

Lobbying Disclosure Policy
Background and Guidelines

Provisions of the Act

At the end of 1995, Congress passed and President Clinton signed the Lobbying Disclosure Act of 1995. The Act is designed to require disclosure of lobbying efforts directed at Congress and the federal executive branch, including those of the University of California. The Act requires periodic registration of lobbyists as defined by the Act, as well as reporting expenses associated with lobbying.

Definitions under the Act:

Lobbyist:

An individual who is retained by the University for services that include more than one “lobbying contact” and whose “lobbying activities” for the University constitute 20 percent or more of his or her work time over a 6-month period.

Lobbying Contact:

Any oral or written communication to a “covered official” made on behalf of the University with regard to:

- (i) the formulation, modification, or adoption of federal legislation (including legislative proposals);
- (ii) the formulation, modification, or adoption of a federal rule, regulation, executive order, or any other program, policy, or position of the United States government; or
- (iii) the administration or execution of a federal program or policy (including the negotiation, award, or administration of a federal contract, grant, loan, permit, or license).

Exceptions: “Lobbying contact” does not include:

- (i) a speech, article, publication or other material that is made available to the public;
- (ii) a request for a meeting for the status of an action or other similar administrative request, if the request does not include an attempt to influence a “covered official;”
- (iii) testimony before a committee, subcommittee, or task force of Congress;

- (iv) information provided in writing in response to an oral or written request by a covered official” for information;
- (v) communications compelled by subpoena or other law or by Congress or by a federal agency;
- (vi) communications in response to notices in the Federal Register or similar publication soliciting communications;
- (vii) communications made in the course of a public proceeding.

Note: These definitions and exceptions do not distinguish lobbying from efforts to “educate” covered officials. This may reflect an assumption that educating a covered official is often designed to affect federal legislation, programs or policies—the activity the Act is designed to address. If educational materials are available to the public, however, they will not constitute lobbying contacts (see Exceptions, above).

Lobbying Activities:

“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 such contacts.

Note: The definition of lobbying activities turns on the intent of the individual at the time activities are undertaken. For this reason, similar activities may or may not be lobbying activities, within the meaning of the Act.

Note: Lobbying activities may be engaged in by University employees who are not registered as lobbyists, as well as by those who are registered lobbyists.

Covered Official:

Legislative Branch:

Members of Congress, staff members of Members of Congress, congressional committees or caucuses, and/or the congressional leadership, and certain other congressional staff. An individual making a lobbying contact may request the individual or office contacted to indicate whether the government official is a covered legislative branch official.

Executive Branch:

The President and Vice President and their staffs, officials serving in Executive Level I through V positions (generally political appointees serving in jobs at the assistant secretary or deputy director level or above), military officers with a rank

of Brigadier General or Rear Admiral, or above, and other federal employees serving in a “confidential, policy determining, policy-making, or policy-advocating character.” This latter category includes all so-called “Schedule C” employees. As with covered legislative branch officials, covered executive branch officials must identify themselves as such in response to a request by anyone making a lobbying contact.

Registration

The University must register its lobbyists as defined by the Act. Registrations are filed each February and August by the University’s Office of the President on behalf of the University of California system. The University’s initial registration contained the following:

- (i) the University name, address, telephone number, principal place of business, and a description of its business activities;
- (ii) a statement of the general issue areas in which the University is expected to engage in lobbying activities and, to the extent practicable, specific issues that have as of the date of registration already been addressed or are likely to be addressed in lobbying activities; and
- (iii) the name of each University lobbyist and whether each such individual has served as a covered official within two years prior to acting as a University lobbyist (after the date of the Act).

Subsequent reports will contain:

- (i) any changes or updates to the information provided in the initial registration;
- (ii) for each general issue area in which the University engaged in lobbying activities:
 - (a) a list of the specific issues on which a University lobbyist engaged in lobbying activities, including, if practicable, a list of bill numbers and specific executive branch actions;
 - (b) a statement as to the Houses of Congress and federal agencies contacted by University lobbyists; and
 - (c) a list of the University lobbyists on that issue.
- (iii) a good faith estimate of the total expenses incurred by the University and its employees in connection with lobbying activities during the prior six-month period.

Registering Lobbyists

The UC General Counsel's office is available to consult with campus personnel who have questions about who should be registered as a lobbyist. Such inquiries should be made via the Chancellor's designee.

Disclosure of Specific Lobbying Issues

Guidelines issued by the Clerk of the House of Representatives and the Secretary of the Senate indicate that in disclosing specific issues in which a lobbyist is engaged in lobbying activities, a description of the subject matter is required sufficient to adequately inform a member of the public of the nature of the University's interest in the subject matter. For example, reference to bill numbers where applicable is required, but is not sufficient in and of itself; reference should be made to the provisions of the bill(s) lobbied upon.

Questions concerning the disclosure required under the Act may be directed to the Assistant Vice President of the University of California's Office of Federal Governmental Relations, located in Washington, D.C.

Reporting Expenses

"Good faith estimates" of lobbying expenses must be reported and rounded to the nearest \$20,000. The rounding will be done by the University's Federal Governmental Relations Office, based on reports of expenses (not rounded) contained in the Lobbying Activity Report forms received from the campuses or from the Office of the President. Guidelines issued by the Clerk of the House of Representatives and the Secretary of the Senate make clear that "lobbying expenses" include the expenses of "lobbying activities," whether or not those activities are carried out by a registered lobbyist. In other words, what must be included are expenses associated with lobbying contacts and efforts in support of those contacts ("lobbying activities") even if the efforts are those of a non-lobbyist, for example helping a lobbyist.

The Monthly UC Lobbying Activity Report was developed to assist with reporting of activities and expenses of registered lobbyists. A factor of 0.6 percent of salary has been established by the University's Corporate Accounting Office to reflect fringe benefits and expenses such as overhead, staff support, travel costs, and other costs incurred. This factor is also designed to encompass the expenses of lobbying activities occasionally engaged in by non-registered lobbyists.

Expenses should also include payments to third parties engaged in lobbying activities, without regard to whether these individuals or entities have a separate obligation to register and report under the Act.

Note: If you are uncertain as to whether third parties are engaged in lobbying activities within the meaning of the Act, you may contact them in writing and inquire as to their determination on that point.

The Monthly UC Lobbying Activity Report form will be distributed to campus Governmental Relations offices. Questions concerning the forms may be directed to the Assistant Vice President of the Federal Governmental Relations Office for the University of California, located in Washington, D.C.

Copies of the Act and the Guidelines issued by the Clerk of the House of Representatives and the Secretary of the Senate will be provided to campus Governmental Affairs offices.