, through the Office of Government Relations and Advocacy, directs a coordinated federal legislative, policy, research, and budgetary agenda on an annual basis on behalf of the University of Tennessee System – its campuses, institutes, and units. The Vice President for Government Relations and Advocacy (“Vice President”) is responsible for coordinating the University’s lobbying activities. Reporting to and under the supervision of the Vice President, the Office of Federal Relations serves as the University’s official liaison with government officials. The Vice President will ensure the involvement of the appropriate University officials in these matters.
3. As an entity that engages in federal lobbying activities, the University must comply with federal law, including but not limited to the Lobbying Disclosure Act of 1995 (as amended by the Honest Leadership and Open Government Act of 2007) and the Byrd Amendment.

Scope

4. This policy addresses only the official representation of the University. Nothing in this policy is intended to restrict protected personal expression by a University employee (including expression on behalf of a professional society or other

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organization) on personal time using personal resources; nor is this policy intended to restrict a University employee from identifying his/her profession or place of employment in the context of his/her personal communication with a government official. However, a University employee must make it clear that he/she is expressing his/her personal views and not an official position of the University.

5. Many contacts with federal executive branch and legislative branch employees will not trigger the coordination and reporting requirements of this policy because this policy only applies to contacts with “covered executive branch officials” and “covered legislative branch officials.” Covered executive and legislative branch officials generally include high-level officials like political appointees (but not program managers or grant administrators), members of Congress, and congressional staff. Paragraph 13 of this policy provides guidance for situations in which a University employee is in doubt whether a federal employee is a covered executive branch official or covered legislative branch official.

Definitions

6. **“Covered executive branch official”** means any and all of the following persons:
 - a. the President and the Vice President of the United States;
 - b. any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President of the United States;
 - c. any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive Order;
 - d. any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in 5 U.S.C. § 7511(b)(2)(B) (“Schedule C” employees); and
 - e. Any member of the uniformed services whose pay grade is at or above O-7 under 37 U.S.C. § 201.

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7. **“Covered legislative branch official”** means any and all of the following persons:
- a. a Member of Congress;
 - b. an elected officer of either House of Congress;
 - c. any employee of, or any individual functioning in the capacity of an employee of, a Member of Congress, a committee of either House of Congress, the leadership staff of the House of Representatives or the Senate, a joint committee of Congress, and a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and
 - d. any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. Appendix 4).
8. **“Government officials”** means any and all covered executive branch officials and covered legislative branch officials.
9. **“Lobbying activities”** means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in lobbying contacts, and coordination with the lobbying activities of others.
10. **“Lobbying contact”** means any oral or written communication to a covered executive branch official or covered legislative branch official that is made on behalf of the University of Tennessee (including but not limited to any campus, institute, unit, and department) with regard to
- a. the formulation, modification, or adoption of Federal legislation (including legislative proposals);
 - b. the formulation, modification, or adoption of a Federal rule, regulation, Executive Order, or any other program, policy, or position of the United States Government;

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- c. the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a contract, grant, loan, permit, or license); or
- d. the nomination or confirmation of a person for a position subject to confirmation by the United States Senate.

A contact made “on behalf of the University” includes a contact for which an employee has been reimbursed or is eligible for reimbursement for expenses under [FI0705 - Travel](#) (Travel).

The term “lobbying contact” does not include a communication that is excluded from the definition of “lobbying contact” under 2 U.S.C. § 1602(8)(B). As a result, the following communications are not lobbying contacts:

- e. a speech, article, publication or other material that is distributed and made available to the public, or through radio, television, cable television, the Internet, or other medium of mass communication;
- f. a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;
- g. testimony given before a committee, subcommittee, or task force of the United States Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;
- h. information provided in writing in response to an oral or written request by a covered executive branch official or covered legislative branch official for specific information;
- i. a communication required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the United States Congress or a Federal agency, including but not limited to any communication compelled by a Federal contract, grant, loan, permit, or license;

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- j. a communication made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the Federal agency official specifically designated in the notice to receive such communications;
- k. a communication that is not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;
- l. a communication made to an official in an agency in regard to: (i) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or (ii) a filing or proceeding that the United States Government that is specifically required by statute or regulation to maintain or conduct on a confidential basis, if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;
- m. a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding; or
- n. a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law.

11. **“Lobbyist”** means any individual who is employed or retained for financial or other compensation primarily for lobbying activities.

Coordination of Lobbying Activities

12. University employees must not engage in lobbying activities, or give the appearance of engaging in lobbying activities, without specific prior authorization by the Vice President for Government Relations and Advocacy. If circumstances make obtaining prior authorization impractical for a Chancellor, Vice Chancellor or University unit head, then the Chancellor/Vice Chancellor/unit head may engage in a lobbying contact with a government official without prior authorization. However, the Chancellor/Vice Chancellor/unit head must ensure that the lobbying contact is in accordance with the University’s legislative, policy,

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research, and budgetary priorities, as established by the President and the Office of Government Relations and Advocacy.

13. If a University employee is in doubt whether a federal employee is a covered executive branch official or a covered legislative branch official, the University employee should consult with the Vice President for Government Relations and Advocacy or ask the federal employee whether he/she is a covered executive branch official or covered legislative branch official. The Lobbying Disclosure Act, 2 U.S.C. § 1609(c), requires that, upon request by a person making a contact, a federal employee shall indicate whether he/she is a covered executive branch official or covered legislative branch official.

With respect to covered executive branch officials described in Paragraph 6(b)-(d) of this policy, a University employee may refer to the United States Government Policy and Supporting Positions (Plum Book), which is published after each Presidential election by the United States Senate's Committee on Governmental Affairs and the House of Representatives' Committee on Government Reform. A copy of the current version of the Plum Book can be found at www.gpo.gov. However, the Plum Book may not have up-to-date information because it is published only once every four years. Thus, University employees should be cautious in relying solely on the Plum Book for determining that someone is not a covered executive branch official or a covered legislative branch official.

14. No University campus, institute, division, unit, or department may employ or retain a lobbyist without the prior approval of the Vice President.
15. Under a federal law known as the Byrd Amendment (31 U.S.C. §1352(b)), federal grantees, contractors, and those with cooperative agreements with the federal government are prohibited by law from using federal funds to lobby the federal executive or legislative branches of government (including any agency employee) with respect to the awarding of specific contracts and grants.

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Quarterly Reporting of Lobbying Activities

16. The Lobbying Disclosure Act (as amended by the Honest Leadership and Open Government Act of 2007) requires the University to file quarterly reports with the United States Senate and the United States House of Representatives concerning lobbying activities. The report includes a good faith estimate of the total expenses that the University and its employees incurred in connection with lobbying activities during the quarter.
17. The Director of Federal Relations is responsible for managing the University's compliance with the Lobbying Disclosure Act. University employees who engage in lobbying activities during a quarter (i.e., January 1- March 31, April 1- June 30, July 1- September 30, October 1-December 31) must report those activities to the Director of Federal Relations within seven (7) days of the lobbying contact by using the online reporting form developed by the Director of Federal Relations. Knowing violations of the Lobbying Disclosure Act carry potential civil and criminal penalties. The University may be required by the Lobbying Disclosure Act to report a University employee's communication with a covered executive or legislative branch official, even if the employee is not a registered federal lobbyist.

Semiannual Reporting of Honorary Contributions

18. The Lobbying Disclosure Act also requires the University and its registered federal lobbyists to file semiannual reports (i.e., January 30 and July 30) with the United States Senate and the United States House of Representatives concerning certain political and honorary contributions that are not reported in the quarterly report described in Paragraph 16 of this policy. The Director of

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Federal Relations is responsible for filing the semiannual reports on behalf of the University.

19. The obligation to report political contributions is not applicable to the University because the University is prohibited by law from participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office.
20. Honorary contributions that the University must report include funds contributed or disbursed during the semiannual period by the University:
 - a. to pay the cost of an event to honor or recognize a covered legislative branch official or covered executive branch official (e.g., an event at which a covered legislative branch official or covered executive branch official is an honored guest or receives a special award, honor plaque, or honorary degree);
 - b. to an entity that is named for a covered legislative branch official, or to a person or entity in recognition of such official;
 - c. to an entity established, financed, maintained, or controlled by a covered legislative branch official or covered executive branch official, or an entity designated by such official; or
 - d. To pay the costs of a meeting, retreat, conference, or other similar event held by, or in the name of, one (1) or more covered legislative branch officials or covered executive branch officials.

The University generally is not required to report the purchase of tickets or a table to attend an event sponsored by another organization, even if a covered legislative branch official or covered executive branch official is recognized or honored at the event.

Semiannual Certification of Compliance with Congressional Gift and Travel Rules

21. The semiannual report described in Paragraph 18 also contains a certification by the University and its registered federal lobbyists of understanding and

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compliance with the [gift and travel rules of the United States Senate](#) and the [gift and travel rules of the United States House of Representatives](#). Covered executive branch officials are subject to other gift and travel rules. Because of the complexity of those rules, employees must not provide gifts, meals, entertainment, or travel to a covered federal executive branch official or covered legislative branch official without prior approval by the Vice President.

Examples of Activities Covered by this Policy

22. Examples of activities covered by this policy include:

- a. A University faculty member travels to Washington, D.C., to meet with congressional staff to discuss the importance of funding for her research field. This constitutes a lobbying contact subject to this policy.
- b. A University faculty member calls the Assistant Secretary of a federal agency from the faculty member's office in Tennessee to advocate on behalf of a proposal for funding that the University submitted to the agency. This constitutes a lobbying contact subject to this policy.
- c. While in Washington, D.C., for a professional association meeting, a University faculty member contacts a member of Congress regarding federal funding for cancer research. The contact with the member of Congress constitutes a lobbying contact subject to this policy.
- d. A University faculty member is in a leadership position in the Faculty Senate. At a campus event, the faculty member engages in a discussion with a member of Congress about a federal law issue impacting employee benefits on the campus that is the subject of current discussions and debate in the Faculty Senate. During the course of the conversation with the member of Congress, the faculty member discloses her Faculty Senate leadership position, indicates that the Faculty Senate is grappling with the issue, and expresses the concerns of Faculty Senate members about the issue that have been voiced in recent meetings of the Faculty Senate and its committees. The University does not consider the faculty member's conversation with the member of Congress to be a lobbying

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contact subject to this policy because the faculty member is speaking on behalf of the Faculty Senate, not the University. Nevertheless, the faculty member should make it clear to the member of Congress that he/she is speaking on behalf of the Faculty Senate, not the University.

- e. A group of University officials involved in widget research decide to honor two members of Congress with "Widget Research Legislative Leaders of 2015" plaques. The University officials are aware that the senator has checked with the Senate Select Committee on Ethics regarding his or her ability to accept the award and attend the coffee, and the representative has checked with the House Committee on Standards of Official Conduct. The University officials pay a caterer \$500 and a hotel \$200 to partially fund the event. The university officials would report that they paid \$500 to the caterer and \$200 to the hotel on the next quarterly disclosure report for the purpose of an event to honor or recognize the members of Congress with the plaques.
- f. The University buys a table at a dinner event sponsored by a 501(c) organization to honor a member of Congress, but the University is not considered a sponsor of the event under House and Senate gift rules. The University President pays the \$150 individual ticket cost to attend the dinner, but is not considered a sponsor of the event under House and Senate gift rules. The purchase of a table or ticket to another entity's event, in and of itself, is not sufficient to be considered paying the "cost of an event." Supplemental facts might require reporting the cost of the event. For example, if (1) the University or the President undertake activities such that either becomes a sponsor of the event for House and/or Senate gift rule purposes; or (2) the University or the President purchases enough tickets/tables so that it would appear that they are paying the costs of the event and/or would not appear to be just ticket or table-buyers, then the University and the President would need to report the costs incurred by either (as the case may be) for the event, noting the member of Congress who was the honoree.

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- g. In May 2015, in conjunction with its commencement event, the University conferred an honorary degree upon Senator “P.” The University must report all payments relating to the commencement event (chair rental, lunch for honorees, etc.) on its semiannual report of honorary contributions, listing “various vendors” as the payee, and Senator “P” as the honoree.

Questions

Questions about this policy, including questions about whether particular activities are subject to this policy, should be directed to the Vice President for Government Relations and Advocacy.