



Policy Number:	6.010
Originating Office:	Office of Research and Sponsored Programs
Responsible Executive:	Vice President for Research
Date Issued:	01/26/2011
Date Last Revised:	05/16/2012

Lobbying

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I. REASON FOR THIS POLICY

Public Law 104-65, the Lobbying Disclosure Act of 1995, amended by the Honest Leadership and Open Government Act of 2007, requires the disclosure of the activities of paid lobbyist to affect decisions in the executive and legislative branches of the federal government. Organizations, including colleges and universities, that retain the service of an individual or individuals for lobbying activities as described in the next sections are required to register and report on *Federal Lobbying Activities*. The purpose of this policy statement is to implement the provisions of the Lobbying Disclosure Act.

II. STATEMENT OF POLICY

The Lobbying Disclosure Act of 1995 specifies that *Federal Lobbying Activities* must be reported for employees who act as *Federal Lobbyists on behalf of the institution*. For purpose of this policy, only the President of The University of South Dakota (USD) and members of the Board of Regents (BOR) are authorized to act on behalf of USD employees (faculty, administrators, staff) and students are considered to be acting as private citizens unless designated by the President or the President’s designee to engage in *Federal Lobbying Activities* on behalf of the institution.

In accordance with federal law, no federal funds may be used for the purpose of making *Federal Lobbying Contacts*, whether “official” or individual initiatives. In addition, USD employees who are making personal or private *Federal Lobbying Contacts* with federal officials may not use

university funds or university resources (e.g., stationary, telephones, fax and/or photocopy machines, computers, or other equipment) for that purpose.

Some contacts are allowed that are not considered *Federal Lobbying Activities*. Examples are provided below under the definition of *Federal Lobbying Contact*.

BOR Policy 4:21, Political Activity, section 5 (below) describes the rights, responsibilities and restrictions of Regental employees undertaking political activity.

“5. Employees of the Board of Regents enjoy all rights of free expression accorded them under state and federal law. Nevertheless, employees, especially faculty and professional staff members, should remember that the public may judge their institution or the Board by their public statements. Accordingly, unless they have been authorized to make an official statement on behalf of their institution or the Board, employees should make every effort to indicate that they are not speaking or writing as institutional or Board representatives. At a minimum, employees who identify their institutional affiliation should advise the public that the views that they express represent their own private or professional opinions, not those of their institution or of the Board, and that these opinions are given in their individual capacities or as private consultants.”

III. DEFINITIONS

FEDERAL LOBBYIST- means an individual employed or retained by the University who spend at least 20 percent of his or her time over six month period lobbying members of Congress, Congressional staff, and Presidential and other political appointees in the Executive branch, including federal funding agencies, with regard to the formulation, modification, or adoption of federal legislation; the formulation, modification, or adoption of a federal rule, regulation, executive order, or other federal program, policy, or position; or the administration of a federal program or policy.

FEDERAL LOBBYING ACTIVITIES- means Federal Lobbying Contacts (see below) and efforts in support of Lobbying Contacts, including preparation and planning activities, research, and other background work that is intended for use in Lobbying Contacts.

FEDERAL LOBBYING CONTACT- means any oral or written communication to members of Congress, Congressional staff, or Executive branch officials **on behalf of the institution** regarding the formulation, modification, or adoption of federal legislation; the formulation, modification, or adoption of a federal rule, regulation, executive order, or other federal program, policy, or position; or the administration of federal program or policy.

A Lobbying Contact includes not only direct contacts with federal officials, but also includes background research and planning activities intended expressly as preparation for a Lobbying Contact.

Examples of communications that are NOT considered *Federal Lobbying Contacts* include:

- Speeches, articles, or communications made through the mass media

- Testimony given before a committee of Congress or submitted in writing for the public record of a hearing of such committee.
- Information provided in writing in response to a written or oral request by a federal official
- Communication made in response to a notice in the Federal Register soliciting comments from the public
- Communications required by subpoena, investigation, or otherwise compelled by law

IV. PROCEDURES

The USD President will designate who is authorized to act on behalf of USD when conducting *Federal Lobbying Activities*. Those who are not so designated will not conduct *Federal Lobbying Activities*. *Federal Lobbyists* acting on behalf of USD will track *Federal Lobbying Activities* and report these activities quarterly to the USD President or his/her designee.

USD employees who, in the course of their work for USD, make **significant** contact with the South Dakota Congressional Delegation (including Senators' and Representative's staff) for reasons that are **not** *Federal Lobbying Activities*, must disclose the nature of this contact. An on-line reporting page is located in the USD Portal at: <https://portal.usd.edu/research/government-relations-form.cfm>. Employees should use reasonable judgment in deciding what is "significant contact" and, when in doubt, consult with their supervisors.

If USD engages a *Federal Lobbyist*, that person will be registered with the Clerk of the House and the Secretary of the Senate, and file quarterly reports of *Federal Lobbying Activities*. Additionally, if USD is a member of a coalition or association that employs a *Federal Lobbyist*, and USD contributes more than \$5,000 quarterly toward the lobbying activities and is active in planning, supervision, or control of lobbying activities, then disclosure by USD is required by the Lobbying Disclosure Act.

If USD uses funds other than Federal funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement, USD's authorized institutional official shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

In addition, *Federal Lobbyists* must disclose twice a year aggregate contributions over \$200 to any federal candidate, officeholder, leadership PAC, political party committee, Presidential library foundation, or Presidential inaugural committee; and any contribution to an event, entity, or meeting established or held in honor of or financed or controlled by a legislative or Executive branch official.

V. RELATED DOCUMENTS, FORMS AND TOOLS

Public Law 104-65, the Lobbying Disclosure Act of 1995

Public Law 110-81, Honest Leadership and Open Government Act of 2007

31 U.S. Code Section 1352: Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions

BOR Policy 4:21, Political Activity - <https://www.sdbor.edu/policy/documents/4-21.pdf>