

Adopted: September 2014

Revised: June 2019

University of Rochester

Policy Governing Lobbying Activities, Expenditures and Gifts

The University of Rochester is committed to the expression and discussion of a wide variety of ideas and opinions and encourages members of the University community to be active and engaged citizens. This guidance should not discourage members of the University of Rochester community from communicating with their elected representatives or engaging in political discourse as private citizens, or on behalf of groups or organizations to which they belong.

However, when activities are undertaken in a personal capacity, it is the responsibility of the University community member involved to state expressly that the activity is conducted in a personal capacity and not in his or her capacity as a representative of the University of Rochester.

The Office of Government and Community Relations is the University's designated point-of-contact for federal, state, and local lobbying and must be contacted and informed of any planned activities that could be interpreted as lobbying by faculty, staff, and/or students prior to taking any action on behalf of the University. With the exception of specifically authorized employees, University faculty, staff, and other members of the University of Rochester community are not permitted to lobby on behalf of the University.

Purpose: Lobbying is a process of communicating with lawmakers and other public officials to advocate and help shape public policy on laws, regulations and other governmental matters at any level of the government. Lobbying is an appropriate way for the University to inform policy makers about the educational, research and other interests of the University; however these communications must be conducted and reported in compliance with all applicable laws. These laws require the University to register as a lobbying entity and report lobbying activities as well as expenditures. Any violations of these laws could lead to significant penalties for the University ranging from large fines to criminal prosecution. The purpose of this Policy is to ensure compliance with federal, state, local lobbying rules and requirements.

Policy on Federal Lobbying

Policy: All Federal lobbying as defined in this section must be reported to the Office of Government and Community Relations prior to any contact occurring.

Explanation: Federal lobbying disclosure requirements are established by the Lobbying Disclosure Act (LDA) of 1995 (2 U.S.C. § 1601), as amended by the Lobbying Disclosure Technical Amendments Act of 1998 and the Honest Leadership and Open Government Act of 2007.

“Lobbying activities” are defined under the LDA as lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work if it is

intended, at the time it is performed, for use in lobbying contacts. A “lobbying contact” is an oral or written communication with members of Congress or their personal and committee staffs, or with the President, Vice President and certain Executive branch appointees, regarding (1) the formulation of Federal legislation, rules, regulations or policies; (2) the administration of Federal program or policy, including the negotiation or award of a Federal contract, grant, loan, permit, program or license; or (3) the nomination of anyone subject to Senate confirmation.

Lobbying activity does not include any communications such as articles or speeches made through mass media, testimony given before or submitted to Congressional committees, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force, information in response to a request by a federal official or a notice in the Federal Register, and communications required by subpoena or otherwise compelled by law.

Faculty members who are seeking or received federal funding may contact federal grants officers to discuss prospective or ongoing projects. If the grants or contracts are awarded under a competitive review process, such contacts are not considered to be lobbying.

Policy on New York State & Local Lobbying

Policy: All Lobbying or Lobbying Activity as defined in this section must be reported to the Office of Government and Community Relations prior to any activity occurring. “Lobbying” or “Lobbying Activity” under the New York State Lobbying Act and the regulations promulgated thereunder includes both “Direct Lobbying” and “Grassroots Lobbying”, and also includes “Attempts to Influence”. These terms are more fully described below.

Explanation: An Attempt to Influence means any activity intended to support, oppose, modify, delay, expedite, or otherwise affect: (1) the passage or defeat of any legislation by either house of the state legislature and the approval or disapproval of any such legislation by the Governor; (2) the adoption, issuance, rescission, modification or terms of a gubernatorial executive order; (3) the adoption or rejection of any rule or regulation having the force and effect of law by a state agency; (4) the outcome of any rate making proceeding by a state agency; (5) the State or local government procurement process; (6) a tribal-state compact or State action regarding Class III gaming; (7) the passage or defeat of any local law, ordinance, resolution or regulation by any municipality or subdivision thereof; (8) the adoption, issuance, rescission, modification or terms of an executive order issued by the chief executive officer of a municipality; (9) the adoption or rejection of any rule, regulation, or resolution having the force and effect of a local law, ordinance, resolution, or regulation; and (10) the outcome of a rule, regulation, or rate-making proceeding by a municipality.

Direct Lobbying generally occurs when any person has direct contact (by any means) with a public official or members of the official’s staff to Attempt to Influence, or has direct or preliminary contact with a public official to enable or facilitate an Attempt to Influence. Direct Lobbying may occur through social media.

Grassroots Lobbying generally occurs when (1) there is attempt to indirectly influence an action enumerated in items (1) through (10) above in the definition of Attempt to Influence; (2) through a communication that references such enumerated action; (3) takes a clear position on such action; and (4) includes a “Call to Action”. A Call to Action means a solicitation, exhortation, or encouragement to the public, a segment of the public, or an individual to: (1) directly contact a public official; or (2) solicit, exhort, or encourage others to directly contact a public official. Grassroots Lobbying make occur through social media.

State lobbying law applies to local jurisdictions defined as municipalities by the Lobbying Act and the regulations promulgated thereunder. Municipality is any jurisdictional subdivision of the State, including, (1)

counties, cities, towns, villages, improvement districts, and special districts with a population of more than 5,000; (2) industrial development agencies in jurisdictional subdivisions with a population of more than 5,000; (3) public authorities; (4) public corporations; and (5) school districts of any size. Under this definition, State lobbying laws apply to various municipalities that may affect the University, including the [City of Rochester, Monroe County, the Finger Lakes Regional Economic Development Council, the County of Monroe Industrial Development Agency d/b/a Imagine Monroe and the Rochester City School District], as well as other nearby towns, villages and counties.

Lobbying Activity does not include (1) non-lobbying legal services, (2) contacts with the media, or (3) to a response to a specific request for information or comments by the State legislature, the governor, or a State agency or a committee or officer of the legislature or a State agency, or by the unified court system, or by a legislative or executive body or officer of a municipality or a commission, committee or officer of a municipal legislative or executive body.

Reportable Business Relationships

Policy: Any employment activity where the University, its Trustees, President or Provost has or intends to hire a State Person (as defined below) must be reported to the Office of Government and Community Relations. Any purchase of goods or services that involve transactions with State Persons or an entity with which a State Person has Requisite Involvement (as defined below) must be reported to the Office of Government and Community Relations. Any current employee who qualifies as a State Person (for example, by serving as an officer of a State board or council), must be reported to the Office of Government and Community Relations.

Explanation: The University is required to disclose certain business relationships with "State Persons". A State Person is defined broadly, and includes (1) statewide elected officials; (2) members of the legislature or legislative employees; (3) heads of State departments and their deputies or assistants; (4) officers and employees of statewide elected officials; (5) officers and employees of State departments, boards, bureaus, divisions, commissions, councils, or other State agencies; and (6) employees of public authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, and members or directors of such authorities, corporations, and commissions.

The University must disclose all transactions that involve compensation paid by the University to any individual who the University knows or has a reason to know is a State Person in excess of \$1,000 within a calendar year. For example, if the University hires a State employee as an adjunct faculty member and compensates that individual in excess of \$1,000 within a calendar year, the University must report such transaction.

The University must also report compensation paid by the University in excess of \$1,000 within a calendar year to any non-governmental entity where the University knows or has reason to know that a State Person has "Requisite Involvement" in the entity. Requisite Involvement in an entity means when a State Person is a proprietor, partner, director, officer, or manager of a non-governmental entity, or owns or controls 10% or more of the stock of a non-governmental entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange). For example, if the University contracts with a company that the University knows is wholly-owned by a State employee to provide services that involve compensation in excess of \$1,000 within a calendar year, the University must report such transaction.

The University must also report any transaction that would be reportable under the circumstances above where the applicable State Person or non-governmental entity directs that the compensation be made to a third-party.

Coalitions

Policy: Any contributions by the University to a "Coalition" must be reported to the Office of Government and Community Relations prior to any contribution being made.

Explanation: The New York State Lobbying Act and the regulations promulgated thereunder require that

the University report certain lobbying activity that occurs through “Coalitions”. A coalition means a group of otherwise-unaffiliated entities or members who pool funds for the primary purpose of engaging in Lobbying Activities on behalf of the members of the Coalition. While the University is a member of certain multi-party organizations whose activities may be excluded from reporting obligations, the Office of Government and Community Relations must be made aware of all potentially-reportable activity.

Exclusions from Policy

This policy is not intended to limit the rights of any employee to advocate and help shape public policy at any level of government. However, in exercising this right, employees must indicate to the government officials that they are expressing their own personal views, and are not acting in an official position with the University. In addition, individuals making personal lobbying contacts may not use University resources (including letterhead, telephones, copiers, computers, mailing lists, etc.). Similarly, if employees choose to lobby government officials on behalf of a professional society to which they are affiliated, they can do so provided it is clear they are expressing the views of the professional society and not of the University. It is your responsibility to ensure that others understand you are acting as an individual or on behalf of a professional association, and that you are not acting on behalf of the University of Rochester.

No Federal Funds Used for Lobbying Activities

Funds received under federal grants, contracts or cooperative agreements may not be used for lobbying or lobbying-related expenses. Federal law also prohibits the use of federal funds to pay any person for influencing or attempting to influence an employee of any agency, a member of Congress, or an employee of a member of Congress in connection with the awarding or renewal of any federal contract, grant or cooperative agreement.

Authorization to Lobby on University’s Behalf

Only certain University Officers and Deans and employees in the Office of Government and Community Relations are authorized to act on behalf of the University when conducting lobbying activities with federal or state government officials. Other faculty and administrators may engage in lobbying activities on behalf of the University only if they are designated in writing to represent the University by the Office of Government and Community Relations. Any engagement of an external lobbyist or public affairs consultant must be first reviewed and approved by the Office of Government and Community Relations and must be made under a written agreement that requires the lobbyist to comply with all applicable registration and reporting laws and regulations.

These limitations ensure that the University’s positions on federal and state legislation and other lobbying activities are presented in a consistent, cohesive manner and that the University accurately reports all lobbying activities as required by law.

Lobbying Disclosure

The Office of Government and Community Relations is responsible for submitting regular reports to the federal and state agencies on lobbying activities conducted by University employees as well as third parties acting on behalf of the University. All University employees who engage in lobbying activities on behalf of the University must report their lobbying activities to the Office of Government and Community Relations. Your level of lobbying activity will determine whether or not the University must register you as a local, state, or federal lobbyist.

Gifts, Events, and Travel for Public Officials

Elected officials, executive branch officials and staff frequently visit the University's campus as part of their official duties, to learn about the University of Rochester's programs and issues, attend public events, and to speak to classes. The University supports and encourages such visits as an important way to provide policy makers with a greater understanding of issues that impact our students, faculty and staff, and as an opportunity for our faculty and researchers to serve as a general resource to government officials on a variety of pressing national and international matters.

As a registrant under the LDA and the New York State Lobbying Act, the University must follow the rules that govern gifts to and visits from government officials. The rules are complex and violations can result in civil and criminal penalties. Gifts include but are not limited to events, meals, travel, entertainment, or lodging for federal and state elected officials and their staff, as well as executive branch officials.

Elected officials and their staff may never solicit a gift from any person who has interests before them; accept a gift that is linked to any official action that the individual has taken, or is being asked to take; or accept any other gift, unless specifically allowed under one of the exceptions under law.

The 2007 Public Employee Ethics Reform Act and Public Integrity Reform Act of 2011 amended the New York State Lobbying Act and established new ethics and lobbying standards that in part redefined "gift" as anything of "more than nominal value in any form including, but not limited to money, service, loan, travel, lodging, meals, refreshment, entertainment, discount, forbearance or promise, having a monetary value." These regulations prohibit any lobbying entity or its personnel from offering or giving any gift of any value unless under the circumstances (i) it is not reasonable to infer that the gift was intended to influence the elected official, (ii) the gift could not reasonably be expected to influence the elected official in the performance of his or her duties; and (iii) it is not reasonable to infer that the gift was intended as a reward for any official action on the elected official's part.

Likewise, the Honest Leadership and Open Government Act (P.L. 110-81) amended the rules relative to gift-giving, event attendance, and travel by Members of Congress, officers, and employees. As a general rule, under the new law a Member, officer, or employee may not knowingly accept a gift from a registered lobbyist or a private entity that retains or employs a registered lobbyist unless the gift falls under one of the enumerated exceptions.

Certain exceptions exist for gifts under state law, but before giving a gift or inviting a government official to an event that requires travel, accommodations or meals, faculty and staff must contact the Office of Government & Community Relations or the Office of Counsel.

Questions

Any questions about the interpretation of this Policy should be addressed to the Office of Government and Community Relations or the Office of Counsel.

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