Regulation on Contacts with Covered Federal Government Officials

This regulation governs all University contacts with covered federal government officials\(^1\). This regulation applies to employees who in their official capacity interact with covered federal government official and is intended to assist these employees and the University in presenting an authorized, accurate, and persuasive presentation.

1. OFFICIAL POLICY POSITIONS AND CONTACT ON BEHALF OF THE UNIVERSITY

   The President shall initiate a collaborative federal agenda development process to determine the federal priorities of the University on an annual basis. The Unified Federal Agenda shall consist of the University’s “Policy, Programmatic and Agency Rule Change” and “Multi-institutional Project” priorities. Upon Board of Governors approval, the Unified Federal Agenda shall serve as the basis for all official federal lobbying efforts. Campus-based Congressionally-directed funding requests shall be at the discretion of the individual campus. When federal policy questions arise that are not on the University’s Unified Federal Agenda, the President will determine the official position and the priority of the policy issue on behalf of the University. Under direction from the President, the Vice President for Federal Relations shall have primary responsibility for representing the University with the federal government.

2. UNIVERSITY AND CAMPUS FEDERAL RELATIONS PERSONNEL

   The Vice President for Federal Relations and the Director of Federal Relations shall serve as Federal Relations Officers for the University at large as well as the General Administration and shall at a minimum have the following duties and responsibilities:

   - Represent the President and the Board of Governors with the federal government;
   - Represent the President and the General Administration on the University-wide Federal Relations Council;
   - Coordinate General Administration and Federal Relations Council activities in support of the University’s approved Unified Federal Agenda;
   - Represent the President and the Board of Governors in pursuit of Congressionally-directed grant funding;
   - Assist the Vice President for Research in the pursuit of contracts, grants and cooperative agreements with federal government agencies;
   - Assist the Vice President for Research in the proper training of Byrd Amendment compliance by campus research personnel;
   - Coordinate visits between covered federal government officials and the Board of Governors, General Administration personnel, and affiliated entities;
   - Manage external consultants engaged in a federal lobbying capacity on behalf of the General Administration;
   - Work with the University’s General Counsel to educate General Administration employees and the Federal Relations Council on their role in and the obligations of the campuses to comply with the federal Lobbying Disclosure Act of 1995, as amended; and

\(^1\) Covered federal government officials include any member, officer, or employee of Congress or the President, Vice President, officers and employees of the Executive office of the President, and various high-level officials and uniformed officers in the executive branch outlined in the “Plum Book.” [http://www.gpoaccess.gov/plumbook/index.html](http://www.gpoaccess.gov/plumbook/index.html)
Monitor all lobbying activities on behalf of the General Administration and file registration and reports as appropriate to ensure full compliance with the federal Lobbying Disclosure Act of 1995, as amended.

**Federal Relations Officer Designation**
Each Chancellor shall designate a campus officer to carry out the function of Federal Relations Officer (FRO). The duties and responsibilities of the campus Federal Relations Officer shall be but are not limited to:

- Represent the campus on the University’s Federal Relations Council;
- Coordinate campus activities in support of the University’s approved Unified Federal Agenda;
- Assist the campus research officer in pursuing contracts, grants and cooperative agreements with federal government agencies;
- Assist the campus research officer in the proper training of Byrd Amendment (31 USC 1352) compliance by campus research personnel;
- Coordinate visits by covered federal government officials to the campus or affiliated campus program;
- Represent the campus in pursuit of Congressionally-directed grant funding;
- Manage external consultants engaged in a federal lobbying capacity on behalf of the campus;
- Work with the campus attorney to educate all campus employees on their role in and the obligations of the campus to comply with the federal Lobbying Disclosure Act of 1995 as amended; and
- Monitor all lobbying activities on behalf of the campus and file registration and quarterly reports as appropriate to ensure full compliance with the federal Lobbying Disclosure Act of 1995, as amended.

3. **FEDERAL RELATIONS COUNCIL**
The Federal Relations Council (FRC) shall serve as a coordinating body in support of the following activities:

- Development, strategy, and advocacy in support of the University’s Unified Federal Agenda;
- Training of FRC members on lobbying best practices, federal policy and funding trends and activities;
- Compliance with federal lobbying disclosure requirements.

**Composition**
The FRC is composed of one representative, the Federal Relations Officer, from each of the seventeen constituent campuses of the University of North Carolina, as well as the Vice President for Federal Relations and the Director of Federal Relations from the General Administration. Additional representatives or alternates may be named as ad hoc members to the FRC.

**Meetings**
Official FRC meetings shall be conducted on a semi-annual basis. The Vice President for Federal Relations and Director of Federal Relations will organize FRC meetings and develop the agenda based upon current federal issues and input from the FRC. At each FRC meeting, lobbying and ethics compliance guidance and best practices will be provided. Additional meetings may be arranged to enable information sharing on specific topics.
4. CONTACT BY UNIVERSITY EMPLOYEES WITH COVERED FEDERAL GOVERNMENT OFFICIALS

Prior approval from the Chancellor or his/her designee is required before any campus employee may initiate contact with covered federal government officials on behalf of the University. The Chancellor may delegate this responsibility to the Federal Relations Officer. The following scenarios specifically require advance approval by the Chancellor or the Federal Relations Officer:

- Appearances on behalf of the University before federal bodies, including testimony before Congressional Committees or participation in meetings with White House personnel. **Note:** When University employees appear before such bodies as representatives of other agencies, such as professional societies, it is requested that they notify the campus Federal Relations Officer prior to the appearance.
- Any request on behalf of the University to a covered federal government official, particularly requests for Congressionally-directed funding, support of grant proposals or nominations to federal advisory councils.
- The delivery of materials, University publications, and periodicals to covered federal government officials.
- Any verbal or written statement made on behalf of the University that concerns federal policies, legislation or regulations.
- Invitations to covered federal government officials to visit campus in an official capacity. **Note:** The visit should be coordinated by the FRO.
- Responses to requests for information, reports, and statistics from covered federal government officials and their staff, including responses to inquiries from investigative congressional committees.
- Participation in press events with covered federal government officials intended to promote federal policy or funding priorities.
- Any planned University event to honor a covered federal government official including but not limited to the naming of a building or endowed chair, extending an honorary degree, or hosting of a meeting, retreat, conference or other similar event in the name of the official.

After contacts or visits have been made with covered federal government officials by a person on behalf of the University, a short report on the contact should be made to the campus Federal Relations Officer.

5. EXTERNAL COUNSEL/CONSULTANTS

Chancellors may retain external consultants to assist the campus in securing Congressionally-directed grant funding for special projects. **No state, federal, or tuition dollars may be used for this purpose.** Consultants shall never engage Congress, covered officials at the agencies, or White House personnel on policy matters on behalf of the University. Care should be taken to ensure that all external counsel/consultant expenditures are reported as “lobbying activity” as appropriate.

6. PERSONAL AND PROFESSIONAL SOCIETY CONTACTS

Personal and professional society contacts with elected officials or governmental agencies, whether in person or in writing, should be done in the name of the individual or the professional society. University letterhead should not be used. It should be made clear that the contact is not made on behalf of the University. Nothing in this policy shall prevent faculty or staff from expressing personal views on personal time.

7. DISCLOSURE OF LOBBYING ACTIVITY

Employees that engage in approved lobbying activities shall report issues lobbied upon, officials contacted, time spent, and an estimate of expenses on a quarterly basis. Consistent with federal law,
even those University employees who do not qualify as lobbyists must report all lobbying activities with covered officials to the Federal Relations Officer. For purposes of this Regulation, the phrase “lobbying activities” shall be defined in accordance with the definitions set forth in the Lobbying Disclosure Act of 1995, as amended. ²

No University of North Carolina employee, administrator, faculty member, or other individual retained to provide outside assistance shall engage in activities that require registration with the United States House of Representatives or Senate under the definitions of the Lobbying Disclosure Act of 1995 without review and approval by the respective Chancellor and the President.

8. **TICKETS TO UNIVERSITY EVENTS**

University events that require tickets for which there is a charge to the public may be extended to Members of Congress free of charge. Invitations to free University events are also appropriate and may be extended to Members of Congress and/or other covered federal government officials. Invitations to Members of Congress and/or covered federal government officials must be extended by the President of The University, Vice President for Federal Relations, Chancellor, or campus Federal Relations Officer.

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² Lobbying activity is defined as “lobbying contacts and efforts in support of such contacts, including background work that is intended, at the time it was performed, for use in contacts, and coordination with the lobbying activities of others.”
Regulation on Contacts with Covered Federal Government Officials
Guidance Document

FEDERAL LOBBYING DISCLOSURE AND REPORTING
The University of North Carolina is committed to full compliance with the requirements of the federal Lobbying Disclosure Act of 1995 (Pub. L. 104-65) and the Honest Leadership and Open Government Act of 2007 (Pub. L. 110-87). The law requires organizations, including individual University campuses and the General Administration, that employ personnel who qualify as lobbyists under the Lobbying Disclosure Act of 1995 to register and report expenses associated with lobbying activities. A lobbyist is defined as one that meets all three of the following requirements during any quarterly period: (1) spends at least 20% of his or her time on lobbying activities, (2) spends more than $10,000 on lobbying activities, and (3) makes more than one lobbying contact of a covered person.

Organizations compelled to file are required to submit a report every three months containing specific information concerning their lobbying activities, including the name(s) of employees who function as lobbyists, issues lobbied upon, officials contacted, time spent, and an estimate of expenses. Registrants and listed lobbyists must file additional reports which detail contributions governed by the Federal Election Campaign Act, honorary contributions, presidential library contributions, and payments for event costs. In addition, the organizations and listed lobbyists must certify that the filer has read and understands the Rules of the House and Senate relating to gifts and travel.

PENALTIES FOR FAILURE TO DISCLOSE LOBBYING ACTIVITY
Serious civil and criminal penalties exist for knowingly failing to correct a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House; or to comply with any other provision of the Act. Organizations and their listed lobbyists that knowingly and corruptly fail to comply with any provision of the Lobbying Disclosure Act of 1995 or any amendment thereof may be imprisoned for not more than five years or fined up to $200,000 under Title 18, United States Code, or both.

GUIDANCE ON LOBBYING ACTIVITIES
The following activities are not considered to be federal lobbying contacts:

- Requests for meetings or information on the status of matters, as long as the request does not include an attempt to influence a covered official regarding the matter;
- Participation in an advisory committee under the Federal Advisory Committee Act;
- Responses to notices in the Federal Register or other similar publications soliciting public input, if directed to the person(s) specified in the notice to receive such input;
- Testimony before Congressional committees or task forces;
- Specific information provided to a covered official in response to a direct and specific request;
- Communications made following written agency procedures in conducting an adjudicatory proceeding within the agency;
- Communications with officials of responsible agencies regarding judicial proceedings (civil or criminal) or filings or proceedings the federal government must conduct confidentially;
- Petitions for agency actions which are required to be kept as public records under established agency rules;
- Whistleblower communications;
- Communications through speeches, articles, or other means disseminated in the media.
GUIDANCE ON COVERED OFFICIALS
Covered executive branch officials include:

- The President;
- The Vice President; and
- Any high-ranking officer or employee of the executive branch of the federal government.

Covered executive branch positions are contained in the Government Printing Office “Plum Book”:
http://www.gpoaccess.gov/plumbook/index.html

Federal agency program managers are generally not covered officials.

Covered legislative branch officials include:

- Members of Congress;
- Elected officers of either House of Congress;
- Any employee of a Member of Congress, joint committee, leadership staff group, or committee of either House of Congress; and
- Any employee of a working group or caucus organized to provide legislative services or other assistance to Members of Congress.

DISCLOSURE UNDER THE BYRD AMENDMENT
The Byrd Amendment (31 USC 1352) prohibits recipients of federal contracts, grants, loans, and cooperative agreements from using appropriated funds for lobbying activities and requires the filing of a disclosure form if other funds are used for lobbying activities subject to the amendment. The Byrd Amendment also requires persons or companies that request or receive a contract, grant, loan, or cooperative agreement to certify that no prohibited payments were or will be made.

Applicability
Applies to all awards. Certification is required for awards exceeding $100,000 and flowdown to “subrecipients” is required.

Requirements
Institutions must certify that no appropriated funds were or will be expended to pay any person for influencing or attempting to influence an:

- Officer/employee of any federal agency;
- A Member of Congress;
- An officer/employee of Congress; or
- An employee/Member of Congress in connection with a specific award.

The Byrd Amendment requires disclosure if a college/university has made or agrees to make payment with nonfederal funds for the purpose of influencing a specific grant award, including Congressionally-directed funding, over $100,000. However, if a regularly employed individual (i.e., employed 130 days in the year preceding the date of lobbying) of the institution lobbies, no disclosure is needed.

Sanctions for noncompliance
No federal awards will be made unless the appropriate certifications are filed. Institutions making expenditures prohibited by the regulations shall be subject to civil penalty ranging from $10,000 to $100,000 for each violation. Debarment and suspension may also result from noncompliance. If lobbying is conducted with nonfederal funds, disclose the activity on a quarterly basis, as required, and submit the appropriate certifications.
POLITICAL ACTIVITIES
Care should be taken to participate in political activities on personal time only. Some suggested helpful hints:

- *Internet Political Contributions:* It is a violation of XXX to make a personal political contribution over the Internet using state property, including using your state government issued email address. Please use your personal email address for any personal political correspondence or transactions.