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# 2025 PIABA Mid-Year Meeting

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## LOBBYING AND PRACTICAL GUIDANCE ON THE HILL(ETHICS)

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## **Introduction: What is Lobbying?**

The concept of lobbying is well known in everyday nomenclature. But what is it exactly? Generally speaking, lobbying refers to the act of seeking to influence the decisions of government officials, legislators, or other public servants in favor of a particular cause, policy, or issue. Lobbyists typically represent businesses, interest groups, trade associations, or even grassroots organizations that seek to advance specific agendas.

The word “lobbying” itself seems like a dirty word, a negative connotation that evokes images of backroom deals where the proverbial bag with the “\$” on it is passed to some official in exchange for a vote or decision in the lobbyist’s favor. The reality is, lobbying is an integral part of the democratic process, as it allows individuals and groups to voice their opinions, gain access to our elected officials, and provide information to decision-makers. However, because of the potential for corruption, undue influence, and conflicts of interest, lobbying in the U.S. is strictly regulated at the federal, state, and local levels.

### **A. Historical Context of Lobbying Laws**

Lobbying has been a part of the American political system since its inception. The First Amendment to the U.S. Constitution itself provides the citizens the right “to petition the Government for a redress of grievances.”, (U.S. Const. amend. I) which is a form of lobbying. However, the scope and nature of lobbying have evolved dramatically over the years to address issues related to undue influence, the potential for corruption, and the importance of transparency over who was influencing government officials and the decision-making processes.

In the post-World War II era, concerns about the growing influence of special interest groups in government spurred calls for regulation. This culminated in the *Federal Regulation of Lobbying Act of 1946*, 2 U.S.C. § 261, *et seq.*, which required lobbyists to register with the

government and disclose certain financial information or face criminal penalties. The constitutionality of this law was challenged, and the Supreme Court reviewed the law in *United States v. Harriss*, 347 U.S. 612 (1954). The constitutional challenge was based on three points: 1) that §§ 305, 307, and 308 were too vague and indefinite to meet the requirements of due process; 2) that §§ 305 and 308 violate the First amendment guarantees of freedom of speech, freedom of the press, and the right to petition the government; and 3) that the penalty provision of § 310(b) violated the right of the people under the First amendment to petition the Government. *Id.* at 617. The court ultimately upheld the statute but interpreted § 307 so as to narrow the law's application to only paid lobbyists who directly communicated with members of Congress on pending legislation. *Id.* at 619. This narrow interpretation created any number of predictable loopholes. The court's interpretation meant that the law did not apply to the people giving money to influence legislation, only to those who solicit or collect it; it left whether the lobbying activity was "principally" for influencing legislation as vague and undefined; and it did not include those that communicate with Congressional staffers. These loopholes created a need for further legislative action to take on lobbying and reduce its potentially corrupt influences on American politics.

## **B. The Lobbying Disclosure Act of 1995 (LDA)**

The general ineffectiveness of the *Federal Regulation of Lobbying Act*, led to the more robust and bipartisan *Lobbying Disclosure Act of 1995*, 2 U.S.C. § 1601, *et seq.* The LDA marked a significant shift in how lobbying was regulated at the federal level. The LDA established a more rigorous system for lobbying registration, reporting, and disclosure. Some of the key provisions of the LDA include:

- **Definition of Lobbying Activities:** The LDA clarified the definition of lobbying, requiring that any person or entity engaging in "lobbying activities" be required to register with the

federal government. Lobbying was defined as any effort to influence the formulation, modification, or adoption of federal legislation, rulemaking, or executive actions.

- **Registration Requirements:** Lobbyists were required to register with the Secretary of the Senate and the Clerk of the House of Representatives. The registration process involves submitting information about the lobbyist's clients, the issues being lobbied on, and the amount of compensation being paid for lobbying services.
- **Disclosure of Lobbying Activities:** Lobbyists were required to file quarterly reports that disclosed the following:
  1. The issues they lobbied on.
  2. The names of the federal agencies and legislators they contacted.
  3. The amount of money spent on lobbying efforts.
  4. Any contributions made to political campaigns.
- **Penalties for Non-Compliance:** The LDA imposed penalties for failing to register or for providing false or incomplete information, with civil fines up to \$50,000 and referral to the U.S. Attorney's office for the District of Columbia.<sup>1</sup>

The LDA aimed to increase transparency and accountability in lobbying activities, ensuring that the public and government officials were aware of the interests trying to influence policy decisions.

### **C. The Honest Leadership and Open Government Act of 2007 (HLOGA)**

The Honest Leadership and Open Government Act of 2007, Public Law 110-81 (9/14/2007), 2 U.S.C. § 1601, as amended, (HLOGA) introduced significant reforms to lobbying

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<sup>1</sup> See R. Eric Petersen, *Congressional Research Service, CRS Report for Congress, Lobbying Reform: Background and Legislative Proposals, 109<sup>th</sup> Congress*, March 23, 2006, at 7 available at <https://sgp.fas.org/crs/misc/RL33065.pdf>

regulations and materially amended existing lobbying law under the LDA. The HLOGA was passed in response to various lobbying scandals, including the Jack Abramoff scandal, which highlighted the need for stricter rules and greater transparency in lobbying.<sup>2</sup>

Key provisions of HLOGA include:

- **Stronger Penalties:** HLOGA increased penalties for violating lobbying disclosure rules, including increasing fines for failure to file reports to \$200,000 and imposes a criminal penalty of up to five years for knowing and corrupt failure to comply with the Act.
- **Revolving Door Provisions:** HLOGA placed restrictions on former lawmakers and high-ranking government officials becoming lobbyists. Specifically, it prohibited Senators from lobbying for two years after leaving office and restricted House members from lobbying for one year. This is intended to prevent conflicts of interest and the "revolving door" phenomenon, where former government officials leverage their inside knowledge and connections to lobby for private interests.
- **Ban on Gifts:** HLOGA prohibited lobbyists from providing gifts or travel to members of Congress with knowledge that the gift or travel is in violation of House and Senate Rules. It also banned the use of lobbyist-paid travel, meals, and entertainment, which had previously been used as a way to gain influence.
- **Increased Reporting Requirements:** Lobbyists were required to provide more detailed and frequent disclosures, including reporting the specific issues they lobbied on, how much was spent, and the names of the lawmakers and agencies they contacted.<sup>3</sup>

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<sup>2</sup> An extensive background discussion on the genesis of the Abramoff lobbying scandal can be found here: <https://levin-center.org/what-is-oversight/portraits/john-mccain-and-the-abramoff-tribal-lobbying-scandal/>

<sup>3</sup> See, generally, <https://www.congress.gov/bill/110th-congress/senate-bill/1>

## **D. Additional Relevant Federal Laws and Regulations Relating to Lobbying**

Several other important laws, regulations, and rules govern lobbying at the federal level. These include the Foreign Agents Registration Act (FARA), the Ethics in Government Act, and various executive orders.

### **1. Foreign Agents Registration Act (FARA)**

The Foreign Agents Registration Act of 1938, 22 U.S.C. § 611, *et seq.*, requires individuals or entities acting on behalf of foreign governments or foreign political interests to register with the U.S. Department of Justice. FARA was designed to prevent foreign influence in U.S. politics by ensuring transparency about the activities of foreign agents lobbying U.S. policymakers.

Under FARA, lobbyists must disclose:

- Their relationship with the foreign principal (i.e., the government or political party they represent).
- The nature of the activities they are conducting.
- The amount of money they are receiving for their lobbying efforts.

FARA registration is mandatory for anyone lobbying on behalf of a foreign government, and failure to comply can lead to criminal penalties.

FARA cases are frequently in the news, including most recently, the conviction and sentencing of Senator Robert Menendez of New Jersey for conspiring to advance Egypt's interests as their agent. On January 29, 2025, Menendez was sentenced to eleven years in prison for

accepting hundreds of thousands of dollars' worth of gold bars, cash, and cars from Egypt to curry favor for the nation's interests in Washington.<sup>4</sup>

## **2. Ethics in Government Act**

The Ethics in Government Act of 1978, 5 U.S.C. § 101, *et seq.*, is another key law that indirectly regulates lobbying activities. Passed in the wake of the Watergate scandal, the act does not regulate lobbying itself.<sup>5</sup> Rather, it imposes ethical rules on federal employees and members of Congress, including provisions regarding conflicts of interest, financial disclosures, and post-government employment.

Under the Ethics in Government Act, former public officials are required to disclose any positions they hold after leaving government, including employment as a lobbyist. The law also restricts former government officials from lobbying their former colleagues for a set period.

## **3. Executive Orders and Regulations**

In addition to the myriad laws addressing lobbying at the federal level, various executive orders and administrative regulations have been issued to further regulate lobbying activities. For example, *Executive Order 13490*, signed by President Obama in 2009, created stricter rules for lobbying by former federal officials, including a ban on lobbying for two years after leaving government service.<sup>6</sup> Similarly, federal agencies have their own rules for monitoring lobbying activities related to specific issues or regulations.<sup>7</sup>

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<sup>4</sup> <https://www.reuters.com/legal/bob-menendez-be-sentenced-gold-bar-bribery-case-that-ended-us-senate-career-2025-01-29/>; see also <https://www.justice.gov/usao-sdny/pr/us-senator-robert-menendez-his-wife-and-three-new-jersey-businessmen-charged-bribery>

<sup>5</sup> <https://campaignlegal.org/update/40-years-old-ethics-government-act-need-tune>

<sup>6</sup> <https://obamawhitehouse.archives.gov/the-press-office/ethics-commitments-executive-branch-personnel>

<sup>7</sup> See e.g., <https://ethics.od.nih.gov/lobbying> for lobbying guidelines posted by the National Institutes of Health.

## **E. Conclusion**

Lobbying is a crucial part of the democratic process, as it provides a way for individuals, businesses, and advocacy groups to participate in the policymaking process. However, because of the potential for corruption and undue influence, lobbying is heavily regulated at the federal level. For additional information related to lobbying best practices, attached hereto are materials from the House Committee on Ethics related to attendance at events and Lobbying Disclosure Act guidance published by the Office of the Clerk of the United States House of Representatives.<sup>8,9</sup>

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<sup>8</sup> <https://ethics.house.gov/manual/exceptions-to-the-gift-rule-for-permissible-gifts/free-attendance-at-events/>

<sup>9</sup> [https://lobbyingdisclosure.house.gov/amended\\_lda\\_guide.html](https://lobbyingdisclosure.house.gov/amended_lda_guide.html)



# HOUSE ETHICS MANUAL

DECEMBER 2022 PRINT



**Find the most current version of the House Ethics Manual online at <https://ethics.house.gov/house-ethics-manual>.**

**This Print supersedes all prior print editions.**

**The Gifts and Travel sections of the House Ethics Manual were updated on December 31, 2020, and September 19, 2022.**

**The Financial Disclosure instructions are updated annually. Find the most current guidance, including salary thresholds and outside employment requirements, online at <https://ethics.house.gov/financial-disclosure>.**

## When in Doubt, Call the Committee

Ethics questions are fact-specific, meaning that a slight change in facts could change the outcome of the guidance you receive. When in doubt, please call the Committee. Our Office of Advice and Education is here to help you. Following guidance provided by the Committee can protect you from future investigations.<sup>1</sup> Our phone number is 202-225-7103, and our email address is ethicscommittee@mail.house.gov.

## Other Important Contact Information

The Committee is one of a number of entities that oversees actions you may wish to take. These sections reference the Committee on House Administration, the Federal Election Commission (FEC), the Department of State, and the Office of Interparliamentary Affairs. The Committee does not review the security of travel destinations; however, the Office of House Security is available to assist with security concerns.

Should you need to contact an office other than the Committee, here is the contact information.

- Committee on House Administration
  - ◆ Democratic Staff: 202-225-2061
  - ◆ Republican Staff: 202-225-8281
- FEC's Office of Congressional Affairs
  - ◆ Fec.gov, 202-694-1006
- Department of State, Interagency Working Group on U.S.-Government Sponsored International Exchanges and Training
  - ◆ 202-632-9306
- Office of Interparliamentary Affairs
  - ◆ 202-226-1766
- Office of House Security
  - ◆ 202-226-2044

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<sup>1</sup> Committee Rule 3(k)-(l).

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# GIFTS

Throughout this section and in other sections, this guidance refers to the “Gift Rule.” The “Gift Rule” means the gift provisions in the current Congress’s House Rule 25, clause 5.

## Why Have Limitations on Gifts?

The federal government and the House of Representatives have long recognized that public office is a public trust.<sup>1</sup> The public has a right to expect that you are impartial in performing your official duties and are not influenced by gifts or favors.<sup>2</sup> However, Congress also recognizes that you will be offered gifts that do not raise any genuine ethical concerns, or that could cause needless embarrassment or hurt feelings if denied.

The limitations on gifts come from many sources, including the Constitution, federal statutes, and the House Rules.<sup>3</sup> These sources place limits on accepting gifts,

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<sup>1</sup> Code of Ethics for Government Service ¶10, H. Con. Res. 175, 85th Cong., 2d Sess., 72 Stat. pt 2, B12 (1958). Both the House and Senate concurred that all federal government employees and officeholders should follow this code.

<sup>2</sup> *Id.* at ¶ 5. See also 135 CONG. REC. H8764 (daily ed. Nov. 16, 1989) (debate on Ethics Reform Act of 1989, quoting Paul Volcker, Chairman of the National Commission on the Public Service); *United States v. Podell*, 436 F. Supp. 1039, 1042 (S.D.N.Y. 1977), *aff’d* 572 F.2d 31 (2d Cir. 1978).

Over the years, both the House and Senate regularly recognized the concerns that arise from Members, officers, and employees accepting gifts. Special Subcomm. on the Establishment of a Comm’n on Ethics in Gov’t, Senate Comm. on Labor and Public Welfare, 82d Cong., *Ethical Standards in Government* 23 (Comm. Print 1951) (“What is proper to offer to public officials, and what is it proper for them to receive? . . . Even small gratuities can be significant if they are repeated and come to be expected . . . The difficulty comes in drawing the line between the innocent or proper and that which is designing or improper. At the moment a doubt arises as to propriety, the line should be drawn.”); House Bipartisan Task Force on Ethics, 101st Cong. *Report on H.R. 3660*, 101st Cong., 1st Sess. 6 (Comm Print 1989), *reprinted in* 135 CONG. REC. 30740, 30742 (daily ed. Nov. 21, 1989) (hereinafter “*Bipartisan Task Force Report*”) (“Regardless of any actual corruption or undue influence upon a Member or employee of Congress, the receipt of gifts or favors from private interests may affect public confidence in the integrity of the individual and in the institution of the Congress. Legitimate concerns of favoritism or abuse of public position may be raised by disclosure of frequent or expensive gifts from representatives of special interests, or valuable gifts from anyone other than a relative or personal friend.”); S. Comm. on Gov’t Affairs, *Congressional Gifts Reform Act*, S. Rep. No. 103-255, at 3-4 (1994) (“[I]t seems appropriate to single out registered lobbyists and foreign agents for special treatment, because this category includes people who are, by definition, in the business of seeking to influence the outcome of public policy decisions. Because registered lobbyists and foreign agents are paid to influence the actions of public officials, including legislative branch officials, their gifts are uniquely susceptible to the appearance that they are intended to purchase access or influence.”).

<sup>3</sup> General statutory authority for the House Gift Rule comes from 5 U.S.C. § 7353. That statute gives the supervising ethics office the authority to issue rules or regulations implementing the statute. *Id.* at § (b)(1). The Committee and the House as a whole are the supervising ethics office for the House. *Id.* at (d)(1)(A). Therefore, the House votes on the Gift Rule at the beginning of every Congress in the

but also have exceptions to those limits.<sup>4</sup>

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House Rules. The current House Gift Rule can be found in House Rule 25, clause 5. All provisions of the Gift Rule are interpreted and enforced solely by the Committee. House Rule 25, cl. 5(h).

<sup>4</sup> The Gift Rule has gone through many iterations over the years. The first version was included in the first House Code of Official Conduct and approved in 1968 limited gifts from people who had a direct interest in legislation. That version largely remained in place until the Bipartisan Task Force on Ethics reviewed the rule and found it “often impractical, if not impossible” to determine a donor’s interest in legislation. *Bipartisan Task Force Report*, 135 CONG. REC. 30742; *see also* House Comm’n on Admin. Review, Financial Ethics, H.R. Rep. No. 95-73, at 13-14 (1977) (expressing similar concerns and recommending changes to the Gift Rule that ultimately were not included in the following Congress’s House Rules). The subsequent Ethics Reform Act of 1989, as amended by the Legislative Branch Appropriations Act for fiscal year 1992, amended the rule to instead place an annual monetary limit on many gifts, with exceptions for gifts of minimal value, gifts from relatives, personal hospitality, and “local meals,” rather than requiring a determination about the donor’s interest in legislation. *See* Ethics Reform Act of 1989, Pub. L. 101-194, § 801(a), 103 Stat. 1716, 1771 (1989), *amended by* Pub. L. 102-90, § 314(d), 105 Stat. 447, 469 (1991).

In 1995, the House overhauled the Gift Rule, placing new, significant limits on the gifts Members, officers, and employees may accept. H.R. Res. 250, 104th Cong. (1995) (amending House Rule 52 to add Gift Rule reforms); *see also* 141 Cong. Rec. H13064-95 (daily ed. Nov. 16, 1995); *id.* H13844-45 (daily ed. Nov. 30, 1995). The House Rules Committee cited three main reasons for the Gift Rule revisions. First, “a perception that special interest groups maintain undue influence over the legislative process, and Members of Congress are granted perquisites and privileges unavailable to average Americans” degraded the public’s trust in Congress. Second, “Congress [had] fallen behind the executive branch in the area of gift reform.” And third, the Senate had already enacted a comprehensive gift rule revision in July 1995. Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 8 (1995). One proponent described the subtle and problematic ways that gifts from lobbyists buy access and ultimately power through building goodwill. “It can mean the difference between getting your calls returned or your letter taken seriously, and that can translate into millions, even billions of dollars, at the expense of ordinary Americans who have no lobbyists to represent them.” *To Limit the Acceptance of Gifts, Meals, and Travel by Members of Congress and Congressional Staff, and for Other Purposes: Hearing on S. 885 Before the Subcomm. on Oversight of the Senate of the S. Comm. on Gov’t Affairs*, 103d Cong., 5-6 (1993) (statement of Sen. Lautenberg). The House made a few changes to the Gift Rule between the 104th and 108th Congresses, including provisions addressing gifts valued below \$50, perishable foods sent to House offices, and travel to charity events. *See* H.R. Res. 9, 106th Cong. (1999); 145 Cong. Rec. H208-211 (daily ed. Jan. 6, 1999) (adding the less than \$50 limit to mirror the Senate gift rule); H.R. Res. 5, 108th Cong. (2003) (adding rules related to how to allocate perishable food and accepting travel to attend charity event).

In the 110th Congress, the House amended the Gift Rule in the wake of several public corruption investigations and prosecutions. The amendments to the Gift Rule included 1) prohibiting gifts under \$50 from registered federal lobbyists, agents of a foreign principal (“foreign agent”), and the private entities that employ or retain registered federal lobbyists or foreign agents; 2) limiting involvement by, and the length of trips sponsored by, registered federal lobbyists, foreign agents, and private entities that employ or retain registered federal lobbyists or foreign agents for privately-sponsored, officially-connected travel; 3) requiring the Committee to pre-approve all privately-sponsored, officially-connected travel; 4) instructions on how to value tickets; and 5) clarifying events for which free attendance may be accepted. H.R. Res. 6, 110th Cong (2007); H.R. Res. 437, 110th Cong. (2007); *see also* 153 Cong. Rec. H23 (daily ed., Jan. 4, 2007) (statement of Rep. Steny H. Hoyer) (“[T]his rules package includes sweeping ethics reforms that begin to address some of the most egregious transgressions of the recent past.”).

## What is a Gift?

A gift is something with monetary value for which you do not have to pay. Gifts include gratuities, favors, discounts, entertainment, hospitality, loans, forbearances, services, training, travel expenses, in-kind contributions, advanced payments, and reimbursements after the fact.<sup>5</sup> The Committee only considers the fair market value of the gift you receive, not whether the person or organization offering it to you paid full price.

**Example.** Your friend invites you to play golf at the country club where your friend is a member. The club's rules state that guests of club members do not pay any fee. The round of golf is still a gift to you. The value is what the country club generally charges for a round of golf. To determine whether you may accept the gift, please see Exceptions to the Gift Rule for Permissible Gifts (page 36).

If your spouse or dependent child accompanies you to an event where a meal or refreshments are offered, only the meal or refreshments you receive is a gift.<sup>6</sup>

Gifts can be tangible and intangible. Examples of intangible gifts include, but are not limited to, discounts, forbearances, below fair market interest rates, selling property for more than its market value, purchasing property for less than its fair market value, and receiving compensation that is greater than the fair market value of the services you provided.

## How to Value a Gift?

Tangible gifts are generally valued at the item's fair market value, even if the item is not typically for sale. Fair market value is the item's retail price, not the wholesale price, or the reasonable estimate of an item's cost if it were available for sale. You may use the lowest price available to the general public to value a gift.

Gifts that are offered at the same time from the same person must be aggregated to determine value.

**Example.** You attended an awards gala and at the end of the event, the event organizer handed out a gift bag. Inside the gift bag were 5 items, each worth \$10. The gift's total value is \$50.

The Committee has different formulas to value tickets to events and honorary

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<sup>5</sup> House Rule 25, cl. 5(a)(2)(A).

<sup>6</sup> House Rule 25, cl. 5(a)(2)(B)(ii).

memberships.

- The face value of a ticket to a sporting event or show is the ticket's fair market value.<sup>7</sup>
  - ♦ If the ticket does not have a price printed on it, the value is the highest priced ticket for that event, in that venue, on the primary market.
- The value of tickets to charity or political fundraisers is the value of the meal.<sup>8</sup> The cost to the purchaser is not the ticket's value.
- The value of honorary memberships is the total of the organization's normal initiation fee, periodic dues, and usage charges. The value does not change if you do not use the membership.

The value of an intangible gift, such as a discount or a below-market interest rate, is the difference between the market rate and what you are asked to pay.

**Example.** Your first cousin offers to help you pay for living expenses. Your cousin is willing to loan you the money you need at 0% interest if you pay your cousin back in a year. The prevailing interest rate is 3%. The gift to you would be 3% interest for that year. You may accept the loan from your first cousin as a gift from a relative.

Attendance at a meeting or informational briefing generally does not have monetary value. But during that meeting or briefing, you may be offered a meal or packet of informational materials that does have monetary value. Please see Exceptions to the Gift Rule for Permissible Gifts (page 36) to determine whether you may accept those additional gifts.

## Who is Subject to the Gift Rule?

The House Gift Rule applies to all Members, Delegates, the Resident Commissioner of Puerto Rico, officers, and employees of the House.<sup>9</sup> "Officers and employees" include any individual whose pay is disbursed by the Chief Administrative Officer and those individuals providing services to the House under consultant contracts.<sup>10</sup> The Gift Rule applies equally to full time and part time employees,

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<sup>7</sup> House Rule 25, cl. 5(a)(1)(B)(ii).

<sup>8</sup> Select Comm. on Ethics, *Final Report*, H.R. Rep. No. 95-1837, at 9 (1979).

<sup>9</sup> House Rule 23, cl. 4; House Rule 25, cl. 5(a)(1)(A)(i). For the purposes of all guidance in the Ethics Manual, the term "Members" includes all Members, Delegates, and the Resident Commissioner of Puerto Rico.

<sup>10</sup> House Rule 23, cl. 19.

employees in district offices and in the Washington, DC offices, permanent and temporary employees, and employees on Leave Without Pay status.

Interns who are not paid by the House and fellows who are not paid by the House are not House employees. Detailees, except in limited circumstances, are also not House employees.<sup>11</sup> The Committee recommends that each office using the services of a non-House employee still require the non-House employee to adhere to all the House Rules to protect the integrity of the House.

Interns and fellows who are paid by the House, including through the House Paid Internship Program, the Wounded Warrior Program, and the Gold Star Family Fellowship,<sup>12</sup> are House employees. The House Paid Internship Program is available at <https://cha.house.gov/member-services/house-paid-internship-program>. The Wounded Warrior Program is available at <https://cao.house.gov/wounded-warrior>. The Gold Star Family Fellowship is available at <https://cao.house.gov/gold-star>.

Members-elect are subject to the Gift Rule when their pay and allowances begin. For Members elected in a regular election, pay and allowances begin at the start of the new Congress. For Members elected in a special election, pay and allowances begin the day after the special election.

Generally the Gift Rule does not apply to spouses and family members of Members, officers, and employees. However, the gifts they, or anyone else, receive may be subject to the Gift Rule if

- the Member, officer, or employee knew about and agreed to the gift; and
- the Member, officer, or employee has reason to believe the gift was given because of the Member, officer, or employee's official position.<sup>13</sup>

**Example.** Your child is getting married. A lobbyist you've met with many times, but who does not know your child personally, offers to help pay for the catering costs at the wedding. This gift was offered because of your official position and is subject to the Gift Rule.

**Example.** Your spouse is an award-winning author. Your spouse's latest work is nominated for a prestigious award, and your spouse is invited to

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<sup>11</sup> See 2 U.S.C. § 72a(f). Detailees should contact their Designated Agency Ethics Official for gift questions relating to detailees personally. Any questions that relate to the office or the Member, however, are still governed by the House Rules.

<sup>12</sup> For more information about the Gold Star Family Fellowship, please call the Chief Administrative Officer (CAO) at 202-226-1965.

<sup>13</sup> House Rule 25, cl. 5(a)(2)(B)(i).

attend the awards dinner at no cost. This gift was offered to your spouse because of your spouse's achievements and is not subject to the Gift Rule.

**Example.** A friend offered you two tickets to a baseball game. You cannot attend the game. You ask your friend to offer the tickets to your child's t-ball coach instead. Because you knew about the gift and suggested to whom to offer the gift, the baseball tickets are subject to the Gift Rule.

The Gift Rule applies to Members, officers, and employees at all times, even during lapses in appropriations or if you are on Leave Without Pay status, family leave, annual leave, sick leave, or administrative leave.<sup>14</sup>

### Source of a Gift

Who provides the gift is just as important as what the gift is and why it was given. It is your responsibility to determine who the source of the gift is. If a person is using their own personal funds to provide your gift, that person is the gift's source. But, if the person will be reimbursed or receive a tax deduction for your gift, that person is not providing a personal gift. If a company, foreign government, or domestic government ultimately pays for your gift, that company, foreign government, or domestic government is the gift's source. If someone is merely passing along a gift from another person, the person passing along the gift is not the relevant source.

If a person affiliated with a company gives you a gift, both the person and the company are the gift's sources.

**Example.** Your best friend's father works for a company with a corporate apartment. The company allows its employees to stay there while in town for business, but not for any personal use such as a vacation. The company instructs your best friend's father to offer the apartment to you the next time you are in town. The company, not your best friend's father, is the gift's source.

If multiple people or organizations give you a gift, the gift is from all of the sources collectively. You may not divide the value of a gift between sources to try to fit the gift into an exception to the Gift Rule.

**Example.** Two nonprofit organizations that do not employ or retain registered federal lobbyists give you a gift worth \$70. You may not divide

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<sup>14</sup> See Comm. on Ethics, *Ethics Guidance Related to Operations During a Lapse in Appropriations* (Jan. 19, 2018).

the gift's value between the organizations to say each organization gave you a gift worth \$35. The gift's total value is \$70.

### Recipient of a Gift

You must look to the intentions of the gift's donor to determine who is the gift's "recipient." If someone brings a gift and says it is "for the office," then the gift will be considered a gift to everyone in the office who takes advantage of the gift. If someone brings a gift and says it is for a particular person, even if that person shares with others, the gift is a gift just to the original recipient.

**Example.** A constituent orders pizza for the office. The employees who eat the pizza are the gift's recipients. See No Thank You Gifts (page 30) and Exceptions to the Gift Rule for Permissible Gifts (page 36) for whether staff can accept the pizza.

**Example.** An organization sends a box of its sample products to the Member. Even though the box's contents can be separated, because the box was addressed to the Member, the Member is the recipient.

### Do Not Ask for a Gift

You may not ask for a gift for yourself or someone else.<sup>15</sup> Even if you would otherwise be able to accept the gift, you may not accept the gift if you or someone else asked for it. This restriction applies to anything that may benefit the office or you, personally. The Committee does not apply this restriction to requesting gifts from relatives or establishing a gift registry for a special occasion, if the gifts are not for official activities.

**Example (Impermissible).** You were invited on a privately-sponsored trip. You cannot go, but your colleague can and is interested. You ask the trip sponsor to invite your colleague instead. Because you asked for the gift, your colleague may not accept it. You may, however, tell the

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<sup>15</sup> 5 U.S.C. § 7353(a). Specifically, you may not solicit anything of value from someone who is seeking official action from or doing business with Congress, or whose interests may be impacted by your official duties. This prohibition does not include solicitations for campaign contributions. See 136 Cong. Rec. H1647 (daily ed. Apr. 24, 1990) (regarding technical corrections to the Ethics Reform Act of 1989); Comm. on Ethics, *Member, Officer, and Employee Participation in Fundraising Activities* (May 2, 2019). Members and staff may assist with fundraising to benefit political organizations registered under section 527 of the Internal Revenue Code, including federal and state political organizations. Members and staff may also fundraise directly for state level ballot measure committees that are qualified under state law, but not fundraise for an organization that intends to donate all or some of its proceeds to a state level ballot measure committee. Comm. on Ethics, *Member, Officer, and Employee Participation in Fundraising Activities*.

trip sponsor that you are no longer the correct contact, but that your colleague now handles the relevant matters.

**Example (Impermissible).** You are out of the office when a group comes to your office with stress balls for everyone. Your desk mate asks if the group could leave one for you. Because your desk mate asked for the gift, you may not accept it.

**Example (Impermissible).** Your office is throwing a farewell party for one of your departing colleagues. You know people in the private sector who might be willing to donate refreshments. You may not request donations from those people.

**Example (Permissible).** You are buying a new home and need \$10,000 for your down payment. You may ask your parents for the money for the down payment, and you may accept the gift if your parents give you the money.

You may be able to help with solicitation or fundraising efforts that benefit charitable endeavors. You may also be allowed to solicit a gift in connection with the Congressional Art Competition, the App Challenge, or other officially-sanctioned competitions. See Members, Officers, and Employees Participation in Fundraising Activities and Request to Solicit for Officially-Sanctioned Competitions. These forms are available at <https://ethics.house.gov/forms>.

## No Bribes, Illegal Gratuities, or Thank You Gifts

A Warning. People can and do face severe criminal penalties for violating these restrictions.<sup>16</sup> Members accused of violating these restrictions have also been expelled from the House or resigned before a final Committee decision was reached.<sup>17</sup>

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<sup>16</sup> Punishments for bribery include a fine of up to three times the amount of the bribe, imprisonment up to fifteen years, and disqualification from holding any federal office. See 18 U.S.C. § 201 (b). Punishments for seeking or receiving an illegal gratuity also include a fine and imprisonment up to two years. *Id.* at (c).

<sup>17</sup> Congressman Duke Cunningham resigned from the House after pleading guilty to engaging in tax evasion and criminal conspiracy to violate, among other things, the bribery statute through his acceptance of a wide variety of extravagant items and millions of dollars' worth of payments, travel, and other benefits. Even after his retirement, there were continuing reports concerning possible violations of House rules and standards, including that he accepted hotel rooms, limousines, and other services in exchange for performing official acts. Information, *United States vs. Randall "Duke" Cunningham*, No. 05-CR-2137 (S.D. Cal. 2005); Comm. on Standards of Official Conduct, *Summary of Activities, 109th Congress*, H.R. Rep. No. 109-744, at 20 (2007).

Although not prosecuted under the bribery statute, Congressman Robert Ney resigned from the House after pleading guilty to conspiracy to commit honest services fraud, making false

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You may not accept gifts offered in exchange for official actions.<sup>18</sup> The restrictions apply to official actions you are asked to take in the future and in return for official actions you already took. The restrictions apply whether you are engaging in *quid pro quo*, or just being offered a reward for your official actions.<sup>19</sup> The gift and

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statements, and aiding and abetting his former chief of staff's post-employment restrictions. As part of his plea agreement, he admitted that he corruptly solicited and accepted trips, meals, concert and sporting tickets, thousands of dollars in gambling chips, and tens of thousands of dollars of campaign contributions and in-kind contributions with the intent to be influenced and induced to take official actions. Plea Agreement Attachment A, *United States v. Robert W. Ney*, No. 06-CR-272 (D.D.C. 2006); Comm. on Standards of Official Conduct, *Summary of Activities, 109th Congress*, H.R. Rep. No. 109-744, at 16-17 (2007).

Congressman James Traficant was expelled from the House after he was convicted of conspiracy to violate the bribery statute by agreeing to and performing official acts for various individuals in exchange for free labor, materials, supplies, and equipment for use at his farm. *United States v. James A. Traficant, Jr.*, 368 F.3d 646 (6th 2004), *aff'g* No. 4:01-CR-207 (N.D. Ohio 2002). During its investigation, the Committee stated that some of those official acts included intervening in matters pending before federal and state authorities. The Committee found that Congressman Traficant's actions were "of the most serious character meriting the strongest possible Congressional response" and recommended that the House adopt a resolution to expel Congressman Traficant, which the House did. Comm. on Standards of Official Conduct, *In the Matter of Representative James A. Traficant, Jr.*, H.R. Rep. No. 107-594, at 2 (2002); H.R. Res. 495, 107th Cong. (2002); 148 Cong. Rec. H5375-5393 (daily ed. July 24, 2002).

In the 1980s, the Committee conducted many investigations into alleged bribes and illegal gratuities. The Committee recommended expulsion for Congressman Mario Biaggi for accepting free vacation trips from the creditor of a government contractor on whose behalf Congressman Biaggi intervened with local authorities. Congressman Biaggi resigned before the House could act. Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H.R. Rep. No. 100-506 (1988). The Committee also investigated three Members on charges of accepting money in exchange for promising to aid purportedly wealthy foreigners seeking to immigrate to the United States, part of the Department of Justice's "ABSCAM" probe. See Comm. on Standards of Official Conduct, *In the Matter of Representative Michael J. Myers*, H.R. Rep. No. 96-1387 (1980); Comm. on Standards of Official Conduct, *In the Matter of Representative John W. Jenrette, Jr.*, H.R. Rep. No. 96-1537 (1980); Comm. on Standards of Official Conduct, *In the Matter of Representative Raymond F. Lederer*, H.R. Rep. No. 97-110 (1981). Congressman Myers was expelled from the House and Congressmen Jenrette and Lederer resigned. See H.R. Res. 794, 96th Cong. (1980), *reprinted in* 126 CONG. REC. 28953-28978 (Oct. 2, 1980). Finally, the Committee investigated Congressman Daniel Flood for receiving payments, either directly or through an assistant, from a series of individuals over a five-year period, in exchange for agreements to attempt to influence various government agencies. Comm. on Standards of Official Conduct, *In the Matter of Representative Daniel J. Flood*, H.R. Rep. No. 96-856, at 5-16 (1980). Congressman Flood also resigned his position with the House.

<sup>18</sup> See 5 U.S.C. § 7353(b)(2)(B); 18 U.S.C. § 201. The Committee is aware of recent court decisions that further define the types of official actions covered under 18 U.S.C. § 201. See *e.g.*, *McDonnell v. United States*, 576 U.S. \_\_\_, 136 S. Ct. 2355 (2016); *United States v. Jefferson*, 289 F. Supp. 3d 717 (E.D.V.A. 2017) (vacating a portion of Congressman Jefferson's convictions following *McDonnell v. United States*). The Department of Justice enforces this statute; however, the Committee has the authority to investigate actions that violate the House Code of Conduct, House Rule 23, clauses 1 and 2, even if those actions are not prosecuted by the Department of Justice.

<sup>19</sup> Bribery occurs when a federal official "directly, or indirectly, corruptly" receives or asks for

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the official action must have a specific link.<sup>20</sup>

You may still accept gifts that are expressions of goodwill or general appreciation that are not tied to a specific official action.<sup>21</sup> You may also accept token gifts in the form of perishable items like home baked goods or flowers, or decorative items for display in the office or donated to charity.<sup>22</sup>

Additionally, you may not receive any compensation for assisting people and organizations outside the House with matters before the federal government, or in any particular matter where the federal government is a party or has a direct and substantial interest.<sup>23</sup> You also may not solicit or accept anything of value, including campaign contributions, for helping someone get a federal position.<sup>24</sup> See Outside Employment and Income (page 195) for more information about these prohibitions.

***Example (Impermissible).*** A lobbyist offers a Member a substantial campaign contribution if the Member introduces certain legislation. The lobbyist violated the bribery statute for the offer, and the Member would violate the bribery statute if the Member accepted.

***Example (Impermissible).*** A Member introduces legislation and manages the bill through passage solely because she believes it will benefit the country. A lawyer also favors the legislation because it will benefit his clients. The lawyer sends the Member a book valued at less than \$50 with a note that expresses appreciation for the Member's work

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“anything of value personally or for any other person or entity, in return for . . . being influenced in the performance of any official act.” *Id.* at (b)(2)(A). An illegal gratuity results when an official directly or indirectly seeks or receives personally anything of value other than “as provided by law . . . for or because of any official act performed or to be performed.” *Id.* at (c)(1)(B). Bribery requires a *quid pro quo*, or “a specific intent to give or receive something of value *in exchange* for an official act[.]” and illegal gratuity “may constitute merely a reward for some future act that the public official will take (and may have already determined to take), or for a past act that he has already taken.” *United States v. Sun-Diamond Growers*, 526 U.S. 398, 404-405 (1999).

<sup>20</sup> *Sun-Diamond Growers*, 526 U.S. at 405-408.

<sup>21</sup> A true “gift” is a “voluntary transfer” of property, made “without compensation.” *Gift*, Black’s Law Dictionary (11th ed. 2019).

<sup>22</sup> This view is similar to that in the regulations of the Executive Branch’s Office of Government Ethics. See 5 C.F.R. § 2536.206(a)(2) (Example 1).

<sup>23</sup> House Members and employees may not accept compensation for representing anyone before a federal department, agency, officer, or court in any particular matter in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 203. Officers and employees have similar restrictions even if they are not receiving compensation. See 18 U.S.C. § 205. These statutes are administered by the Department of Justice, and any advice the Committee provides about these statutes is advisory only.

<sup>24</sup> 18 U.S.C. § 211.

on the bill. The Member may not accept the book from the lawyer and must return it to the lawyer.

**Example (Additional Action Required).** A constituent sends the official office an email asking for assistance with a casework matter. In the email, the constituent also offers to make a campaign contribution to the Member's re-election campaign. The Member may not accept the campaign contribution. Additionally, the Committee recommends the Member or staff contact the constituent to let the constituent know the Member may not accept a campaign contribution associated with casework or any official actions. The Member may perform the casework after contacting the constituent.

**Example (Additional Action Required).** During the holidays a trade association send a Member a fruit basket with a note that says, "Seasons' Greetings to you and your staff." The gift is not connected to any official action and may be accepted if it meets one of the Gift Rule exceptions.

**Example (Impermissible).** A constituent who served on the Member's service academy nominations panel was so moved by the experience that the constituent offered to give the Member two wine glasses valued at \$40 total to the Member as a thank you. The Member may not accept the wine glasses.

**Example (Impermissible).** An intern in the DC office gave a Capitol tour to visiting constituents. At the end of the tour, the constituents gave the intern a \$25 gift card to a local coffee shop as a thank you. The intern must return the gift card to the constituents. The Committee recommends staff who oversees the interns ensure interns are aware of these rules.

**Example (Permissible).** A caseworker in the district receives a flower arrangement from a local flower shop, sent by a constituent the caseworker helped. The flower arrangement has a card that thanks the caseworker for the casework's successful outcome. The caseworker may accept the flower arrangement.

**Example. (Permissible).** Following the successful outcome of a casework matter, the constituent gives the caseworker a cake the constituent baked themselves. The caseworker may accept the home baked cake.

**Example (Permissible).** Same example as above, but instead the constituent embroidered the caseworker's name on a small piece of fabric for display in the official office. The caseworker may accept the embroidered fabric as a token decorative item.

**Example (Impermissible).** A constituent writes to you asking for an internship in the office and includes a necktie with the internship application. The constituent owns a small business making and selling similar neckties. The necktie is not intended for display in the official office, but rather for you to wear. You may not accept the necktie in connection with the internship request.

### **Impermissible Gifts**

If you receive a gift you may not accept, you must take the appropriate action to return or pay for the gift. Which action is appropriate depends on the gift's nature. Your options are discussed below.

#### ***Decline the Gift***

If someone offers you a gift you either may not accept, or do not want to accept, you may simply decline the gift. See Gifts from Foreign Governments and International Organizations (page 47) if a foreign government official is offering the gift.

#### ***Return Gift to Donor***

You may always return a gift to the person who gave it to you, whether the gift does not meet an exception to the Gift Rule, or you simply do not want it. You should return the item promptly.<sup>25</sup> If the gift came to the official office, please contact the Committee on House Administration for ways to pay for return postage.

#### ***Pay Fair Market Value***

If you receive a gift you may not accept, you may pay fair market value for the gift and keep it.<sup>26</sup> If you pay fair market value, the item will no longer be a gift, but rather a commercial transaction. How the Committee calculates fair market value varies depending on the gift.<sup>27</sup> See How to Value a Gift (page 25) to determine what

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<sup>25</sup> The Gift Rule restrictions do not apply to anything a Member, officer, or employee does not use and promptly returns to the donor. House Rule 25, cl. 5(a)(3)(A).

<sup>26</sup> The Gift Rule does not apply to anything for which a Member, officer, or employee pays market value. House Rule 25, cl. 5(a)(3)(A).

<sup>27</sup> Generally, the Committee looks to what would be a reasonable price for something similar in an arms'-length transaction. Any difficulty the recipient may have in paying the fair market value

amount you should repay.

### ***Perishable or Unreturnable Gifts***

If you receive a gift you do not wish to pay for and is impracticable to return because it is perishable, you may donate the gift to a charity or throw it away.<sup>28</sup> You may also donate a tangible item or throw it away if you have made every effort to return it and you cannot find the donor.<sup>29</sup> Donating or destroying a non-perishable tangible gift is an extreme measure. You should make every possible effort to return the gift first.

If you receive cash that you cannot return, despite every effort, you must send it to the U.S. Treasury. Please contact the Committee for instructions on sending cash to the U.S. Treasury.

## **General Gift Rule Provisions**

The Gift Rule starts with the premise that you may not accept a gift *unless* it meets an exception to the Gift Rule.<sup>30</sup> Both the Gift Rule and other sources, such as the Foreign Gifts and Decorations Act (FGDA) and the Mutual Education and Cultural Exchange Act (MECEA), provide many exceptions. A gift only needs to meet one exception for you to accept it.<sup>31</sup>

Even if you may be able to accept a gift under a technical reading of any exception discussed below, you should still be mindful of the motives behind any gift. You should always exercise discretion and be careful to avoid even the appearance of impropriety when accepting a gift.<sup>32</sup>

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is not a factor in determining how much would need to be repaid. See Comm. on Ethics, *In the Matter of Allegations Relating to Representative Jean Schmidt*, H.R. Rep. No. 112-195, at 19 (2011).

<sup>28</sup> House Rule 25, cl. 5(a)(6).

<sup>29</sup> House Rule 25, cl. 5(a)(6); Comm. on Ethics, *In the Matter of Officially-Connected Travel by House Members to Azerbaijan in 2013*, H.R. Rep. No. 114-239, at 10-11 (2015).

<sup>30</sup> House Rule 25, cl. 5(a)(1)(A)(i).

<sup>31</sup> For example, if you may accept a book under the informational materials exception, you may accept that book even if the fair market value is more than \$50. Because the book meets the exception for informational materials, you would not also have to apply the exception for gifts less than \$50 and that book would not count towards the annual limit of less than \$100 that goes with the less than \$50 per instance exception.

<sup>32</sup> The Office Code of Conduct for the House prohibits Members, officers, and employees from receiving any benefit “by virtue of influence improperly exerted from the position of such individual in Congress.” House Rule 23, cl. 4. Additionally, the Code of Ethics for Government Service states you should “never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for [yourself] or [your] family, favors or benefits under circumstances [that] might be construed by reasonable persons as influencing the performance

You should consider the following factors when deciding whether to accept a gift.

- Whether the gift meets an exception to the Gift Rule<sup>33</sup>
- Source and value of the gift
- Frequency of gifts from one source
- Possible motives of the donor
- Possible conflicts of interest with official duties<sup>34</sup>
- Whether accepting the gift violates the spirit of the Gift Rule<sup>35</sup>

### **Exceptions to the Gift Rule for Permissible Gifts**

The examples provided in this section are specific to each Gift Rule exception being discussed. If an example's conclusion is that you may not accept the gift, the analysis is limited to the exception being discussed only. You may be able to accept the gift under a different exception to the Gift Rule.

You may need to report gifts on a Financial Disclosure Statement or Foreign Gifts and Decorations Act form. Information about Financial Disclosure Statements is available at <https://ethics.house.gov/financial-disclosure>. The Foreign Gifts and Decorations Act form is available at <https://ethics.house.gov/forms/travel>.

#### ***Gifts of Nominal Value***

You may accept an item valued at less than \$10 (\$9.99 or less before tax), or a

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of [your] governmental duties.” Code of Ethics for Government Service ¶ 5. *See also* Comm. on Standards of Official Conduct, *Investigation of Financial Transactions Participated in and Gifts of Transportation Accepted by Representative Fernand J. St. Germain*, H.R. Rep. No. 100-46, at 3, 9, 43 (1987) (“[T]he Committee would admonish all Members to avoid situations in which even an inference might be drawn suggesting improper action.”).

<sup>33</sup> *See* Comm. on Ethics, *In the Matter of Allegations Relating to Representative Don Young*, H.R. Rep. No. 113-487, at 4 (2014) (issuing a letter of reproof despite repayment because the Member's acceptance of impermissible gifts “demonstrated a lack of appropriate safeguards and an inattention to the relevant standards of conduct”).

<sup>34</sup> *See* Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H.R. Rep. No. 96-930, at 4-5, 19-20 (1980) (knowingly accepting gifts from individuals with direct interests in legislation before Congress); Comm. on Standards of Official Conduct, *In the Matter of Representative Daniel J. Flood*, H.R. Rep. No. 96-856, at 5-15 (1980) (alleging Congressman Flood accepted payments to influence official actions).

<sup>35</sup> House Rule 23, cl. 2.

greeting card, baseball cap, or t-shirt, regardless of the source, with some caveats.<sup>36</sup> The caveats are

- You may not accept cash or cash equivalents, like gift cards;
- You may not accept food or beverages in a one-on-one setting; and<sup>37</sup>
- You should be mindful of potential conflicts if you are repeatedly offered nominal value gifts from a single source, even if the gifts technically satisfy the requirements of the exception.

**Example (Permissible).** Your local baseball team won the World Series. The baseball team sends you a box with 10 World Series baseball caps with a note for everyone in the office who would like one to take one. You and your colleagues may each accept one baseball cap.

**Example (Impermissible).** A registered federal lobbyist you work with often invites you to discuss an upcoming bill over a cup of coffee. You may not allow the registered federal lobbyist to pay for your coffee, but you may still meet with the lobbyist and pay for your own coffee.

**Example (Impermissible).** A constituent sends you a handwritten note thanking you for all your hard work over the years and encloses a \$5 gift card. You may keep the handwritten note, but you must return the gift card.

### ***Gifts Worth Less Than \$50***

You may accept a gift worth less than \$50 (\$49.99 or less before tax) from someone who is not a registered federal lobbyist, foreign agent, or entity that employs or retains a registered federal lobbyist or foreign agent, with some caveats.<sup>38</sup> The

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<sup>36</sup> House Rule 25, cl. 5(a)(3)(W). Through the 105th Congress, the Committee allowed Members and staff to accept a variety of low value, tangible items under this provision. At the start of the 106th Congress, however, the House determined that such a broad reading of the nominal value provision was no longer appropriate and instituted the less than \$10 limit. H.R. Res. 9, 106th Cong. (1999).

<sup>37</sup> Under the Gift Rule prior to the 110th Congress, Members and staff were allowed to accept gifts, including food and refreshments, from virtually anyone under the less than \$50 provision, even if the source was a registered federal lobbyist, foreign agent, or organization that employs or retains a registered federal lobbyist. With the Gift Rule amendments in the 110th Congress, the House determined food and refreshments of a nominal value offered by a registered federal lobbyist, foreign agent, or organization that employs or retains a registered federal lobbyist may only be accepted at business meetings, receptions, and similar events that are not one-on-one encounters. H.R. Res. 6, 110th Cong. (2007); Comm. on Standards of Official Conduct, *Gift Rule Amendments at the Beginning of the 110th Congress* (Feb. 6, 2007).

<sup>38</sup> House Rule 25, cl. 5(a)(1)(B)(i). “Registered federal lobbyist” means a lobbyist who is  
(con’t next page)

caveats are

- The cumulative value of gifts you may accept under this exception in a calendar year from a single source must be less than \$100 (\$99.99 or less before tax);
- A gift worth less than \$10 (\$9.99 before tax) does not count towards the cumulative limit;
- You may not accept cash or cash equivalents, like gift cards; and
- You may not buy down the gift's value to get it below \$50.

You do not have to maintain formal records related to gifts you accept under this exception, but you must make a good faith effort to comply with these terms.<sup>39</sup>

***Example (Permissible).*** You were invited to dinner by a group that does not employ or retain a registered federal lobbyist or foreign agent. Your meal and beverages before tax and tip cost \$45. You may accept the group's offer to pay for your meal.

***Example (Impermissible).*** A registered federal lobbyist invites you to dinner and offers to pay. You may not accept the offer, regardless of the meal's value. You may still go to dinner with the lobbyist and pay for your own meal.

***Example (Impermissible).*** An organization that does not employ or retain a registered federal lobbyist or foreign agent offers you tickets to a baseball game with a face value of \$65. You may not pay \$16 to buy down the value so the gift is less than \$50. You must pay the ticket's entire face value to accept it.

***Example (Impermissible).*** An organization that does not employ or retain a registered federal lobbyist or foreign agent has a monthly speaker series over dinner. The dinners are \$20 per person. In that

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registered under the Lobbying Disclosure Act (LDA). House Rule 25, cl. 5(g). The LDA is the successor statute to the Federal Regulation of Lobbying Act cited in House Rule 25, clause 5(g). Because the LDA defines "lobbyist" to mean "any individual" who engages in certain activities set forth in the LDA, the Committee interprets the prohibitions for registered federal lobbyists to include both the individuals who are registered and lobbying firms. More information about the LDA and its searchable database can be found at <https://lobbyingdisclosure.house.gov/>.

"Foreign agent" means an agent of a foreign principal who is registered with the Department of Justice under the Foreign Agent Registration Act (FARA). More information about the FARA and the database can be found at <https://www.justice.gov/nsd-fara>.

<sup>39</sup> *Id.*

calendar year, you already attended four dinners and would now like to attend a fifth dinner. Because the fifth dinner's value would make a total of \$100 in cumulative yearly gifts from that organization, you may not accept the fifth dinner, nor may you pay \$1 to bring the cumulative value to \$99. You may still attend the event and pay for your own dinner.

### *Gifts from Relatives*

You may accept anything that a relative offers you, if your relative is the source of the gift, and not merely passing along a gift from someone else.<sup>40</sup> The following individuals are your relatives.

- Parent
- Child
- Sibling
- Aunt or Uncle
- Great Aunt or Great Uncle
- First Cousin
- Niece or Nephew
- Spouse<sup>41</sup>
- Fiancé(e)
- Grandparent
- Grandchild
- Mother or Father-in-Law
- Daughter or Son-in-Law
- Sister or Brother-in-Law
- Stepparent
- Stepchild
- Stepsibling
- Half sibling
- Grandparent of your spouse<sup>42</sup>

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<sup>40</sup> House Rule 25, cl. 5(a)(3)(C) (incorporating 5 U.S.C. app. § 109(16)).

<sup>41</sup> A spouse is someone to whom you are legally married.

<sup>42</sup> House Rule 25, cl. 5(a)(3)(C); 5 U.S.C. app. § 109(16).

If a person is not on this list, such as a second cousin or a godparent, you may be able to accept a gift under a different exception to the Gift Rule (page 36).

***Example (Permissible).*** Your parents offer to buy you a car using their personal funds. You may accept the car.

***Example (Permissible).*** Your grandparents offer to pay off your student loans by writing you a check. You may accept the check from your grandparents.

***Example (Permissible).*** You received Committee approval to accept a trip from your significant other to whom you are not engaged or married. While on that trip, your significant other proposes and presents you with an engagement ring. Once you accept the proposal, you may also accept the engagement ring as a gift from your now fiancé(e).

***Example (Permissible).*** Your grandmother wants to give you her heirloom dining room table. You may accept the table. See Bequests and Inheritances (page 84) if your grandmother wishes to leave you the table in her will.

***Example (Impermissible).*** Your long-time family friend gives your parents a gift to give to you. Because your long-time family friend is really the gift's source, and your parents are just passing the gift along, you may not accept the gift as one from a relative. You may be able to accept the gift under a different gift exception (page 36).

### ***Gifts Based on Personal Friendship***

You may be able to accept a gift that is offered because of personal friendship and not related to your position with the House.<sup>43</sup> This exception does not require that you be friends with someone before you joined the House, nor does it prohibit friendships with registered federal lobbyists or foreign agents. But you should always be mindful of why you were offered the gift and who the true source of the gift may be.

If the gift's fair market value exceeds \$250, you must seek formal Committee approval to accept a gift offered because of personal friendship, even if the gift meets all the requirements discussed below. If the fair market value of a gift is \$250 or less, you may decide for yourself if the gift meets the requirements. The Committee views trips as a whole; therefore, the value of a trip would be the transportation expenses, lodging expenses, and meal expenses that someone else offers to pay on your behalf. You can find the form to request approval from the Committee to accept the gift based

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<sup>43</sup> House Rule 25, cl. 5(a)(3)(D).

on personal friendship at <https://ethics.house.gov/forms/gift-waivers>. The Committee will consider your request through its formal advisory opinion process. If you can, please submit your request early to give the Committee enough time to review, analyze, and make a decision.

To accept a gift under personal friendship, you must consider the circumstances of the offer, including, but not limited to

- the nature of your relationship with your friend, including any past exchange of gifts;
- if your friend paid or will pay for the gift personally, or if your friend will seek a business reimbursement or tax deduction; and
- if the same or similar gift was or will be offered to another Member, officer, or employee.<sup>44</sup>

***Example (Additional Action Required).*** Your former roommate is now a registered federal lobbyist. For years you have gone to basketball games together. Sometimes you would pay for the tickets and sometimes your former roommate would pay for the tickets. Your former roommate has an extra ticket to a playoff game that your roommate paid for personally and invites you to come. Because you and your former roommate have been friends for a while, have a history of exchanging gifts, and your former roommate paid for the extra ticket personally, you may be able to accept the ticket. Depending on the ticket's fair market value, you may need to seek Committee approval before accepting it.

***Example (Impermissible).*** You are friendly with a registered federal lobbyist who often comes to your office and whom you see at official events. You do not socialize with the lobbyist outside of work. The lobbyist invites you to dinner at their personal expense. Because you do not have a friendship relationship with the lobbyist, you may not allow the lobbyist to pay for your dinner. You are welcome to still go to dinner with the lobbyist and pay for your own meal and drinks.

***Example (Impermissible).*** A person you recently met asked you out on a first date and offers to pay. Other than meeting this person previously, you have not socialized with the person. You believe you were asked out because of where you work. You may not accept the offer to pay for the first date under personal friendship. If you develop a

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<sup>44</sup> *Id.* at (D)(ii). The second and third prong consider whether the recipient has actual knowledge of the donor's circumstances.

relationship with this person, you may be able to accept future offers to pay for dates. If the person is not a registered federal lobbyist or foreign agent, you may accept the offer if the date's total value before tax and tip is \$49.99 or less.

***Example (Additional Action Required).*** Your significant other, to whom you are not engaged or married,<sup>45</sup> surprises you with a trip abroad for your birthday. Your significant other offers to pay for flights, lodging, and meals while you are on the trip. Because the trip's value likely exceeds \$250, you will need to seek Committee approval before accepting your significant other's offer.

***Example (Additional Action Required).*** You and your significant other take a trip. You both pay your own way. While on the trip, your significant other purchases a piece of art worth more than \$250 for your birthday and has it shipped to your home. The gift was spontaneous, and you did not have the opportunity to request Committee approval beforehand. You may request retroactive approval to accept the piece of art. If the Committee does not approve your request for some reason, you may pay your significant other back for the piece of art.

***Example (Permissible).*** Your best friend works for a lobbying firm. The lobbying firm is having their holiday party and all their employees can bring a guest. The lobbying firm does not place restrictions on whom the guest can be. Your best friend asks you to be their guest. Because your best friend can bring whomever they want, the gift is your best friend's to offer. If the per person value of the food and drinks for the holiday party is less than \$250, you may accept your best friend's offer to attend the holiday party.

***Example (Permissible).*** Your roommate works for a downtown law firm. The law firm has a box at a major league baseball stadium. The law firm allows its staff to bring a guest to the baseball games and sit in the firm's box. The law firm does not place restrictions on whom the guest can be. Your roommate invites you to the game as their guest. Because your roommate can bring whomever they want, you may accept and sit in the law firm's box at the baseball game.

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<sup>45</sup> Fiancé(e)s are considered relatives. Therefore, if your fiancé(e) makes the same offer of a trip abroad, you may accept it as a gift from a relative. See Gifts from Relatives (page 39) for more information.

### ***Gifts from other Members, Officers, or Employees***

You may accept a gift from another Member, officer, or employee of the House or Senate if the person giving you the gift is either your direct or indirect supervisor or your peer.<sup>46</sup> You may not accept a gift from someone you supervise unless the gift is given for a special occasion.<sup>47</sup> Special occasions (page 86) include birthdays, holidays, marriages, births or adoption of children, anniversaries, retirements, deaths, and other similar occasions for which gifts are traditionally given. You should never be pressured to make or contribute to a gift.

Providing personal services without compensation may also be a gift.<sup>48</sup> Supervisors should not accept uncompensated personal services from subordinate staff for services the supervisor would usually pay for if there is no connection to legitimate, official activity.<sup>49</sup>

***Example (Permissible).*** You are a district caseworker working part time while also going to school. Your employing Member and your Chief of Staff would like to use their personal funds to help you pay for textbooks. You may accept that gift from your supervisors.

***Example (Permissible).*** A Member wants to give all her colleagues a copy of a book that helped inform her policy positions. The Member would like to use personal funds to purchase those books. The other Members may accept that book as a gift from their peer.

***Example (Permissible).*** Your Chief of Staff is getting married. Everyone in the office would like to contribute to a gift card to your Chief of Staff's favorite restaurant as a wedding gift. If no one feels pressured to contribute, you may pool your funds and give the gift card to your Chief of Staff. Your Chief of Staff may also accept the gift card for this special occasion.

***Example (Impermissible).*** Your employing Member completed the first session of their first term in office. The staff would like to contribute to a gift to celebrate your Member's first year in office. Your Member

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<sup>46</sup> House Rule 25, cl. 5(a)(3)(F).

<sup>47</sup> See 5 U.S.C. § 7351(a) (a federal employee may not give a superior a gift, solicit a contribution from another employee for a gift to a superior, or accept a gift from an employee receiving less pay). The Committee has the authority to implement this section, including to allow for gifts to superiors for special occasions. *Id.* at (c).

<sup>48</sup> See Staff of Comm on Ethics, 115th Cong., *In the Matter of Allegations Relating to Representative Thomas Garrett* 5, 32-34 (Comm. Print 2019).

<sup>49</sup> *Id.* at 34.

may not accept that gift from the staff because it is not a special occasion for which gifts are traditionally given.

***Example (Impermissible).*** Your employing Member asks you to pick up their children from school. Because this activity bears no connection to legitimate, official activity, you should not perform this service for your employing Member.

### ***Gifts of Personal Hospitality***

You may stay in someone's home or personally-owned facility, or eat a meal at someone's home, as long as the person who offers the personal hospitality is not a registered federal lobbyist or foreign agent.<sup>50</sup> You may not accept the offer of personal hospitality if the purpose is business-related or the property is used for a business purpose, such as being rented out to others.<sup>51</sup>

This exception only applies to lodging and meals in the home or personally-owned facility. The exception does not apply to meals at restaurants while visiting someone, nor to someone paying for your hotel room while visiting. Those gifts may be allowed under separate exceptions (page 36).

***Example (Permissible).*** You are going to visit your college roommate, who offers to let you stay in their apartment. Your college roommate personally rents the apartment and is not a registered federal lobbyist or foreign agent. You may accept your college roommate's offer to stay in their apartment, and you may accept any meals your college roommate may make for you in their apartment.

***Example (Impermissible).*** Your friend owns a beach house and offers to let you and your family stay there for a week. Your friend rents out the beach house on a weekly basis. Because the beach house is used for a business purpose, you may not accept your friend's offer as personal

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<sup>50</sup> House Rule 25, cl. 5(a)(3)(P) (incorporating 5 U.S.C. app. § 109(14)). If the individual providing the gift is reimbursed by a business or seeks a business expense deduction for the hospitality, that hospitality is a business expense and not personal hospitality. *Bipartisan Task Force Report*, 135 CONG. REC. 30743. Similarly, any property or facilities owned by a corporation or a firm, even if the individual providing the gift is the sole owner of the corporation or firm, are not personally owned by the individual and may not be used for personal hospitality.

<sup>51</sup> *Id.*; 5 U.S.C. app. § 109(14) (“[H]ospitality extended for a non-business purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family.”). See, e.g., Comm. on Ethics, *In the Matter of Allegations Relating to Representative Don Young*, H.R. Rep. No. 113-487, at 38, 57, 61 (2014) (discussing various trips taken by Representative Young that did and did not meet the exception for personal hospitality).

hospitality. See Gifts Based on Personal Friendship (page 40) for an exception that may apply.

***Example (Impermissible).*** You were invited to an “off-the-record” dinner at a local philanthropist’s home. The dinner’s purpose is to discuss policy initiatives on which the philanthropist works. Even if the philanthropist is not a registered federal lobbyist or foreign agent, you may not accept the meal as personal hospitality because the dinner has a business purpose. See Free Attendance at Events (page 52) for other ways you may be able to accept the offer.

***Example (Permissible in Part).*** You recently met someone at a party locally with whom you spent most of your time sharing your love of skiing. Your new acquaintance invited you to spend the weekend at their condominium in Colorado to go skiing. Your new acquaintance also offered to pay for your lift tickets and take you out to some local restaurants. Your new acquaintance is not a registered federal lobbyist or foreign agent and personally owns the condominium. Your new acquaintance does not rent out the condominium. You may accept the lodging in the condominium over the weekend, but you may not accept the lift tickets or the meals at the local restaurants as personal hospitality.

***Example (Permissible).*** A constituent knows that you like to duck hunt. The constituent personally owns a piece of property with a lake where the constituent often goes to duck hunt and allows his friends to duck hunt as well. The constituent does not charge others to hunt on his property. The constituent is not a registered federal lobbyist or foreign agent. The constituent offers to bring you along the next time he goes hunting. You may accept the constituent’s offer.

### ***Gifts from Federal, State, or Local Governments***

You may accept anything that is paid for by the federal government, a state or local government, or secured under a contract with the federal government.<sup>52</sup> The domestic government agency or entity must directly pay for the gift and may not merely be a conduit for someone else.<sup>53</sup>

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<sup>52</sup> House Rule 25, cl. 5(a)(3)(O). “Government contracts” under this provision mean federal government contracts. See, e.g., 5 C.F.R. § 2635.203(7); 57 Fed. Reg. 35,014 (Aug. 7, 1992) (“The exclusion is intended to cover items the Government procures for use by its employees under a Government contract or knowingly obligates itself to pay for.”).

<sup>53</sup> See Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 11 (1995).

To determine if an entity is a domestic governmental entity, the Committee looks to whether the entity is treated as a government entity for other purposes. The Committee considers these entities to be government entities.

- United States federal government
- United States state and federal district governments
- United States municipal governments
- Commonwealths and territories of the United States
- Smithsonian Institute
- Washington Metropolitan Area Transit Authority (WMATA)<sup>54</sup>
- Tennessee Valley Authority
- California Joint Powers Authorities such as the Metropolitan Water District of Southern California<sup>55</sup>
- Public universities, including Pennsylvania state-related universities<sup>56</sup>

The Committee does not consider these entities to be government entities.

- Native American tribes<sup>57</sup>
- Amtrak<sup>58</sup>
- Regional Federal Home Loan Banks

These lists are not exhaustive. Please contact the Committee if you have

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<sup>54</sup> An interstate compact entered into by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia, and was approved by Congress, established WMATA as a governmental agency, with funding derived from the federal government and state governments, as well as from rider fares.

<sup>55</sup> See Cal. Gov't Code §§ 6500-6599.3 (joint powers authorities).

<sup>56</sup> See 22 Pa. Code § 31.2 (Pennsylvania state-related universities are instrumentalities of the commonwealth).

<sup>57</sup> The Committee carefully considered the matter of Native American tribes and found nothing in the legislative history of the current gift rule or its predecessors indicating an intent to treat Native American tribes as state or local government entities for these purposes. The Committee also does not consider Native American tribes to be foreign governments. Additionally, many Native American tribes employ or retain registered federal lobbyists. Your ability to accept gifts from those Native American tribes will be limited by the Gift Rule exceptions relevant to organizations that employ or retain registered federal lobbyists.

<sup>58</sup> "Amtrak is not a department, agency, or instrumentality of the United States Government . . ." 49 U.S.C. § 24301(a)(3).

questions about a particular entity.

***Example (Permissible).*** A public university offers you tickets to an upcoming football game. The university uses its general funds to pay for your ticket. You would be sitting in the university president’s box. You may accept the tickets.

***Example (Impermissible).*** A private university offers you tickets to an upcoming football game. You may not accept the tickets as a gift from a state government, but you may be able to accept the tickets under a different exception.

***Example (Additional Action Required).*** The company running a national lab invites you to tour its facility and offers to take you out to lunch afterwards to discuss your observations. If providing tours and meals to congressional observers is part of the company’s contract with the Department of Energy, you may accept as a gift secured by a federal government contract. If not, you may be able to accept under a different exception (page 36).

### ***Gifts from Foreign Governments and International Organizations***

The Emoluments Clause of the Constitution limits your ability to accept gifts from foreign governments. The Emoluments Clause prohibits you, as a federal government official, from receiving “any present . . . of any kind whatever” from a foreign government or its representatives without the consent of Congress.<sup>59</sup>

Congress consented to gifts, including travel, from foreign governments by enacting two federal statutes, FGDA and MECEA.<sup>60</sup> House rules also allow you to accept gifts under these two statutes.<sup>61</sup> See *Travel Paid for by a Foreign Government* (page 120) for more information about travel allowed under FGDA and MECEA.

FGDA also allows you to accept certain tangible gifts and decorations from the following entities.

- Foreign governments;

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<sup>59</sup> U.S. Const. Art. I, § 9, cl. 8.

<sup>60</sup> Congress consented to other programs outside of FGDA and MECEA, including the U.S.-Korea National Assembly Exchange Program. However, FGDA and MECEA are the most commonly used methods that foreign governments offer Members, officers, and employees gifts and travel.

<sup>61</sup> Members, officers, and employees may accept “[a]n item, the receipt of which is authorized by the [FGDA], the [MECEA], or any other statute.” House Rule 25, cl. 5(a)(3)(N).

- International or multinational organizations whose membership is made of units of foreign governments and their agents or representatives;
- Quasi-governmental organizations closely affiliated with, or funded by, foreign governments; or
- Private organizations closely affiliated with, or funded by, foreign governments.<sup>62</sup>

See the Committee's FGDA Regulations for in-depth requirements.<sup>63</sup> The FGDA Regulations are available at <https://ethics.house.gov/foreign-gifts-and-decorations-act-fgda-regulations>.

FGDA also applies to your spouse or dependents.<sup>64</sup>

**Tangible Gifts.**<sup>65</sup> While you are on American soil, you may only accept tangible gifts that are of "minimal value tendered and received as a souvenir or mark of courtesy."<sup>66</sup> Minimal value is set by the General Services Administration on a tri-annual basis and is calculated based on the Consumer Price Index.<sup>67</sup> You can find the current minimal value at <https://www.gsa.gov/policy-regulations/policy/personal-property-policy-overview/special-programs/foreign-gifts>. If you are unsure of the value, the Office of the Clerk can appraise the item.<sup>68</sup> Tangible gifts include trinkets, meals, entertainment, or local transportation to attend an event.

If you are abroad, you may accept tangible gifts worth more than minimal value if refusing the gift would cause offense or embarrassment. But you accept those gifts on behalf of the United States government and must turn over the gifts when you return to the United States, report the gifts on the FGDA Disclosure Form, and seek

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<sup>62</sup> 5 U.S.C. § 7342(a)(2). To determine whether an organization is part of a foreign government, the Committee looks to a number of factors including the level to which the organization is funded by the federal government, whether the organization is controlled by a foreign government, and whether another U.S. government agency determined the organization is part of a foreign government. Members, officers, and employees may only accept gifts from organizations that meet this definition under FGDA or MECEA. See Comm. on Ethics, *In the Matter of Officially-Connected Travel by House Members to Azerbaijan in 2013*, H.R. Rep. No. 114-239 (2015); Comm. on Ethics, *In the Matters of Allegations Relating to Travel to Taiwan by Representatives William Owens and Peter Roskam in 2011*, H.R. Rep. No. 113-226 (2013).

<sup>63</sup> The Committee's implementing regulations are issued pursuant to 5 U.S.C. § 7342(a)(6)(A), (g)(1) and apply to House Members, officers, and employees. The regulations were first published on January 23, 1978. 124 Cong. Rec. 452-53.

<sup>64</sup> 5 U.S.C. § 7342(a)(1)(G).

<sup>65</sup> 5 U.S.C. § 7342(c).

<sup>66</sup> 5 U.S.C. § 7342 (c)(1)(A).

<sup>67</sup> 5 U.S.C. § 7342(a)(5).

<sup>68</sup> 5 U.S.C. § 7342(g)(2)(B); (a)(6)(A).

Committee approval if you would like to retain the gifts for official display purposes. The FGDA Disclosure Form is available at <https://ethics.house.gov/forms/travel>.

You must aggregate the value of tangible gifts given to you in the same presentation from the same source to determine if the group of gifts is more than minimal value. You must also aggregate gifts given in the same presentation from the spouse of a foreign official as well as the foreign official themselves. And you must aggregate gifts given to your spouse in the same presentation as well as gifts given to you.

***Example (Permissible).*** You are invited to an embassy dinner and they offer to pay for your cab ride to the embassy. You may accept both the dinner at the embassy and the cab ride if those gifts combined are minimal value or less.

***Example (Impermissible).*** A foreign official meets with you in your office and presents you with a gold-plated tea kettle worth more than minimal value. You may not accept the tea kettle.

***Example (Additional Action Required).*** While on a CODEL abroad, a foreign official presents you with the same gold-plated tea kettle worth more than minimal value. If refusal would cause offense or embarrassment, you may accept the tea kettle on behalf of the United States. When you return from your trip, you must turn the gift over to the Clerk of the House and report the gift to the Committee on the FGDA Disclosure Form. If you would like to retain the tea kettle for display in your official office, you must seek written approval from the Committee.

***Example (Impermissible).*** The contract foreign agent for a foreign government invites you to dinner to discuss upcoming legislation. Because the foreign agent would be paying, even if ultimately reimbursed by the foreign government, you may not accept the offer. You may still go and pay for your own dinner.

**Decorations.**<sup>69</sup> You may accept and personally wear a decoration of minimal value from a foreign government if it was given

- In recognition of active field service in a time of combat operations, or
- For other outstanding or unusually meritorious performance.

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<sup>69</sup> 5 U.S.C. § 7342(d).

If you are offered a decoration of more than minimal value and you would like to keep it for personal use, you must seek and receive Committee approval prior to accepting the decoration.

Without prior approval, you may only accept a decoration of more than minimal value on behalf of the United States. You would need to turn over the decoration, report the decoration on the FGDA Disclosure Form, and seek Committee approval if you would like to retain the decoration for official display purposes. The FGDA Disclosure Form is available at <https://ethics.house.gov/forms/travel>.

***Example (Permissible).*** A foreign government wants to present you with its highest civilian honor for your assistance to their country. The decoration is less than minimal value. You may accept, wear, and retain the decoration for your personal use.

***Example (Permissible).*** The same foreign government wishes to present you with the same award, but the decoration is more than minimal value. You seek and receive approval from the Committee before accepting the decoration. You may accept the decoration, wear the decoration, and retain the decoration for your personal use.

***Example (Additional Action Required).*** Same as the previous example but you did not seek and receive approval from the Committee before accepting the decoration. You may accept the decoration on behalf of the United States, but you must turn it over to the Clerk of the House or seek Committee approval to display it in your official office.

**Medical Treatment.**<sup>70</sup> You may accept medical treatment from a foreign government if the treatment is provided for an unexpected illness or injury that requires immediate attention while in the host country. You may also accept medical treatment from a foreign government if you seek and receive Committee approval prior to accepting the treatment.

***Example (Permissible).*** You break your leg while on vacation abroad. The foreign government offers to pay to have your leg set so you can fly home. You may accept the offer of medical treatment.

**Educational Scholarship.**<sup>71</sup> You may accept an educational scholarship from a foreign government if you seek and receive Committee approval prior to accepting the scholarship. You may not accept transportation to and from the United States

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<sup>70</sup> 5 U.S.C. § 7342(c)(1)(B).

<sup>71</sup> *Id.*

under this exception unless transportation is a term of the scholarship.

**Example (Additional Action Required).** You are offered a scholarship to study at a foreign public academic institution abroad. The scholarship covers travel to and from the United States, plus tuition and room and board for the academic year. The public academic institution and the scholarship are funded by the foreign government. You must receive Committee approval before accepting the scholarship.<sup>72</sup>

**Reporting Requirements.** If you received gifts or travel from a foreign government under FGDA, you must report those gifts on a separate form and return the form to the Committee.<sup>73</sup> If you accepted in-country travel expenses, regardless of value, you must return the form to the Committee within 30 days of returning from your trip. If you accepted gifts or decorations of more than minimal value, you must return the form to the Committee within 60 days of receiving the gift or decoration. You can find the form at <https://ethics.house.gov/forms/travel>.

If you file financial disclosure statements, you must also report tangible gifts, decorations, medical treatment, or educational scholarships of more than minimal value on your annual financial disclosure statement.

### *Home State Products*

You may accept tangible products that are manufactured, produced, or grown in your home state.<sup>74</sup> These products must be intended to promote your state, and be for display or distribution to visitors in your office.<sup>75</sup> The home state products should be of nominal value, less than \$10, to each recipient. Home state products that are more than nominal value may be displayed in a public area of your office.

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<sup>72</sup> Although rare, educational scholarships are offered to federal government officials from foreign academic institutions. This provision of FGDA applies only to educational scholarships offered or funded by foreign governments, or provisions of foreign governments, including public institutions. See, e.g., Letter from Robert B. Shanks, Deputy Assistant Attorney General, O.L.C., to Walter T. Skallerup, General Counsel, Department of the Navy (Mar. 17, 1983), <https://www.justice.gov/olc/page/file/936131/download> (allowing a scientist employed by the Naval Research Laboratory to accept an educational scholarship from the German Alexander von Humboldt Foundation, which is funded by the German government, to conduct research in Germany).

<sup>73</sup> The Department of State makes FGDA disclosures public in the Federal Register each year. 5 U.S.C. § 7342(f)(1).

<sup>74</sup> House Rule 25, cl. 5(a)(3)(V). Home state products can be manufactured, produced, or grown anywhere in your state, not just your district. This provision does not include items that are merely distributed in your state, but are manufactured, produced, or grown elsewhere.

<sup>75</sup> The Committee understands Members and staff may occasionally avail themselves of individually packaged home state products. The home state product exception does not prohibit occasional use, but individually packaged home state products must be intended for, and actually distributed to, visitors to your office.

Home state products may not be traded between offices, including for intern or staff labor to assist with projects.

***Example (Permissible).*** Your state is known for growing peanuts. A peanut farmer in your state sends your office three large boxes of single serving sized peanuts. You may accept those peanuts and place them in your office reception area for visitors to take.

***Example (Impermissible).*** That same peanut farmer sends you a large tin of peanuts intended just for your consumption. You may not accept the peanuts as a home state product, but you may be able to accept them under a different exception to the Gift Rule (page 36).

***Example (Permissible).*** An aerospace company makes rocket engines in your state. They send you a scale model of one of the rocket engines. You may accept the scale model and place it in your office reception area for visitors to see.

***Example (Permissible).*** The holidays are approaching, and a local tree farmer offers to send you a Christmas tree. You may accept the tree and put it on display in your office reception area for visitors to see.

***Example (Permissible).*** Your state invested heavily in its wine-producing regions and a local winery would like to send you six bottles of wine for display. You may accept the bottles and put them on display in your office reception area. Please contact the Office of General Counsel at 202-225-9700 for guidance about providing alcohol on House grounds.

***Example (Permissible).*** A soda manufacturer has a bottling plant in your state and offers you single-serving cans of the various sodas it bottles at its plant. You may accept the cans of soda.

***Example (Additional Action Required).*** A well-known ice cream producer is in your state. The company offers to provide you with single-serving sized ice cream cups and a freezer to keep them in. You may accept the ice cream as a home state product. You may also accept the freezer on loan from the company. See Artwork and Other Gifts of Unusual Nature on Loan to the House (page 84) for the requirements of the loan agreement.

### ***Free Attendance at Events***

The events discussed below can be held in-person or virtually. A virtual event, including a webinar or a live-stream event, must still meet the criteria discussed

below. If an event is held virtually, you may not accept a gift card or meal voucher in place of food for events under these exceptions. If you are offered free attendance at an event for yourself and a guest, which otherwise complies with the House Gift Rule, you may accept the offer for **any kind of guest**.<sup>76</sup>

**Receptions.** You and a guest may attend an event if only nominal value food and drink that is not a meal is served.<sup>77</sup> Events that fall in this category are often evening receptions with light to medium appetizers or hors d'oeuvres, briefings over coffee and pastries or bagels, and afternoon briefings with snacks, such as cookies or chips.<sup>78</sup> The Committee does not assign a per person dollar limit, but you should be mindful of not accepting food and beverages in excess of these examples. For example, a reception serving only high-cost items like champagne and caviar or a 25-year Scotch tasting would not be nominal value. Low-cost meals, like pizza, hot dogs, or sandwiches, are still meals that you may not accept under this exception to the Gift Rule. You may be able to accept those meals under different event exceptions (page 52).

You may not accept food and beverages under this exception in a one-on-one setting with a registered federal lobbyist or foreign agent, or an entity that employs or retains a registered federal lobbyist or a foreign agent.

Who extends the invitation to you for these events and whether the event has tables and chairs or silverware are not factors to determine whether this exception to the Gift Rule applies.

Generally, you may still attend a reception if background music is played during the event, even if the music is live. However, background music played by famous musicians, or a reception that is really a concert may change the event's nature.

**Example (Permissible).** You receive an invitation to an evening event with cocktails and finger foods. The event will have tables and plates for your food. You may attend the event, regardless of who invited you.

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<sup>76</sup> Comm. on Ethics, *Guest Policy Change and Reminder of Gift Rules for Attendance at Events* (Sept. 19, 2022).

<sup>77</sup> House Rule 25, cl. 5(a)(3)(U); Comm. on Ethics, *Guest Policy Change and Reminder of Gift Rules for Attendance at Events* (Sept. 19, 2022).

<sup>78</sup> See Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 11 (1995) ("Food and refreshments of nominal value not offered as part of a meal (reception food)"); Comm. on Standards of Official Conduct, *New Gift Rule*, at 3 (Dec. 7, 1995) (allowing "coffee and donuts, [and] hors d'oeuvres at a reception"); Comm. on Standards of Official Conduct, *Gifts and Travel* booklet, at 32 (April 2000) (specifically describing the kinds of food and refreshments that may be accepted, including coffee, juice, pastry, or bagels usually offered at a breakfast reception or meeting, and hors d'oeuvres, appetizers, and beverages usually offered at an evening reception).

**Example (Permissible).** You receive an invitation to the same event, and the invitation includes the ability to bring one guest. You may attend the event and bring anyone you like as your guest.

**Example (Impermissible).** Your colleague forwards you an invitation to an event they will be attending. The event will feature a carving station, salad station, and a collection of breads. Because this event will offer a meal, it is not a reception.

**Example (Impermissible).** You are invited to lunch briefing and the organization sponsoring the briefing plans to pass out boxed lunches. Because this event will offer a meal, even though a low-cost meal, it is not a reception.

**Example (Permissible).** You are invited to an evening reception with appetizers and background music played by a jazz quartet. You may attend the event.

**Example (Impermissible).** You are invited to an evening reception with appetizers and music performed by last year's Grammy winner for best artist. The Grammy winner will sing for two hours. Although the food and drink are nominal value, the event's nature is a concert and is not a reception.

**Widely-Attended Events.** You and a guest may accept an unsolicited offer of free attendance for a widely-attended event for you and one guest.<sup>79</sup> "Free attendance" includes all or part of the cost of admission; local transportation to and from the event; and the food, refreshments, entertainment, and instructional materials provided to all event attendees.<sup>80</sup> Free attendance does not include entertainment collateral to the event or food and refreshments outside the group setting of the event, such as giveaways.<sup>81</sup> Your guest may be anyone, as long as the event organizer offered you an unsolicited second ticket.<sup>82</sup>

A widely-attended event must meet three criteria. Remember, an event may be a widely-attended event for you but may not be a widely-attended event for your

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<sup>79</sup> House Rule 25, cl. 5(a)(4)(A); (B); Comm. on Ethics, *Guest Policy Change and Reminder of Gift Rules for Attendance at Events* (Sept. 19, 2022).

<sup>80</sup> House Rule 25, cl. 5(a)(4)(D).

<sup>81</sup> *Id.* Giveaways may be accepted if they meet the requirements of another exception to the Gift Rule. The most commonly used exceptions are the less than \$50 exception and the nominal value exception.

<sup>82</sup> House Rule 25, cl. 5(a)(4)(B).

colleague. The three criteria are

- You are invited by the event organizer directly;
  - ◆ The event organizer is the organization(s) doing the work to put the event on, not a monetary event sponsor or table sponsor.<sup>83</sup>
- The event organizer has a reasonable expectation that at least 25 people will also attend who are not Members, Senators, officers, or employees of Congress or their spouses; and<sup>84</sup>
  - ◆ Those 25 attendees must come from a variety of backgrounds, including the Executive Branch, but may not solely be the employees of a single organization.
- Your attendance is related to your official or representational duties.
  - ◆ You could be speaking in your official capacity, learning about a topic that will assist your work with the House, or meeting with constituents.
  - ◆ Whether your participation is related to your official or representational duties is a decision for you and your superiors, if any, to make.
  - ◆ Purely entertainment, personal pleasure, professional development, or charitable activities are not related to your official or representational duties.<sup>85</sup>
    - Merely watching a feature film, a sporting event, or show is generally purely entertainment.

Organizations that provide only financial assistance to the event organizer but are not assisting with the logistics for the event may still want to invite you. You may not accept an invitation from these organizations directly. The fiscal sponsors

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<sup>83</sup> “Event organizer” and “event sponsor,” as those terms related to events, mean “the person, entity, or entities that are primarily responsible for organizing the event. An individual who simply contributes money to an event is not considered to be a sponsor of the event.” Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 12 (1995). Gold or silver level sponsors or table sponsors are not included in the definition of event organizer or event sponsor for the purposes of these exceptions to the Gift Rule. But, there may be more than one event organizer if those entities “play[] significant, active role[s] in organizing the event in a manner that is roughly comparable” to another event organizer or sponsor. S. Comm. on Gov’t Affairs, Congressional Gifts Reform Act, S. Rep. No. 103-255, at 14 (1994) (Senate committee report on revisions to the Senate gift rule).

<sup>84</sup> Attendance can be open to individuals from throughout a given industry or profession, or to a range of people interested in the issue. See Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 12 (1995).

<sup>85</sup> Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 12 (1995).

may instead request the event organizer invite you directly. You may only accept that invitation if

- The event organizer retains ultimate control over the guest list and seating arrangements, and
- The event organizer is the only entity listed on the invitation and the only entity extending the invitation.

You may accept an invitation to a large media-related event, such as the White House Correspondents' Association's annual White House Correspondents' Dinner or the Washington Press Club Foundation's Annual Congressional Dinner, if you are invited by a member of the media organization sponsoring the event.

**Example (Permissible).** You are a legislative assistant focused on environmental policy. Your colleague is also a legislative assistant but focused on banking issues. You both receive an invitation to a large environmental policy conference, and the event organizer offers you free attendance. In years past, over 500 people from across government and industry have attended this conference. After discussing the conference with your supervisor, you may accept the invitation, but your colleague likely may not.

**Example (Impermissible).** Same example as above, but a large corporation is underwriting the conference and sends you the invitation. The corporate sponsor has no role in planning, organizing, or executing the conference. You may not accept the invitation from the corporate sponsor.

**Example (Impermissible).** While at the conference, you are invited to an after-hours dinner put on by one of the advocacy organizations active on environmental policy. The after-hours dinner is not part of the free attendance offered by the conference organizer. You may be able to accept the offer if the after-hours dinner meets a different exception to the Gift Rule (page 36).

**Example (Impermissible).** The owner of a local sports team offers you a ticket to an upcoming game. Although many people will be in attendance, the game is not a widely-attended event because it is purely for entertainment purposes.

**Example (Permissible).** Your district is home to a large annual rodeo that is very important to the district's financial health. The organization that puts on the rodeo offered you two tickets and seats in a prominent

location so the event organizer can recognize you. You may reasonably determine your attendance is related to your official or representational duties and accept both tickets.

**Events with Constituent Groups.** You and a guest may attend events that include meals with constituent groups that do not meet the 25 non-Congressional attendance requirement of widely-attended events, if the events meet the following criteria.<sup>86</sup>

- The event is regularly scheduled;
- The event is related to your official or representation duties; and
- The event is open to members of the constituent group, rather than just its officers or board members.

You may accept an invitation that meets the above criteria from the following event organizers. This list is not exhaustive.

- Civic associations
- Senior citizens organizations
- Veterans' groups
- Business, trade, or professional associations
  - ◆ For example, associations of lawyers, nurses, bankers, teachers, or farmers

**Example (Permissible).** You are invited to a lunch meeting of a civic association in your district. The lunch meeting is a periodic meeting open to all of the civic association's members, but only 15 are expected to attend. If you determine your attendance is related to your official or representational duties, you may accept the invitation.

**Example (Impermissible).** A veterans' group in your district would like to have an event honoring your upcoming retirement. Only 10 members of the group will be able to attend. Because the event is not

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<sup>86</sup> The Committee granted this general waiver pursuant to its waiver authority in House Rule 25, cl. 5(a)(3)(T). The Committee did so because it recognized the Gift Rule was not intended to interfere with Members carrying out their conventional representational duties, and that meetings or events with constituent organizations may sometimes be attended by only a few constituents, particularly when the organization is from a state with a small or diffuse population. The Committee also used its waiver authority to allow Members and staff to bring one guest, if invited. Comm. on Ethics, *Guest Policy Change and Reminder of Gift Rules for Attendance at Events* (Sept. 19, 2022).

regularly scheduled, you would not be able to accept the invitation under this exception. You may be able to accept it under a different exception to the Gift Rule (page 36).

***Example (Permissible).*** Your teachers' association is hosting its annual Washington fly-in. All association members are welcome to participate in the trip, and usually about 20 members come to Washington. One of the events during the fly-in is a dinner with the congressional delegation. If you determine your attendance is related to your official or representational duties, you may accept the dinner. If offered, you may also bring one guest of your choosing.

***Example (Impermissible).*** Same example as above, but only one association member from your district attends the fly-in and would like to take you out to lunch separate from the group. Because the lunch is not an association event, you may not accept the lunch under this exception. You may be able to accept the lunch under a separate exception to the Gift Rule (page 36).

**Educational Events.** You and a guest may attend events that include meals designed for small group discussion that do not meet the 25 non-Congressional attendance requirement of widely-attended events, if the events meet the following criteria.<sup>87</sup>

- The event is educational, such as a lecture, seminar, or discussion;
- The event is hosted by a university, foundation, think tank, or similar nonprofit, non-advocacy organization; and
- You are invited by the event organizer directly.

You may not accept a meal at educational events organized by registered federal lobbyists or foreign agents, organizations that employ or retain registered federal lobbyists or foreign agents, or advocacy groups. You also may not accept a meal at educational events that are legislative briefings or strategy sessions, even if the organization hosting the event has an educational status under the Internal Revenue Code.

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<sup>87</sup> The Committee granted this general waiver pursuant to its waiver authority in House Rule 25, cl. 5(a)(3)(T). The Committee did so because it recognized there are certain events that are worthwhile for Members and staff to attend, but that do not meet the numeric requirements for widely-attended events. The Committee also used its waiver authority to allow Members and staff to bring one guest, if invited. Comm. on Ethics, *Guest Policy Change and Reminder of Gift Rules for Attendance at Events* (Sept. 19, 2022).

**Example (Permissible).** You are invited to a luncheon series hosted by a nonpartisan, nonprofit think tank. The luncheon series features distinguished speakers from academia discussing foreign policy updates. The think tank invited about 15 people, some of whom are Members and staff. You may accept the invitation and the luncheon. If offered, you may also bring one guest of your choosing.

**Example (Permissible in Part).** A trade association establishes a nonprofit educational foundation. The foundation sponsors a monthly series at which experts from the field explain aspects of their industry and the ramifications of various legislative proposals for that industry. You and a dozen other House staff are invited to these presentations, which occur over lunch. You may attend the event, but you may not accept the meal because these events are legislative briefings. You may be able to accept the meal under a different exception to the Gift Rule (page 36).

**Training in the Interest of the House.** You and a guest may accept free attendance to training that is in the interest of the House.<sup>88</sup> You may also accept any food or refreshments offered to all attendees as part of the training.<sup>89</sup> Generally, trainings “in the interest of the House” are trainings like vendor trainings on how to use a product.

These trainings are generally not provided by outside organizations looking to share their views with you and influence your policy decisions. You may not accept meals in connection with presentations made by registered federal lobbyists, foreign agents, organizations that employ or retain registered federal lobbyists or foreign agents, or advocacy groups. You also may not accept meals in connection with briefings or discussions relating to issues before Congress.

**Example (Permissible).** The company that your office uses for managing constituent communications is hosting a training session in the Rayburn Gold Room to promote its product and provide hands-on assistance to current and potential clients. The company plans to offer boxed lunches to everyone who attends. You may attend the training and accept the boxed lunch.

**Example (Impermissible).** A think-tank would like to host an event where it shares the results from a recent poll and discusses how those

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<sup>88</sup> House Rule 25, cl. 5(a)(3)(L); Comm. on Ethics, *Guest Policy Change and Reminder of Gift Rules for Attendance at Events* (Sept. 19, 2022).

<sup>89</sup> *Id.*

results can inform policy decisions. The think tank plans to offer a boxed lunch to everyone who attends. You may not attend this event under this exception to the Gift Rule. But you may be able to attend under a different exception to the Gift Rule (page 36).

**Charity Events.** You and a guest may accept an unsolicited offer of free attendance for a charity fundraising event.<sup>90</sup> “Free attendance” includes all or part of the cost of admission; local transportation to and from the event; and the food, refreshments, entertainment, and instructional materials provided to all event attendees.<sup>91</sup> Free attendance does not include entertainment collateral to the event or food and refreshments outside the group setting of the event, such as giveaways.<sup>92</sup>

A charity fundraising event must meet the following criteria.

- You are invited by the event organizer directly, and
  - ♦ The event organizer is the organization(s) doing the work to put the event on, not a monetary event sponsor or table sponsor.<sup>93</sup>
- The event’s primary purpose must be to raise funds to benefit an organization qualified under § 170(c) of the Internal Revenue Code.<sup>94</sup>

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<sup>90</sup> House Rule 25, cl. 5(a)(4)(C); Comm. on Ethics, *Guest Policy Change and Reminder of Gift Rules for Attendance at Events* (Sept. 19, 2022). This exception extends to charity events such as lunches, dinners, golf or tennis tournaments, races, and cook-offs. The purpose of this exception to the Gift Rule is to enable Members and staff “to lend their names to legitimate charitable enterprises and otherwise promote charitable goals.” Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 12 (1992).

<sup>91</sup> House Rule 25, cl. 5(a)(4)(D).

<sup>92</sup> *Id.* Giveaways may be accepted if they meet the requirements of another exception of the Gift Rule. The most commonly used exceptions are the less than \$50 exception and the nominal value exception.

<sup>93</sup> “Event organizer” and “event sponsor,” as those terms related to events, mean “the person, entity, or entities that are primarily responsible for organizing the event. An individual who simply contributes money to an event is not considered to be a sponsor of the event.” Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 12 (1995). Gold or silver level sponsors or table sponsors are not included in the definition of event organizer or event sponsor for the purposes of these exceptions to the Gift Rule. But, there may be more than one event organizer if those entities “play[] significant, active role[s] in organizing the event in a manner that is roughly comparable” to another event organizer or sponsor. S. Comm. on Gov’t Affairs, Congressional Gifts Reform Act, S. Rep. No. 103-255, at 14 (1994) (Senate committee report on revisions to the Senate gift rule).

<sup>94</sup> Organizations qualified under § 170(c) of the Internal Revenue Code include organizations qualified under § 501(c)(3) of the Internal Revenue Code, government entities, and certain veterans’ organizations and fraternal orders. 26 U.S.C. § 170(c). Organizations qualified under § 501(c)(4) of the Internal Revenue Code are not included in this list.

- ♦ The primary purpose is usually met if at least half of the proceeds are tax-deductible charitable contributions.

**Example (Permissible).** A local company invites you to its casino night whose proceeds will be donated to a § 501(c)(3) charity in the district. Because you were invited by the event organizer and the primary purpose is to raise funds for a charity, you may accept the invitation.

**Example (Impermissible).** A local organization has both a § 501(c)(3) arm and a § 501(c)(4) arm. The organization is hosting its annual fundraising dinner and those who purchase tickets or wish to donate more than the ticket price can choose whether their donations will benefit the § 501(c)(3) or the § 501(c)(4). Because the event's primary purpose is not to raise funds for an organization qualified under § 170(c) of the Internal Revenue Code, this event is not a charity fundraiser.

**Example (Impermissible).** A local company invites you to its casino night. If any money is left over after the company pays its expenses, it plans to donate the excess to a local § 501(c)(3) charity in the district. Because the primary purpose of this event is not to raise funds for an organization qualified under § 170(c) of the Internal Revenue Code, this event is not a charity fundraiser.

**Example (Impermissible).** A lobbying firm wishes to hold a dinner for Members and staff, at which it will announce that the firm made a substantial donation to a local charity. This event is not a charity fundraiser because its primary purpose is not to raise funds for that charity.

**Example (Impermissible).** A local theater is organized as a § 501(c)(3) charity. The chairman of the board for the local theater invites you to a regular performance. This event is not a charity fundraiser because its primary purpose is not to raise funds for the charity. A separately scheduled fundraiser for the theater may be considered a charity fundraiser.

**Example (Permissible in Part).** A § 501(c)(3) charity is hosting an evening fundraising reception, followed by a board meeting over dinner. You may accept an invitation for the fundraising reception, but not stay for the board meeting, because the board meeting's primary purpose is not to raise funds for the charity. You may be able to attend the board meeting and accept the meal under a different exception to the Gift Rule (page 36).

**Example (Impermissible).** An advocacy organization you work with often purchased a table at a charity fundraiser organized by another organization. The advocacy organization invites you to be its guest and sit at its table. You may not accept the ticket from the advocacy organization under this exception.

**Example (Permissible).** An event organizer offers you two tickets to its upcoming charity fundraiser. You would like to bring your adult child as your guest. You may use the second ticket to bring your adult child.

You may be able to accept travel to attend a charity fundraiser. See *Travel to Attend Charity Fundraisers* (page 113).

**Events Sponsored by Political Organizations.** You may accept an offer of free attendance to a political fundraiser or other campaign event organized by the political organization.<sup>95</sup> Free attendance to a political event includes the cost of admission, food, refreshments, entertainment, and other benefits provided by the political organization, including unsolicited offers of free attendance for guests.<sup>96</sup> You may be able to accept transportation and lodging if the offer complies with the requirements in *Travel for Political Purposes* (page 108). A “political organization” for this exception to the Gift Rule is one described in § 527(e) of the Internal Revenue Code.<sup>97</sup>

You may accept an invitation to an event that is primarily entertainment, such as a golf outing or a sports game, if that event is a true fundraiser for the political organization.<sup>98</sup>

A meeting with an individual who merely gives you a campaign contribution is not a true fundraiser or campaign event under this exception unless

- The event is organized and paid for by the political organization, and

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<sup>95</sup> House Rule 25, cl. 5(a)(3)(G)(iii).

<sup>96</sup> The political organization must directly pay for your meal. You may not accept a meal that an outside third-party provided to the political organization through in-kind donations under this exception to the Gift Rule. You may be able to accept the meal under a different exception to the Gift Rule.

<sup>97</sup> Briefly stated, under that statute, a political organization is an entity organized and operated primarily for the purpose of accepting contributions or making expenditures for the purpose of influencing the election of any individual to a public or political office.

<sup>98</sup> The term “bona fide” means “made in good faith; without fraud or deceit,” sincere, or genuine. *Bona fide*, Black’s Law Dictionary (11th ed. 2019).

- Receipts and expenditures are appropriately reported under applicable campaign finance laws and regulations.

You may only accept an invitation to a political event if you were invited by the event organizer directly.<sup>99</sup>

As discussed in Campaign (page 131) and Prohibition Concerning Campaign Outlays and Contributions, House staff may not purchase tickets to a political event that benefits their employing Member. Prohibition Concerning Campaign Outlays and Contributions is available at <https://ethics.house.gov/campaign-activity-pink-sheets/reminder-prohibition-concerning-campaign-contributions-and-outlays>.

**Example (Permissible).** You are invited by the state party to its upcoming fundraiser. The state party offers you three tickets. You may accept the invitation and all three tickets.

**Example (Impermissible).** You are invited by the state party to a fundraiser for a presidential candidate. The state party purchased a table at the fundraiser and is not involved in putting the event on. You may not accept the invitation from the state party.

**Example (Impermissible).** You are invited to a fundraiser for a § 501(c)(4) organization. Because the event does not benefit a political organization, you may not accept the invitation under this exception.

**Example (Impermissible).** You are invited to a fundraiser for your employing Member by a campaign donor who purchased the ticket for you. You may not accept the ticket because it did not come from a political organization. You also may not pay for the ticket because it is a fundraiser for your employing Member. You may be able to accept the ticket under a different exception to the Gift Rule (page 36).

**Events in Honor of Members, Officers, and Employees.** Events that outside organizations put on nominally in your honor are not gifts to you, although

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<sup>99</sup> “Event organizer” and “event sponsor,” as those terms related to events, mean “the person, entity, or entities that are primarily responsible for organizing the event. An individual who simply contributes money to an event is not considered to be a sponsor of the event.” Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 12 (1995). Gold or silver level sponsors or table sponsors are not included in the definition of event organizer or event sponsor for the purposes of these exceptions to the Gift Rule. But, there may be more than one event organizer if those entities “play[] significant, active role[s] in organizing the event in a manner that is roughly comparable” to another event organizer or sponsor. S. Comm. on Gov’t Affairs, Congressional Gifts Reform Act, S. Rep. No. 103-255, at 14 (1994) (Senate committee report on revisions to the Senate gift rule).

free attendance at the event would still be a gift. To be “nominally” in your honor, the event must meet the following criteria.<sup>100</sup>

- The event organizer is clear to all participants, such as at the top of the invitation;
- You are not a host or sponsor of the event;
- You do not receive any particular benefit from the event;
- You did not ask the event organizer to host the event; and
- You did not solicit support for the event.

If the event does not meet the criteria above, the event’s entire cost would be a gift to you.

***Example (Permissible).*** An advocacy group that works on environmental issues wants to host a reception in your honor because of your work on environmental issues. The advocacy group will handle all the logistics for the event. They may host the reception in your honor and you may attend if your free attendance meets the Gift Rule exceptions (page 52) for that type of event.

***Example (Additional Action Required).*** At that same event, the advocacy group wishes to showcase your nature photography and offer it for sale. Because you would receive a benefit from the event, the event’s entire cost would be a gift to you. You may be able to accept the gift of the event under a different exception to the Gift Rule (page 36).

***Example (Additional Action Required).*** You are retiring at the end of the Congress. A local nonprofit in your district wants to host a retirement event in your honor. The event will be a fundraiser for the nonprofit, and you will be required to help fundraise for the event. Because you are asked to solicit support for the event, the event’s entire cost would be a gift to you. You may be able to accept the gift of the event under a different exception to the Gift Rule (page 36).

***Example (Additional Action Required).*** Your friends would like to host a retirement party in your honor. They ask to hold the event at your home, but they plan to handle all the other logistics. Because you would provide in-kind support for the event, the event’s entire cost

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<sup>100</sup> An event could nominally be in honor of a single Member, officer, or employee, or a group. For example, an event could be in honor of a caucus or a staff association.

would be a gift to you. You may be able to accept the event as a gift based on personal friendship (page 40).

**Inaugural and Swearing-In Events.** You may wish to host or attend a Presidential Inaugural event or a Congressional Swearing-In event. The rules for hosting or attending these events are the same as for all other events. An offer of free attendance at an inaugural or swearing-in event must comply with an exception to the Gift Rule depending on the type of event—widely-attended event (page 54), charity fundraiser (page 60), political event (page 62), or reception (page 52). Additionally, if the event is nominally in your honor, you may not be involved in putting on the event. See Events in Honor of Members, Officers, or Employees (page 63).

If you wish to host a swearing-in event or a reception for visitors from your district, see Conferences and Town Hall Meetings (page 348).

**Events During National Political Conventions.** Members may not attend some events during the national political conventions, even if attendance would otherwise meet an exception to the Gift Rule or if the Member purchased a ticket.<sup>101</sup> During the dates of the national political convention to select the Presidential and Vice Presidential candidates of your party, a Member may not participate in or attend an event held in their honor, if the event is paid for by a registered federal lobbyist or organization that employs or retains a registered federal lobbyist.<sup>102</sup> If the Member being honored is a Presidential or Vice Presidential candidate, this restriction does not apply.<sup>103</sup>

This restriction prohibits honoring a specific Member.<sup>104</sup> Unless a Member is a Presidential or Vice Presidential candidate, the Member could not be named, even in a personal capacity, on any invitations, promotional materials, or event publicity. A Member also may not participate if the Member receives some special benefit or opportunity that others would not have, like an exclusive speaking or prominent

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<sup>101</sup> This provision only applies to Members, not to officers or employees who may also attend the national party conventions.

<sup>102</sup> See Honest Leadership and Open Government Act of 2007 (HLOGA), Pub. L. No. 110-81, § 305, 121 Stat. 735, 753-754 (Sept. 14, 2007); House Rule 25, cl. 8. The term “participate” is not defined in HLOGA or the House Rule. In the Committee’s view, the prohibition on participation in these events concerns Member attendance at the event. Members should contact the Committee with any questions regarding whether activities other than attendance may constitute participation in such events.

<sup>103</sup> *Id.*

<sup>104</sup> See 153 CONG. REC. E1759 (daily ed. Aug. 4, 2007) (statement of Rep. John Conyers, Jr.) (“This provision will have the effect of preventing lobbyists or an entity employing such lobbyists from directly paying for a party to honor a specific Member.”).

ceremonial role. A group of Members, such as a delegation, committee, or caucus, without naming specific Members, may still be honored under this exception.<sup>105</sup> Additionally, Members of a congressional host committee could be listed if that listing also includes non-congressional host committee members.

This exception prohibits registered federal lobbyists or organizations that employ or retain registered federal lobbyists from directly paying for an event where a specific Member is honored. Members may still participate in events hosted and organized by organizations without registered federal lobbyists, even if a registered federal lobbyist, or organization that employs or retains a registered federal lobbyist, contributed funds to the event.

***Example (Permissible).*** You are the presumptive Presidential candidate. Your party's national political convention will be held from July 16-18 this year. A registered federal lobbyist wants to host a reception in your honor on July 17 and wants to specifically name you on all the reception's promotional material. The reception will meet all the requirements for a reception. Although the event will be hosted during the days of your national party convention and you will be named specifically, you may participate because you are the Presidential candidate.

***Example (Permissible).*** You are a delegate to your party's national convention. Your party's national convention will be held from July 21-23 this year. A registered federal lobbyist wants to host a charity fundraiser honoring your state's delegation to the convention on July 22. The event will be publicized as honoring the state's delegation without naming specific names. The event meets all the requirements for a charity fundraiser. You may participate in the event.

***Example (Permissible).*** An organization that does not employ or retain registered federal lobbyists would like to host a reception in your honor during your party's national political convention. The reception will meet all the requirements for a reception. The organization has several table sponsors, including some registered federal lobbyists. Because the event organizer does not employ or retain any registered federal lobbyists, you may participate in the event.

***Example (Permissible).*** Your party's national political convention will be on July 15-17 this year. A registered federal lobbyist would like

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<sup>105</sup> There is no numerical requirement on the size of the delegation or caucus participating in the event.

to host a reception in your honor on July 18. The reception will meet all the requirements for a reception. Because the event is not during the dates of your party's national political convention, you may participate in the event.

### ***Business Meetings***

You may accept nominal value food and drinks, including coffee or water and snacks, during a business meeting.<sup>106</sup> You may not accept any food or drinks from a registered federal lobbyist during a one-on-one meeting. This exception also does not allow you to accept a meal, even a small one like a hotdog or pizza. You may be able to accept a meal if it meets a different exception to the Gift Rule (page 36).

See Business Site Visits (page 116) for facility tours.

***Example (Permissible in Part).*** You are invited to a business meeting with the local subsidiary of a large multinational corporation. The meeting will be in the company's board room. The company offers to provide lunch and drinks during the business meeting. You may not accept the lunch. You may accept the drinks that are offered.

### ***Informational Materials***

You may accept informational materials, such as books, articles, magazines, newspapers, CDs, DVDs, or flash drives that are sent to your office to assist with your official duties.<sup>107</sup> You may accept one copy regardless of who sent the informational material or the value. You may not accept additional copies sent to your home, and your official copy should not be used to supplement your personal library.<sup>108</sup> You may accept informational materials from any source, including a constituent or a lobbyist. If you are offered a subscription to a periodical, you may only accept if the subscription comes from the periodical's publisher or distributor.

You may also accept informational materials provided during an event or meeting, such as an event program or one-pager about the organization or its policy position.

You may accept informational materials that come in a set, but you may not

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<sup>106</sup> House Rule 25, cl. 5(a)(3)(U).

<sup>107</sup> House Rule 25, cl. 5(a)(3)(I). You should consider whether the material you were offered truly is informational and will benefit you in your official capacity. For example, a copy of a tax law textbook may be informational if you are considering revisions to the tax code, but the latest fiction murder mystery may not be informational.

<sup>108</sup> Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 11 (1995).

accept periodic updates to that set. Additionally, you may not accept full application software or access to a database under this exception. You may, however, accept a demonstration copy of the application software that is not fully functional, to understand how the software works. You may be able to accept full application software or access to a database under a different exception to the Gift Rule (page 36).

If offered, you may accept multiple copies of an informational material for the purpose of distributing those materials to your colleagues or others. The purpose of the multiple copies must be for distribution to a specific group, you may not keep the multiple copies for your unrestricted use, and the materials must not be created specifically for you.

***Example (Permissible).*** A constituent sends you a copy of a bestselling book about budget reform. The book's list price is \$60. You may accept the book as an informational material.

***Example (Permissible in Part).*** You are offered a 5-part PBS documentary that is relevant to upcoming legislation, and you are offered a book series that is updated annually. You may accept the PBS documentary and the initial set of books. You may not accept annual updates to the books.

***Example (Impermissible).*** You are on the Natural Resources Committee and a constituent offers to pay for a subscription to National Geographic. You may not accept the subscription because the offer did not come from the publisher.

***Example (Permissible in Part).*** You are working on legislation involving online tax preparation. A tax preparation company offers you free access to its tax preparation website, which usually requires a \$79 annual registration fee. The company also offers you access to a free tutorial about how to use its website. You may not accept the free access to the website, but you may accept the free tutorial.

### ***Commemorative Items***

You may accept a plaque, trophy, or other substantially commemorative item that is presented in person.<sup>109</sup> In person presentation, alone, does not make an object substantially commemorative. The Committee looks to the following characteristics to determine whether an item is substantially commemorative. This list is not exhaustive.

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<sup>109</sup> House Rule 25, cl. 5(a)(3)(S).

- The engravings commemorate an occasion and not just a person, including the name of the event, the presenting organization, and the date; and
- The item does not have significant utility or artistic value.

**Example (Impermissible).** After speaking at an event, the event organizer presents you with an expensive pen engraved with your name. The pen does not have any other information engraved on it. Although presented in person, the pen is not substantially commemorative.

**Example (Permissible).** After speaking at the same event the following year, the event organizer presents you with a Waterford crystal bowl engraved with your name, the name of the event, and the date of the event. Although the bowl has utility and is decorative, it is still substantially commemorative, and you may accept it.

**Example (Impermissible).** An organization would like to offer you a flat screen television to honor your efforts on an issue near and dear to its heart. The organization intends to put a small plaque on the television with your name, the date, and the reasons for the honor. Even if presented in person, the television is not substantially commemorative.

**Example (Impermissible).** An event's organizers commission a famous artist to paint a picture for you that will be presented after their event. The artist plans to incorporate the name of the event in small letters in the corner of the artwork. Even if presented in person, the commissioned artwork is not substantially commemorative.

**Example (Impermissible).** An aircraft manufacturer in your district wants to mail you a scale model of an airplane that it builds. The model will be inscribed with the date of the airplane's first build. Because it will not be presented in person, you may not accept it as a commemorative item. You may be able to accept it under a different exception to the Gift Rule (page 36).

### ***Gifts from Outside Business and Other Activities***

You may accept gifts that are offered to you because of your activities or employment outside of the House or your spouse's activities or employment outside of the House.<sup>110</sup> You may accept these gifts if

- The gifts were not offered or enhanced because of your position with the House, and

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<sup>110</sup> House Rule 25, cl. 5(a)(3)(G).

- The gifts are customarily provided to others in similar circumstances.

**Example (Permissible).** An organization hosts trips abroad for young Americans to visit the countries of their heritage. The organization pays for all the travel expenses. The application for these trips only asks for your cultural background and does not ask about your current employment or ask for a resume. You applied for the trip and were accepted. Because you met the criteria for the trip and your House employment was not included in the application process at all, you may accept the trip.

**Example (Additional Action Required).** Same example above, but the organization also hosts trips for “Young Leaders” to those countries. As part of the application process, you included your current employment, a copy of your resume, and answered essay questions about your leadership experience. Because your House employment was part of the application process, you may not accept the trip as related to your outside activities. You may, however, seek a waiver from the Committee to participate in the trip. See General Waiver (page 85) for more information.

**Example (Permissible).** You serve on the board of a 501(c)(3) charity. Each year the charity pays for one night’s lodging for each of its board members to attend the charity’s annual meeting. Because all the board members are offered the same lodging, you may accept the offer as well. However, you may not accept a nicer room than any of the other board members.

**Example (Permissible).** Your spouse is a real estate agent and a top seller in the market. For being a top seller, your spouse received an all expenses paid trip to Hawaii for your spouse and a guest. Your spouse offers to bring you on this trip. Because the offer is related to your spouse’s employment and is not related at all to your position with the House, you may travel with your spouse.

**Example (Impermissible).** Same example as above. However, although all employees at your spouse’s real estate firm may bring a guest of their choosing, the real estate firm specifically asks your spouse to invite you because you work for the House. You may not accept the trip because it was offered due to your position with the House.

**Example (Impermissible).** A local sports team in your district established an advisory council and asks you to join. The advisory

council mostly consists of area elected officials or their staff. Each advisory council member gets season tickets to the sports team's home games. Even though you may only participate in the advisory council in your personal capacity, you were invited to participate because of your position with the House. Therefore, you may not accept the season tickets.

***Example (Permissible).*** You started looking for a new position off the Hill. You interviewed with one private company and were invited back for a second interview. All second interviews with this company take place over lunch at a restaurant, and the company pays. You may accept the lunch during the second interview.

***Example (Impermissible).*** A private company reached out to you to talk about a job offer. The company is headquartered on the other side of the country. Typically, the company flies its candidates out to meet at headquarters. The company usually only covers coach class airfare, but because they would like you to be their rainmaker, they offer to pay for first class airfare for you. You may only accept the coach class ticket from the company. You may upgrade your ticket using your own resources or accept a free upgrade from the airline if it is a widely-available benefit.

### ***Benefits from Previous Employers***

You may accept benefits from former employers while employed by the House, if those benefits are related to the work you performed for the former employer and not related to your position with the House.<sup>111</sup> These benefits include receiving a pension, participation in a retirement plan maintained by the former employer, deferred compensation, and severance payments.

You may receive a severance package from a former employer while employed by the House if the severance package meets the following criteria.

- Your former employer regularly gives its employees a severance package as part of the employees' compensation for services performed,
- The severance package is compensation for services performed for the former employer prior to employment with the House,
- The severance package is no greater than that given to other similar employees who do not work for the House, and
- The severance package's monetary value is not enhanced because of your employment with the House.

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<sup>111</sup> House Rule 25, cl. 5(a)(3)(H).

You may accept deferred compensation for work you performed prior to starting House employment. However, you may not receive deferred compensation for representational services before the federal government, even if the work was completed prior to starting your House employment.<sup>112</sup> See Outside Employment (page 195) for information about representational services before the federal government.

If you have active contingency or referral fee agreements related to your former employer, please call the Committee for guidance on how to manage those agreements.

***Example (Permissible).*** You participated in a 401(k) plan with your former employer. Your former employer matched all employee contributions. Your former employer allows former employees to keep their investments in the company 401(k) plan but does not match contributions for former employees. You may keep your investments in the company 401(k) plan without receiving any matching contributions.

***Example (Impermissible).*** Your former employer does not routinely offer severance packages to departing employees, but it does offer a separation bonus for any departing employees who work in Congress. Because the separation bonus is tied to your House employment, you may not accept it.

***Example (Permissible).*** Prior to working for the House, you were a real estate agent. All your outstanding contracts settled the week before you started your House employment, but you received the payment from your real estate broker after you started House employment. Because the deferred payment is for work done prior to joining the House, you may accept the deferred payment.

### ***Legal Expenses***

Subject to many restrictions, you may be able to accept contributions to a Legal Expense Fund that the Committee approves or *pro bono* legal services.<sup>113</sup>

**Legal Expense Funds.** You may accept contributions to a legal expense fund that the Committee formally approves as long as those contributions fully comply with the requirements in the Committee's Legal Expense Fund Regulations.<sup>114</sup>

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<sup>112</sup> See 18 U.S.C. § 203 (prohibiting federal employees, including Members, officers, and employees of the House, from accepting, "directly or indirectly," compensation for representational services before federal agencies).

<sup>113</sup> House Rule 25, cl. 5(a)(3)(E).

<sup>114</sup> *Id.*

Legal Expense Fund Regulations are available at <https://ethics.house.gov/financial-disclosure-pink-sheets/revised-legal-expense-fund-regulations>. If you would like to establish a Legal Expense Fund, you must write to the Committee and request formal approval of the trust document and the proposed trustee. Once approved, Legal Expense Funds become public documents.

### **1. Purposes of a Legal Expense Fund**

You may only establish a Legal Expense Fund if the relevant legal expenses arise in connection with

- Your candidacy for, or election to, federal office;
- Your official duties or position in Congress;
  - ◆ This purpose includes matters before the Committee and filing an *amicus* brief in a Member's official capacity.
- A civil action filed in a Member's official capacity challenging the validity of a federal law or regulation;
- A criminal prosecution against you; or
- A civil matter bearing on your reputation or fitness for office.

You may not establish a Legal Expense Fund for matters that are primarily personal in nature, such as matrimonial action, personal injury claims, or personal contract disputes.

### **2. Independent Trustee.**

You must find an independent trustee to manage your Legal Expense Fund. The trustee may not have any family, business, or employment relationship with you for two years before the establishment of your Legal Expense Fund. Additionally, the trustee may not delegate any duties to someone who has any family, business, or employment relationship with you. Additionally, we recommend the trustee not contribute to any of your campaigns while serving as trustee. Although the trustee provides many services to the Legal Expense Fund, you are ultimately responsible for the proper administration of the Legal Expense Fund.

The full list of trustee duties can be found in the Legal Expense Fund Regulations. Legal Expense Fund Regulations are available at <https://ethics.house.gov/financial-disclosure-pink-sheets/revised-legal-expense-fund-regulations>.

### **3. Contributions**

Your Legal Expense Fund may only accept up to \$5,000 in a calendar year from

any individual or organization, including corporations, labor unions, and political action committees.<sup>115</sup> Your Legal Expense Fund may not accept any contributions from registered federal lobbyists or foreign agents.<sup>116</sup> In-kind contributions, including *pro bono* legal services and waivers of trustee's fees, also count towards that \$5,000 limit.<sup>117</sup> In-kind contributions must be valued at fair market value. If the organization donating to the Legal Expense Fund is a partnership, limited liability company not taxed as a corporation, or an S-corporation, the contribution is attributed to the organization itself and to each partner, member, or shareholder based on each person's share of the organization's profits.

**Example.** A limited liability company with three equal members would like to donate \$3,000 to your Legal Expense Fund. The three members would also like to separately donate \$2,000 each to your Legal Expense Fund. In your accounting, the limited liability company will have donated \$3,000, and each member will have donated \$3,000.

If any Member, officer, or employee of the House other than you would like to help raise funds for your Legal Expense Fund, that person must separately receive approval from the Committee to assist. Any fundraising for your Legal Expense Fund must follow all the guidelines in Member, Officer, and Employee Participation in Fundraising Activities. Member, Officer, and Employee Participation in Fundraising Activities is available at <https://ethics.house.gov/gift-pink-sheets/member-officer-and-employee-participation-fundraising-activities>.

#### 4. Use of Funds

You may only use funds in a Legal Expense Fund for the purposes approved by the Committee. You may only use funds for the following purposes.

- Legal expenses;
- Expenses incurred while soliciting for the Legal Expense Fund;
- Expenses for administering the Legal Expense Fund;
- Federal, state, and local taxes; and
- Expenses related to preparing the reports required by the Legal Expense

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<sup>115</sup> Gifts from relatives of any amount or gifts from personal friends that are less than \$250 are not considered contributions to the Legal Expense Fund and do not count towards the \$5,000 annual limit, even if you intend to use those gifts to pay for legal services. Gifts from relatives and gifts from personal friends are considered under separate exceptions to the Gift Rule.

<sup>116</sup> House Rule 25, cl. 5(e)(3).

<sup>117</sup> You may accept unlimited *pro bono* legal services for certain legal assistance, outlined in *Pro Bono Legal Services* (page 76). *Pro bono* legal services for any other purpose are in-kind contributions to the Legal Expense Fund and subject to the annual limit.

Fund Regulations. Legal Expense Fund Regulations are available at <https://ethics.house.gov/financial-disclosure-pink-sheets/revised-legal-expense-fund-regulations>.

Any other expenses, including legal expenses incurred prior to establishing the Legal Expense Fund, must be approved by the Committee.

## **5. Beneficiaries**

You may use the Legal Expense Fund to pay for your own legal and other expenses, as the trustor and beneficiary of the Legal Expense Fund. You may include present and former House employees as beneficiaries of the Legal Expense Fund. If you would like to make anyone other than you a beneficiary of the Legal Expense Fund, you must receive approval from the Committee.

If you choose to make House employees beneficiaries of your Legal Expense Fund, you must follow certain requirements to ensure the House employees can engage independent and competent legal counsel. Those requirements are listed in the Legal Expense Fund Regulations. Legal Expense Fund Regulations are available at <https://ethics.house.gov/financial-disclosure-pink-sheets/revised-legal-expense-fund-regulations>.

## **6. Public Disclosure and Reporting**

Once the Committee approves your Legal Expense Fund, you must file the trust document with the Legislative Resource Center within one week. If you do not file the trust document timely, you must seek re-approval from the Committee before formally establishing the Legal Expense Fund.

You must also file quarterly reports for the Legal Expense Fund with the Committee and the Legislative Resource Center. Legal Expense Funds follow the calendar year, not the legislative year. The reports include disclosure of certain contributions and certain expenditures. Although the trustee may assist you with preparing the quarterly reports, you are responsible for filing the quarterly reports.

You must file quarterly reports until the Legal Expense Fund has terminated or you leave the House. If you leave the House, you must also file a final departing Trustor report.

Contributions to your Legal Expense Fund are gifts to you. If you file Financial Disclosure Statements, you must also report contributions on the Gifts Schedule.

## 7. Changes to the Legal Expense Fund

If you would like to change the Legal Expense Fund's purpose, trustee, or beneficiaries, you must receive prior Committee approval.

## 8. Termination of the Legal Expense Fund

Your trustee may terminate the Legal Expense Fund at the earlier of 1) the end of the time period for which the Legal Expense Fund is established, 2) the fulfillment of the Legal Expense Fund's purpose, or 3) at the Committee's direction for non-compliance with the Legal Expense Fund Regulations. Legal Expense Fund Regulations are available at <https://ethics.house.gov/financial-disclosure-pink-sheets/revised-legal-expense-fund-regulations>.

Within 90 days after a Legal Expense Fund's termination, your trustee must distribute any remaining funds or assets in one of two ways.

- You may distribute the funds and assets to the Legal Expense Fund's contributors on a *pro rata* basis as determined by your trustee, or
- You may donate the remaining funds and assets to an organization qualified under Internal Revenue Code § 501(c)(3).

If you would like to donate the remaining funds and assets to a charitable organization, the Committee must approve the benefitting charities. No Legal Expense Fund funds or assets may be donated to a charity that was established or is controlled by you.

**Pro Bono Legal Services.** You may accept unsolicited *pro bono* legal services for the following purposes.<sup>118</sup>

- File an *amicus* brief in your capacity as a Member;
- Participate in a civil action challenging the validity of any federal law or regulation; or
- Participate in a civil action challenging the lawfulness of an action of a federal agency, or a federal official acting in their official capacity.
  - ◆ The civil action must concern a matter of public interest, rather than one that is personal in nature.

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<sup>118</sup> Unsolicited *pro bono* legal services that fit these categories are considered a gift to the House, not to an individual Member. Members do not need to report the value of these services on their annual Financial Disclosure statements.

*Pro bono* legal services mean the attorney or law firm providing the legal services is not charging for those services. *Pro bono* legal services do not allow an outside third party to pay for legal expenses that you incur.<sup>119</sup> You may, however, be able to sign on to an *amicus* brief that is written for an outside third party in your official capacity.

If you are offered *pro bono* legal services for any other purpose, those legal services must either be allowable contributions to a Legal Expense Fund or separately approved by the Committee through its formal advisory opinion process.

***Example (Impermissible).*** You are the plaintiff in a lawsuit challenging the validity of a federal regulation. A local law firm is representing you in the action but is not charging you for the legal services. Unbeknownst to you, a third party is paying the law firm's fees. You must repay that third party for the legal fees. Even if you are unaware of a gift that is given on your behalf, you are still ultimately responsible for only accepting permissible gifts.

***Example (Impermissible).*** A law firm offers to prepare an *amicus* brief for Members. The law firm does not offer its services on a *pro bono* basis. A third party who will also provide legal services offers to pay the law firm's expenses. Because the purpose of the legal services is to write an *amicus* brief for Members, the Members may not accept the third party paying for those legal services. The law firm itself must either offer its services on a *pro bono* basis, or the Members must pay fair market value for those services.

***Example (Additional Action Required).*** You are a candidate for local elected office. Your opponent challenged your placement on the ballot. When you engaged an attorney to assist with the response, the attorney offered their services on a *pro bono* basis. Because the purpose for this *pro bono* representation does not meet one of the purposes listed above, you must receive formal Committee approval to accept the offer.

***Example (Permissible).*** An advocacy group is filing an *amicus* brief in a case challenging a federal regulation that you and other Members also disagree with. The advocacy group is paying for its own legal services and the *amicus* brief lays out the advocacy group's arguments. The advocacy group asks if you would like to also sign on to the *amicus* brief. Because the *amicus* brief is written for the advocacy group, who is

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<sup>119</sup> Comm. on Ethics, *In the Matter of Allegations Relating to Representative Jean Schmidt*, H.R. Rep. No. 112-195, at 16-19 (2011).

paying its own legal services, you may sign on to the brief in your official capacity.

**A Warning.** You are responsible for complying with the Gift Rule and any other authority allowing you to accept gifts. Before entering into any arrangement where you are not paying full fair market value, and especially for expensive arrangements such as legal services, the Committee strongly recommends you have a full understanding of what is being offered and who would be providing the gift. You may not solicit for *pro bono* legal services. The Committee and the Office of General Counsel are available to review any retainer agreements. The Office of General Counsel is available at 202-225-9700.

**Campaign Funds for Legal Expenses.** You may be able to use campaign funds to pay for certain legal expenses. See Payment of Certain Legal Expenses (page 166) for the Committee's guidance on using campaign funds for legal expenses. Please also contact the FEC's Office of Congressional Affairs at (202) 694-1006 to discuss additional limits FECA and its regulations place on the use of campaign funds.<sup>120</sup>

### ***Honorary Degrees***

You may accept the award of an honorary degree, as well as any travel, food, refreshments, and entertainment that are also provided in connection with the honorary degree.<sup>121</sup>

***Example (Permissible).*** You were asked to provide a commencement speech to your alma mater and the school plans to award you with an honorary degree. The school offers to pay for your transportation and lodging expenses, as well as two dinners during commencement weekend and a post-commencement reception. You may accept the offer from your alma mater.

### ***Public Service Awards***

You may accept a *bona fide*, non-monetary public service award, as well as any food, refreshments, and entertainment that are also provided in connection with the public service award.<sup>122</sup>

The Committee considers the following criteria to determine if an award is a

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<sup>120</sup> Specifically, restrictions on converting campaign funds to personal use. See 11 C.F.R. pt. 113.

<sup>121</sup> House Rule 25, cl. 5(a)(3)(K).

<sup>122</sup> *Id.*

*bona fide* public service award.<sup>123</sup> This list is not exhaustive.

- The nature of the organization providing the award;
- Whether the award is part of an established program and has been awarded on a regular basis;
- Whether the award has been presented to non-congressional awardees in the past; and
- Whether there are specific, written criteria for the selection of the awardees.

If you were offered a public service award with a monetary component, you must write to the Committee for formal approval to accept the monetary award. The Committee will closely examine whether the award is a *bona fide* public service award when deciding whether to grant you a waiver of the Gift Rule. See General Waiver (page 85) for information about the Committee’s waiver authority.

***Example (Permissible).*** Before coming to the House, you were actively involved with foster children. You continued that work since joining the House. A foundation that supports foster children would like to honor your service and present you with an award. The foundation has presented this award every year for the last 20 years to someone who tirelessly works to improve the lives of foster children. The foundation has established criteria to determine whether a recipient “tirelessly works to improve the lives of foster children.” A Member and a Senator received the award in previous years, but generally the award is given to someone not affiliated with Congress. The award itself is a crystal desk clock. You may accept the *bona fide* public service award and any meals or entertainment provided when you are presented with the award.

***Example (Additional Action Required).*** You were active duty military prior to joining the House and continue to serve in the Reserves. You work for the Veterans Affairs Committee and are actively involved in assisting veterans outside of your official duties. A private organization that assists veterans would like to present you with an award for your service to veterans. The organization has given this award for five years and no other awardee has been affiliated with Congress. The organization is aware that you work for the Veterans Affairs Committee,

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<sup>123</sup> Whether a public service award is a *bona fide* public service award is particularly important when the award is an item with significant monetary value, such as a crystal sculpture. If an award does not meet the criteria for a *bona fide* public service award, the Committee may consider whether the item being awarded meets the requirements for a commemorative item or may consider the gift under a general waiver.

but the decision to present you with the award is mostly based on your service outside the House. The organization has written criteria for determining who should receive the award. The award itself is a crystal bowl and \$1,000. You may accept the crystal bowl as a *bona fide* public service award, but you will need to write to the Committee for formal approval to accept the \$1,000.

### ***Widely Available Opportunities and Benefits***

You may accept opportunities and benefits that are similarly available to others outside the House.<sup>124</sup> Specifically, an opportunity or benefit must meet one of the following criteria.

- Available to the public or all federal employees, regardless of geographic location;
- Offered to the members of a group or class where membership is not related to congressional employment;
- Offered to members of a group or class where membership is related to congressional employment, but similar opportunities are available to large segments of the public through similar organizations, such as credit unions or employees' associations;
- Offered to a group or class of government employees that does not distinguish between branch of government, type of responsibility, rank, or pay grade; or
- Reduced membership or other fees offered to government employees to participate in a professional organization, if the only restrictions on membership relate to professional qualifications.

***Example (Permissible).*** You would like to use free software to conduct a survey of your constituents. You've discussed the technology and cybersecurity concerns with House Information Resources and Cybersecurity, and everyone is comfortable with you using this free software. You've also cleared the survey's content with the Franking Commission. The software is free to anyone who sends no more than 10,000 surveys at once. You plan to send 9,000 surveys. You may use the software without having to pay.

***Example (Permissible).*** A hotel chain has a government employee discount that is available to all government employees, whether or not they are on official travel. You may also accept the discount when staying at that hotel chain.

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<sup>124</sup> House Rule 25, cl. 5(a)(3)(R).

**Example (Permissible).** You accumulated enough frequent flyer miles to earn a free first-class ticket. The frequent flyer program is available to anyone who wishes to sign up. You may accept the free first-class ticket.

**Example (Permissible).** You are a member of the Congressional Federal Credit Union. The Congressional Federal Credit Union joined with an insurance company to offer discounted car insurance rates Congressional Federal Credit Union members. You may sign up for the discounted car insurance through the Congressional Federal Credit Union.

**Example (Permissible).** You are a lawyer. Your state bar provides continuing legal education classes and offers a reduced rate for those classes to its members who are government employees. You may accept the reduced rate for those classes.

**Example (Impermissible).** A local, privately-run gym offers reduced membership fees to congressional employees. You must show your congressional ID to receive the reduced rate. The gym does not extend this offer to all federal employees or all government employees. You may not accept the reduced membership fee.<sup>125</sup>

**Example (Permissible).** You are invited to appear on a Sunday morning talk show, which will be filmed in D.C. You live approximately 15 miles from the studio. The studio offers to send a car to pick you up. The studio usually offers car service to its guests that live locally.<sup>126</sup> You may accept the car service.

### **Loans**

You may accept a loan from a bank or financial institution with terms generally available to the public.<sup>127</sup> You may also accept a loan from an entity that is not a financial institution as long as the loan has commercially reasonable terms, including

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<sup>125</sup> This example does not preclude membership in the fitness centers provided on House grounds, reduced childcare rates at the House daycare center, or any other discounts that the House procures under contract. You may accept the discounts the House procures under contract as services provided under contracts with the federal government. See Gifts from Federal, State, or Local Governments (page 45) for more information.

<sup>126</sup> Local transportation means within 35 miles of the Capitol or the closest district office.

<sup>127</sup> Members, officers, and employees may accept loans from banks or other financial institutions on terms generally available to the public. House Rule 25, cl. 5(a)(3)(R)(v).

requirements for repayment and a reasonable market-based interest rate.<sup>128</sup> If you are offered a loan from an entity other than a financial institution on generally available terms, please contact the Committee to review the terms.

***Example (Permissible).*** You and your spouse are buying your first home and shopping for mortgages. One bank offers you an interest rate that is lower than all other institutions you've contacted. The interest rate is the one they advertise on their website for applicants with high credit scores. You and your spouse have high credit scores. You may accept that loan with the interest rate.

***Example (Impermissible).*** Same as the example above, but you and your spouse do not have high credit scores and there are no other factors that could reasonably put you in the same category as applicants with high credit scores. You may not accept the loan with the lower interest rate.

***Example (Permissible).*** You are buying a car from your best friend's father. He offers to let you pay him back directly over time and will charge you the current market interest rate. You may accept the offer.

***Example (Impermissible).*** Same as the example above, but your best friend's father offers to let you pay him back directly over time without interest. You may not accept the offer as a commercially reasonable loan, but you may be able to accept the offer under a different gift exception (page 36).

Loan forbearance may also be a gift. You may accept forbearance under the Public Service Loan Forgiveness program or other federal student loan repayment programs. If you are offered other loan forbearance opportunities, please contact the Committee to review the terms.

### ***Awards, Prizes, and Raffles***

You may accept an award or prize from a contest or event that is open to the public, including random drawings.<sup>129</sup> You may also accept a prize in a drawing or raffle that is not necessarily open to the public, if most of the entries are not from Members, officers, or employees of Congress, or their spouses or accompanying guests. See Financial Disclosure for reporting requirements. Information about Financial

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<sup>128</sup> Members, officers, and employees may also accept loans from an entity that is not a financial institution if the Member, officer, or employee is paying fair market value. House Rule 25, cl. 5(a)(3)(R)(v); House Rule 25, cl. 5(a)(3)(A).

<sup>129</sup> House Rule 25, cl. 5(a)(3)(J).

Disclosure is available at <https://ethics.house.gov/financial-disclosure>.

**Example (Permissible).** You purchased a lottery ticket in a state lottery and won. You may keep the prize.

**Example (Permissible).** You attended an invitation-only event and won the 50/50 raffle. Most of the entrants in the 50/50 raffle were not Members, officers, or employees of Congress or their guests. You may keep the prize.

**Example (Permissible).** You attended a reception in a House office building and dropped your business card in the bowl for a prize drawing. Your business card was pulled. You may only accept the prize if most of the entrants in the drawing were not Members, officers, or employees of Congress or their guests.

### ***Campaign Contributions***

You may accept lawful campaign contributions, whether to federal campaign committees or leadership PACs or to state or local campaign committees.<sup>130</sup> You may not use those campaign contributions for your own personal use or for purposes that are not *bona fide* campaign, political, or certain official purposes.<sup>131</sup> See Proper Use of Campaign Funds and Resources (page 161) for further guidance.

Any proceeds from testimonial dinners or other fundraising events for you must be considered campaign contributions.<sup>132</sup> You must disclose them as required by FEC regulations and you may only use those proceeds for *bona fide* campaign, political, or certain official purposes.<sup>133</sup> The proceeds may not be treated as unrestricted personal

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<sup>130</sup> House Rule 25, cl. 5(a)(3)(B).

<sup>131</sup> House Rule 23, cl. 6; House Rule 24, cls. 1-3.

<sup>132</sup> House Rule 23, cls. 6-7. This provision was a recommendation of the House Commission on Administrative Review. See House Comm'n on Admin. Review, Financial Ethics, H.R. Rep. No. 95-73, at 14 (1977).

The Committee determined that a direct mail solicitation by a Member or a Member's spouse was a fundraising event, and all proceeds had to be treated as campaign contributions. Select Comm. on Ethics, *Advisory Opinion No. 4* (Apr. 6, 1977), reprinted in H.R. Rep. No. 95-1837, at 61-62 (1977). The Committee also found that a Member may not accept proceeds from a fundraiser conducted by a group independent of the Member for the Member's unrestricted personal use. Select Comm. on Ethics, *Advisory Opinion No. 11* (May 11, 1977), reprinted in H.R. Rep. No. 95-1837, at 76. The Committee noted that a major purpose of the revisions to the Official Code of Conduct was to prevent Members from "cashing in" on their official position in Congress. Select Comm. on Ethics, *Advisory Opinion No. 4*, at 62 (Apr. 6, 1977).

<sup>133</sup> House Rule 23, cl. 6. Visit [FEC.gov](https://www.fec.gov) or call the FEC's Office of Congressional Affairs at 202-694-1006 for information about FEC reporting requirements and additional limitations on

gifts to you.

**Example (Permissible).** You are running for re-election to the House and hosting a testimonial dinner with \$100 tickets. The proceeds from the dinner must be reported to the FEC and you may only use those proceeds for *bona fide* campaign, political, or certain official purposes.

**Example (Impermissible).** You are running for re-election to the House. One very enthusiastic campaign supporter gives your campaign a check for three times the individual contribution limit. You may not accept the excess contribution. Contact the FEC for assistance with reporting and to determine whether contributions may be attributed to other election cycles.

### ***Bequests and Inheritances***

You may accept gifts that are left to you in someone's will or through other means of inheritance.<sup>134</sup> If you file financial disclosure statements, you will not need to report the acquisition of any property through the bequest or inheritance, but you may need to report assets themselves, if they meet reporting thresholds. See Financial Disclosure for more information about what and how to report. Information about Financial Disclosure is available at <https://ethics.house.gov/financial-disclosure>.

**Example (Permissible).** In his will, your grandfather left you his antique clock worth \$5,000. You plan to put the clock in your living room. You may accept the clock and you will not need to report the gift.

**Example (Permissible).** Your mother leaves you her house in her will. You plan to rent out the house. You may accept the gift. If you file financial disclosure statements, you will need to report the house as a rental property on your financial disclosure statement while you rent it out.

### ***Artwork and Other Gifts of Unusual Nature on Loan to the House***

If you are offered artwork or other unusual gifts that do not meet the requirements for any Gift Rule exception, you may still accept the artwork or unusual gift on loan to the House. Unusual gifts are tangible items that do not meet the requirements for any of the Gift Rule exceptions. To accept artwork or other unusual gifts on loan to the House, you must

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expenditures.

<sup>134</sup> House Rule 25, cl. 5(a)(3)(M).

- Have a written loan agreement with the item's owner;
- Be clear in that written agreement that the item is on loan to the House and not a gift;
- Be clear in that written agreement that the item will be returned to the owner the earliest of
  - ◆ the item being removed from official display,
  - ◆ the Member leaving office,
  - ◆ a date certain spelled out in the agreement, or
  - ◆ when the owner requests the item be returned;
- Include a provision in the written agreement that the House does not accept liability for any damage or loss; and
- Include the item's value in the written agreement.

The Office of General Counsel is available to help you prepare a written loan agreement. The Committee also recommends you place a sticker or other marker on the item stating that the item is on loan to the House and identifying the item's owner.

You may help facilitate donations of artwork or unusual gifts to the House Fine Arts Board or a museum in your district.<sup>135</sup> If you do, the House Fine Arts Board or the local museum will own the artwork or unusual gift, but you may ask the House Fine Arts Board or the local museum to allow you to display the item in your official office.

***Example (Additional Action Required).*** An artist from another state offers you a small hand carved wooden sculpture that the artist values at \$500. After consulting with the Committee, the sculpture does not meet any of the Gift Rule exceptions, but the artist insists that you take the sculpture. You may enter into a written loan agreement with the artist to display the sculpture in your official office. You should contact the Office of General Counsel to draft a written agreement that meets the requirements above. The Office of General Counsel is available at 202-225-9700.

### ***General Waiver***

If the gift you were offered does not meet any of the gift exceptions, you may ask

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<sup>135</sup> The House Fine Arts Board has the authority to accept, on behalf of the House, gifts of works of fine art, historical objects, and similar property. 2 U.S.C. § 2122.

the Committee for a waiver of the Gift Rule.<sup>136</sup> The Committee will grant the waiver in unusual cases where there is “no potential conflict of interest or appearance of impropriety.”<sup>137</sup> The Committee handles all requests for waivers through its advisory opinion process.

### ***Special Occasion Gift Waiver***

You may request a Special Occasion Gift Waiver for gifts related to an engagement, wedding, birth or adoption of a child, or death in the family that would not meet an exception to the Gift Rule.<sup>138</sup> You can find the waiver form at <https://ethics.house.gov/forms/gift-waivers>. The waiver covers gifts you would receive after the Committee approves your request. Any gifts you receive prior to receiving the Committee’s approval would still need to meet an exception to the Gift Rule.<sup>139</sup> The request for and approval of any Special Occasion Gift Waiver is a confidential communication with the Committee. If you file Financial Disclosure statements, see Financial Disclosure Reporting for Gifts for information about Financial Disclosure requirements (page 88).

You may need to decline, return, or pay for gifts that do not meet an exception to the Gift Rule or are not covered by a waiver.<sup>140</sup>

## **Expressly Prohibited Gifts**

### ***Charitable Contributions from Lobbyists and Foreign Agents if You Solicited***

You may not ask a registered federal lobbyist<sup>141</sup> or foreign agent<sup>142</sup> to donate to any charitable endeavor unless you asked for a donation to charity in lieu of honorarium. Any

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<sup>136</sup> House Rule 25, cl. 5(a)(3)(T).

<sup>137</sup> *Bipartisan Task Force Report*, 135 CONG. REC. 30743.

<sup>138</sup> Or another exception such as under FGDA.

<sup>139</sup> Or another exception such as under FGDA.

<sup>140</sup> The Committee may, in special circumstances, grant retroactive approval to accept a gift.

<sup>141</sup> “Registered federal lobbyist” means a lobbyist who is registered under the Lobbying Disclosure Act (LDA). House Rule 25, cl. 5(g). The LDA is the successor statute to the Federal Regulation of Lobbying Act cited in House Rule 25, clause 5(g). Because the LDA defines “lobbyist” to mean “any individual” who engages in certain activities set forth in the LDA, the Committee interprets the prohibitions for registered federal lobbyists to include both the individuals who are registered and lobbying firms. More information about the LDA and its searchable database can be found at <https://lobbyingdisclosure.house.gov/>.

<sup>142</sup> “Foreign agent” means an agent of a foreign principal who is registered with the Department of Justice under the Foreign Agent Registration Act (FARA). More information about the FARA and the database can be found at <https://www.justice.gov/nsd-fara>.

contribution that a registered federal lobbyist or foreign agent makes at your request, other than in lieu of honorarium, is considered a gift to you, and one that you may not accept.<sup>143</sup> See Member, Officer, and Employee Participation in Fundraising Activities for more information about charitable fundraising. Member, Officer, and Employee Participation in Fundraising Activities is available at <https://ethics.house.gov/gift-pink-sheets/member-officer-and-employee-participation-fundraising-activities>.

### ***Lobbyist and Foreign Agent Contributions to Legal Expense Funds***

If you have a legal expense fund, you may not accept any contributions from registered federal lobbyists or foreign agents.<sup>144</sup> See Legal Expense Funds (page 72) for more information about contributions you may accept.

### ***Lobbyist and Foreign Agent Contributions to Entities You Control or Maintain***

If you control or maintain any entity, that entity may not accept anything, including monetary and in-kind contributions, provided by registered federal lobbyists or foreign agents.<sup>145</sup> You control or maintain the entity if you are an officer or director, or any similar position depending on the business structure of the organization.

***Example (Impermissible).*** You founded a nonprofit organization that provides after-school STEM education before joining the House. You continue to serve as an officer of the nonprofit. A registered federal lobbyist would like to give the nonprofit computers. Because you maintain or control the nonprofit, the nonprofit may not accept the computers.

### ***Contributions from Lobbyists for Official Events***

You may not accept financial or in-kind assistance from a registered federal lobbyist or foreign agent for an official conference, retreat, or similar event.<sup>146</sup> See Conferences and Town Hall Meetings (page 348) for additional restrictions on accepting outside assistance for official activities.

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<sup>143</sup> House Rule 25, cl. 5(e)(2).

<sup>144</sup> House Rule 25, cl. 5(e)(3).

<sup>145</sup> House Rule 25, cl. 5(e)(1).

<sup>146</sup> The Gift Rule expressly prohibits “[a] financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, . . . officers, or employees of the House.” House Rule 25, cl. 5(e)(4); Comm. on Rules, Amending the Rules of the House of Representatives to Provide for Gift Reform, H.R. Rep. No. 104-337, at 14 (1995) (explaining the provision prohibits “a donation to an official conference or retreat”). Other House rules also prohibit official congressional organizations from accepting outside supplementation. House Rule 24, cls. 1-3.

**Example (Impermissible).** An official congressional member organization, or caucus, is hosting its annual two-day policy meeting. Many Members and staff plan to attend the meeting. A lobbyist offers to pay for dinner one night during the meeting. The caucus may not accept the contribution from the lobbyist.

**Example (Impermissible).** A Member wants to host a retreat for the Member's personal office staff to discuss policy planning for the upcoming Congress. A foreign agent offers to let the Member use the foreign agent's vacation home for free for the staff retreat. The Member may not accept the use of the vacation home.

### Financial Disclosure Reporting for Gifts

If you file Financial Disclosure Statements, you may need to report gifts that you receive throughout the calendar year. See Financial Disclosure for information about what to report and how to report it. Information about Financial Disclosure is available at <https://ethics.house.gov/financial-disclosure>.

If you received a Special Occasion Gift Waiver (page 86), you may also request a Financial Disclosure Gift Disclosure Waiver. You can find the form at <https://ethics.house.gov/financial-disclosure/financial-disclosure-forms-and-filing>. This waiver allows you not to report any special occasion gifts you received on your annual Financial Disclosure statement. Unlike other requests to the Committee, both the request for a Financial Disclosure Gift Disclosure Waiver and the response from the Committee will both be made public.<sup>147</sup>

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<sup>147</sup> Gifts above the Financial Disclosure reporting threshold do not need to be disclosed if a publicly available request for a waiver is granted. Ethics in Government Act (EIGA), 5 U.S.C. app. § 102(a)(2)(C).

### Commonly-Used Gift Rule Exceptions

Nominal Value	Less than \$50	Gifts from Relatives	Personal Friendship
<p>1) May accept an item valued at less than \$10 (\$9.99 before tax) or a greeting card, baseball cap, or t-shirt regardless of the source</p> <p>2) May not accept cash or cash equivalents, like gift cards</p> <p>3) May not accept food or beverages in a one-on-one setting</p> <p>4) Should be mindful of potential conflicts if you are repeatedly offered nominal value gifts from a single source, even if the gifts technically satisfy the requirements</p>	<p>1) May accept a gift worth less than \$50 (\$49.99 or less before tax) from someone who is not a registered federal lobbyist, foreign agent, or entity that employs or retains a registered federal lobbyist or foreign agent</p> <p>2) The cumulative value of gifts you may accept under this exception in a calendar year from a single source must be less than \$100 (\$99.99 or less before tax)</p> <p>3) A gift worth less than \$10 (\$9.99 before tax) does not count towards the cumulative limit</p> <p>4) You may not accept cash or cash equivalents, like gift cards</p> <p>5) You may not buy down the value of the gift to get the value below \$50</p>	<p>1) May accept anything that a relative offers you, if your relative is the source of the gift, and not merely passing along a gift from someone else</p> <p>2) Relatives include: Parent, Child, Sibling, Aunt or Uncle, Great Aunt or Great Uncle, First Cousin, Niece or Nephew, Spouse, Fiancé(e), Grandparent, Grandchild, Mother or Father-in-Law, Daughter or Son-in-Law, Sister or Brother-in-Law, Stepparent, Stepchild, Stepsibling, Half sibling, Grandparent of your spouse</p> <p>3) Gifts from persons other than listed above, such as second cousins or godparents, may fall under other gift rule exceptions</p>	<p>1) To accept a gift under personal friendship, you must consider the circumstances of the offer, including, but not limited to</p> <ul style="list-style-type: none"> <li>- the nature of your relationship with your friend, including any past exchange of gifts;</li> <li>- if your friend paid or will pay for the gift personally, or if your friend will seek a business reimbursement or tax deduction; and</li> <li>- if the same or similar gift was or will be offered to another Member, officer, or employee</li> </ul> <p>2) If the fair market value of the gift exceeds \$250, you must seek formal Committee approval to accept a gift offered because of personal friendship</p> <p>3) If the fair market value of a gift is \$250 or less, you may decide for yourself if the gift meets the requirements</p>

### Commonly-Used Gift Rule Exceptions

Widely-Attended Events	Receptions	Charity Events	Events Sponsored by Political Organizations
<p>1) Directly invited by event organizer - may not be invited by additional event sponsor who only provides financial assistance to event organizer</p> <p>2) Reasonable expectation that 25+ <b>non-congressional</b> attendees of diverse professional backgrounds will also be in attendance</p> <p>3) Subject matter must be related to official duties</p> <p>4) Guest may be anyone if event organizer offers unsolicited second ticket</p> <p>4) “Free attendance” includes all or part of the cost of admission; local transportation to and from the event; and the food, refreshments, entertainment, and instructional materials provided to all event attendees</p>	<p>1) <b>Nominal value</b> food and drink only Examples: - light/medium appetizers or hor d’oeuvres - briefings over coffee &amp; bagels - briefings with snack such as cookies or chips</p> <p>2) <b>May not be meals</b>, even low cost meals such as pizza, hot dogs, or sandwiches</p> <p>3) May not be one-on-one setting with registered lobbyists or foreign agents, or entity that employs registered lobbyist or foreign agent</p> <p>4) Guest may be anyone if event organizer offers unsolicited second ticket</p>	<p>1) Directly invited by the event organizer who is working to put on the event</p> <p>2) Primary purpose of event is to raise funds for organization qualified under § 170(c) of Internal Revenue Code</p> <p>3) May accept unsolicited offer of free attendance for anyone</p> <p>4) “Free attendance” does not include entertainment collateral to the to the event or food and drink outside the group setting of the event, such as giveaways</p>	<p>1) Directly invited by event organizer</p> <p>2) This exception applies to “political organizations” as described in § 527(e) of the Internal Revenue Code</p> <p>3) “Free attendance” includes cost of admission, food, refreshments, entertainment, and other benefits provided by the political organization, including unsolicited invitations for guests</p> <p>4) You may accept an invitation to an event that is primarily entertainment, such as a golf outing or a sports game, if that event is a true fundraiser for the political organization</p> <p>5) A meeting with an individual who merely gives you a campaign contribution is not a true fundraiser or campaign event under this exception</p>

# LOBBYING DISCLOSURE ACT GUIDANCE

Effective January 1, 2008

Last Revised February 28, 2021<sup>1</sup>

Lobbying Disclosure Act - <http://lda.congress.gov/LDA>

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<sup>1</sup> The Secretary and the Clerk review the Guidance periodically. Any questions, comments, and suggestions should be directed to the Senate Office of Public Records and the House Legislative Resource Center.

## Section 1 – Introduction

The Lobbying Disclosure Act, as amended, ([2 USC 1601](#) et. seq., referred to hereinafter as the “LDA”) states that the Secretary of the Senate and the Clerk of the House of Representatives shall (1) provide guidance and assistance on the registrations and reporting requirements of this Act and develop common standards, rules, and procedures for compliance with this Act; [and] (2) review, and, where necessary, verify and inquire to ensure the accuracy, completeness, and timeliness of registrations and reports.

The LDA does not provide the Secretary or the Clerk with the authority to write substantive regulations or issue definitive opinions on or enforce the law. Rather, it is the U.S. Attorney’s Office for the District of Columbia that enforces the LDA. The Secretary and Clerk have, from time to time, jointly issued written guidance on the registration and reporting requirements. This document is a compilation of all previously issued guidance documents and supersedes all previous guidance documents.

This combined guidance document does not have the force of law, nor does it have any binding effect on the United States Attorney for the District of Columbia or any other part of the Executive Branch. To the extent that the guidance relates to the accuracy, completeness, and timeliness of registrations and reports, it will serve to inform the public as to how the Secretary and Clerk intend to carry out their responsibilities under the LDA.

## Section 2 – What’s New

This revision includes updated registration thresholds reflecting changes in the Consumer Price Index, adds a section on the Justice Against Corruption on K Street Act of 2018 (the “JACK Act”), as well as new sections regarding listing lobbyists and listing affiliates. Clarification is also provided regarding the definition and disclosure of covered officials.

### Updated Registration Thresholds

As required by the LDA, the lobbying disclosure thresholds referenced throughout the Guidance have been updated to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period. After January 1, 2021, an organization employing in-house lobbyists is exempt from registration if its total expenses for lobbying activities do not exceed and are not expected to exceed \$14,000 during a quarterly period. The \$3,000 income threshold for lobbying firms remains unchanged. See Guidance Section 4 on “Who Must Register and When” for additional information.

### The “JACK Act”

Section 4 and Section 6 are revised to include The Justice Against Corruption on K Street Act of 2018 (the JACK Act), which amended the LDA effective January 3, 2019. The Act requires all registrations (LD-1) and quarterly activity reports (LD-2) to include:

“for any listed lobbyist who was convicted in a Federal or State court of an offense involving bribery, extortion, embezzlement, an illegal kickback, tax evasion, fraud, a conflict of interest, making a false statement, perjury, or money laundering, the date of the conviction and a description of the offense.”

To comply with this requirement and ensure the accuracy and completeness of the disclosure, all registrants must list the required information for every listed lobbyist with any prior conviction of an offense involving one of the JACK Act’s listed predicates (a “predicate offense”). Once a JACK Act disclosure is required for a listed lobbyist, that disclosure will be required on every future registration or quarterly report that includes that lobbyist.

## Identification of Client and Covered Officials

Clarification is provided in Section 4 on the requirement of executive branch and legislative branch offices to disclose whether contacted individuals are covered officials under the LDA.

## Definition of Covered Officials

The guidance regarding identification of covered officials has been expanded to assist the filing community.

## Listing Lobbyists

A new subject is added to Section 4 outlining additional details for listing lobbyists on registrations (LD-1) and quarterly activity reports (LD-2), and clarifying that outside contract lobbyists are not to be listed on the registrations (LD-1) or quarterly activity reports (LD-2).

## Listing Affiliates

A new subject is added to Section 4 providing additional guidance on listing affiliates and the circumstances in which a registrant may rely on a link to the client's publicly accessible Internet website to disclose one or more affiliates, as defined by the LDA.

**Filers are expected to use due diligence when filling out and submitting registrations (LD-1), quarterly activity reports (LD-2), and semiannual contribution reports (LD-203).**

## Section 3 – Definitions

**Actively Participates:** An organization “actively participates” in the planning, supervision, or control of lobbying activities of a client or registrant when that organization (or an employee of the organization in his or her capacity as an employee) engages directly in planning, supervising, or controlling at least some of the lobbying activities of the client or registrant. Examples of activities constituting active participation would include participating in decisions about selecting or retaining lobbyists, formulating priorities among legislative issues, designing lobbying strategies, performing a leadership role in forming an ad hoc coalition, and other similarly substantive planning or managerial roles, such as serving on a committee with responsibility over lobbying decisions.

Organizations that, though members of or affiliated with a client, have only a passive role in the lobbying activities of the client (or of the registrant on behalf of the client), are not considered active participants in the planning, supervision, or control of such lobbying activities. Examples of activities constituting only a passive role would include merely donating or paying dues to the client or registrant, receiving information or reports on legislative matters, occasionally responding to requests for technical expertise or other information in support of the lobbying activities, attending a general meeting of the association or coalition client, or expressing a position with regard to legislative goals in a manner open to, and on a par with, that of all members of a coalition or association—such as through an annual meeting, a questionnaire, or similar vehicle. Mere occasional participation, such as offering an ad hoc informal comment regarding lobbying strategy to the client or registrant, in the absence of any formal or regular supervision or direction of lobbying activities, does not constitute active participation if neither the organization nor its employee has the authority to direct the client or the registrant on lobbying matters **and** the participation does not otherwise exceed a de minimis role.

**Affiliated Organization:** An affiliated organization is any entity other than the client that contributes in excess of \$5,000 toward the registrant's lobbying activities in a quarterly period, **and** actively participates in the planning, supervision, or control of such lobbying activities.

**Client:** Any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. An organization employing its own in-house lobbyist(s) is considered its own client for reporting purposes.

**Contribution Reports:** Semiannual contribution reports (LD-203 reports) are required to be filed semiannually by July 30th and January 30th (or the next business day should either of those days fall on a weekend or holiday) covering the first and second calendar halves of the year. Registrants **and** active lobbyists (except those who have been terminated *for all clients prior to the beginning of the reporting period*) must file separate reports that detail Federal Election Campaign Act (FECA) contributions, honorary contributions, presidential library contributions, and payments for event costs. (See discussion in Guidance Section 7.)

**Covered Executive Branch Official:** The application of coverage of [2 U.S.C 1602\(3\)](#) (who is a covered Executive Branch official) was intended for Schedule C employees only. Senior Executive Service employees are not covered Executive Branch officials as defined in the LDA unless they fall within one of the categories below. Covered Executive Branch officials are:

- The President
- The Vice President
- Officers and employees of the Executive Office of the President
- Any official serving in an Executive Level I through V position
- Any member of the uniformed services serving at grade O-7 or above
- Schedule C employees.

**Covered Legislative Branch Official:** Covered Legislative Branch officials are:

- A Member of Congress
- An elected Officer of either the House or the Senate
- An employee, or any other individual functioning in the capacity of an employee, who works for a Member, committee, or leadership staff of either the Senate or House, a joint committee of Congress, a working group or caucus organized to provide services to Members, and 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 § 109\(13\)](#)).

**In whole or major part:** The term “in major part” means in substantial part. It is not necessary that an organization or foreign entity exercise majority control or supervision in order to fall within [2 U.S.C. § 1603 \(b\)\(3\)\(B\) and \(b\)\(4\)\(B\)](#). In general, 20 percent control or supervision should be considered “substantial” for purposes of these sections.

**Lobbying Activities:** Lobbying contacts and any efforts in support of such contacts, including preparation or planning activities, research, and other background work that is intended, at the time of its preparation, for use in contacts, and coordination with the lobbying activities of others.

**Lobbying Contact:** Any oral, written, or electronic communication to a covered official that is made on behalf of a client with regard to the subjects enumerated at ([2 U.S.C. § 1602\(8\)\(A\)](#)). Note the exceptions to the definition at [2 U.S.C. § 1602\(8\)\(B\)](#). See Discussion at Guidance Section 4.

**Lobbying Firm:** A lobbying firm is a person or entity consisting of one or more individuals who meet the definition of a lobbyist with respect to a client other than that person or entity. The definition includes a self-employed lobbyist (a sole proprietor) who is both a registrant and their own listed lobbyist.

**Lobbying Registration:** An initial registration (LD-1) filed pursuant to ([2 U.S.C. § 1603](#)).

**Lobbying Report:** A quarterly activity report (LD-2) filed pursuant to ([2 U.S.C. § 1604](#)).

**Lobbyist:** Any individual (1) who is either employed or retained by a client for financial or other compensation (2) whose services include more than one lobbying contact; **and** (3) whose lobbying activities constitute 20 percent or more of his or her time in services for that client over any three-month period.

**Person or Entity:** Any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or state or local government.

**Public Official:** A public official includes an elected or appointed official, or an employee of a Federal, State, or local unit of government in the United States. There are five exceptions to this definition, including a college or university, a government-sponsored enterprise, a public utility, a guaranty agency, or an agency of any state functioning as a student loan secondary market. The definition of a public official in [2 U.S.C 1602\(15\)\(F\)](#) includes a group of governments acting together as an international organization. This definition's purpose is to ensure international organizations, such as the World Bank, are treated in the same manner as the governments that comprise them.

**Registrant:** A lobbying firm or an organization employing in-house lobbyists that files a registration pursuant to [2 U.S.C. § 1603](#). Please note: An organization that employs in-house lobbyists and also retains outside lobbying firms should report the names of only their in-house lobbyist(s) on their registration and quarterly reports. Payments to outside lobbyists are reported as expenses on the quarterly activity report (LD-2).

## Section 4 – Lobbying Registration

### Who Must Register and When

Lobbying firms are required to file a separate registration for each client. A lobbying firm is exempt from registration for a particular client if its total income from that client for lobbying activities does not exceed and is not expected to exceed \$3,000 during a quarterly period.

Note: A lobbyist is not the registrant unless he/she is self-employed. In that case, the self-employed lobbyist is treated as a lobbying firm.

Organizations employing in-house lobbyists file a single registration. Such an organization is exempt from registration if its total expenses for lobbying activities do not exceed and are not expected to exceed \$14,000 during a quarterly period.

The registration requirement of potential registrants is triggered either (1) on the date their employee/lobbyist is employed or retained to make more than one lobbying contact on behalf of a client (and meets the 20% of time threshold), or (2) on the date their employee/lobbyist (who meets the 20% of time threshold) in fact makes a second lobbying contact, whichever is earlier. In either case, registration is required within 45 days.

*Example 1: Lobbying firm “A” is retained on May 1, 2015 by Client “B” to make lobbying contacts and conduct lobbying activities. “A” files a registration (LD-1) on behalf of “B” with an effective date of registration of May 1, 2015.*

*Example 2: Corporation “C” does not employ an individual who meets the definition of “lobbyist.” Employee “X” is told by her supervisor to contact the Congressman representing the district in which Corporation “C” is headquartered. “X” makes a lobbying contact on June 1, 2015. “X” does not anticipate making any further lobbying contacts, but spends 25% of her time on this legislative issue. No registration is required at this point. In August 2015, “X” is instructed to follow up with the Congressman. “C” registers and discloses August 5, 2015 as the effective date of registration (the date that “X” contacted the Congressman for the second time and thereby met the definition of a lobbyist).*

### Preparing to File a Registration – Threshold Requirements

In order to determine the applicability of the LDA, one must first look at the definition of “lobbyist” under [2 U.S.C. § 1602\(10\)](#). Under this definition, an individual is a “lobbyist” with respect to a particular client if he or she makes more than one lobbying contact **and** his or her “lobbying activities” (as defined in [2 U.S.C. § 1602\(7\)](#)) constitute at least 20 percent of the individual’s time in services for **that** client over any three-month period. Note that a registration would not be required for pro bono clients since the monetary thresholds of [2 U.S.C. § 1603\(a\)\(3\)\(A\)\(i\)](#) in the case of a lobbying firm, or of [2 U.S.C. § 1603\(a\)\(3\)\(A\)\(ii\)](#) in the case of an organization employing in-house lobbyists, would not be met. Keep in mind that the obligation to report arises from active status as a registrant. Therefore, if a registration has been filed for a pro bono client, quarterly activity reports (LD-2) and semiannual contribution reports (LD-203) would be expected to be filed until the registration is validly terminated.

### More than One Lobbying Contact

“More than one lobbying contact” means more than one communication to a covered official. Note that an individual falls within the definition of “lobbyist” by making more than one lobbying contact over the course of services provided for a particular client (even if the second contact occurs in a later quarterly period).

*Example 1: Lobbyist “A” telephones Covered Official “B” in the morning to discuss proposed legislation. In the afternoon she telephones Covered Official “C” to discuss the same legislation. Lobbyist “A” has made more than one lobbying contact.*

*Example 2: Under some circumstances a series of discussions with a particular official might be considered a single communication, such as when a telephone call is interrupted and continued at a later time. Discussions taking place on more than one day with the same covered official, however, should be presumed to be more than one lobbying contact.*

## Clarification of an Exception to Lobbying Contact

The LDA excepts from the definition of “lobbying contact” communications “required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency.” ([2 U.S.C. § 1602\(8\)\(B\)\(ix\)](#)). Communications that are compelled by the action of a Federal agency include communications that are required by a Federal agency contract, grant, loan, permit, or license ([2 U.S.C. § 1602\(8\)\(B\)\(vix\)](#)).

*Example: Contractor “A” has a contract to provide technical assistance to Agency “B” on an ongoing basis. Technical communications between Contractor “A’s” personnel and covered officials at Agency “B” would be required by the contract and therefore would not constitute “lobbying contacts.”*

Note, however, that this exception would not encompass an attempt by “A” to influence covered officials regarding either matters of policy, or an award of a new contract, since such communications would not be required by the existing contract.

## Do Lobbying Activities Constitute 20% Or More of an Individual’s Time?

Lobbying activity is defined in [2 U.S.C. § 1602\(7\)](#) as “lobbying contacts and efforts in support of such contacts, including . . . background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.” If the intent of the work is to support ongoing and future lobbying, then it would fall within the definition of lobbying activities. Timing of the work performed, as well as the status of the issue, is also pivotal. Generally, if work such as reporting or monitoring occurs at a time when future lobbying contacts are contemplated, such reporting and monitoring should be considered as a part of planning or coordinating of lobbying contacts, and therefore included as “lobbying activity.” If, on the other hand, a person reports back to the relevant committee or officer regarding the status of a completed effort, that activity would probably not be included as a lobbying activity, if reports are not being used to prepare a lobbying strategy the next time the issue is considered.

Communications excepted from the definition of “lobbying contact” under [2 U.S.C. § 1602\(8\)\(B\)](#) may be considered “lobbying activities” under some circumstances. Communications excepted by [2 U.S.C. § 1602\(8\)\(B\)](#) will constitute “lobbying activities” if they are in support of other communications which constitute “lobbying contacts.”

*Example: Under [2 U.S.C. § 1602\(8\)\(B\)\(v\)](#), the term “lobbying contact” does not include “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.” However, a status request would constitute “lobbying activity” if it were in support of a subsequent lobbying contact.*

Please note that for disclosure purposes the 20% of time threshold applies to registration and not to the reporting section.

## Is it Lobbying Contact/Lobbying Activity?

If a communication is limited to routine information gathering questions and there is not an attempt to influence a covered official, the exception of [2 U.S.C. § 1602\(8\)\(B\)\(v\)](#) for “any other similar administrative request” would normally apply. In determining whether there is an attempt to influence a covered official, the identity of the person asking the questions and her relationship to the covered official obviously will be important factors.

*Example 1: Lobbyist “A”, a former chief of staff in a congressional office, is now a partner in the law firm retained to lobby for Client “B.” After waiting one year to comply with staff post-employment restrictions on lobbying, Lobbyist “A” telephones the Member on whose staff she served. She asks about the status of legislation affecting Client “B’s” interests. Presumably “B” will expect the call to have been part of an effort to influence the Member, even though only routine matters were raised at that particular time.*

*Example 2: Company “Z” offers temporary employment to recent college graduates. The graduates are hired to conduct surveys of congressional staff by reading prepared questions and recording the answers. The questions seek only information. These communications do not amount to lobby contacts.*

## Identification of Client and Covered Officials

[2 U.S.C. § 1609\(a\)](#) requires that any person making an **oral** lobbying contact with a covered official shall disclose, on the request of the covered official at the time of the lobbying contact: (a) whether that person is registered under this act; (b) the name of the client represented; (c) whether that client is a foreign entity; and (d) the name of any foreign entity that has a direct interest in the outcome of the lobbying activity who contributes more than \$5,000 to the lobbying activities of the client and either holds at least twenty percent equitable ownership of the client or actively participates in the planning, supervision, or control of such lobbying activities.

Individuals making **written** contact with a covered official (including electronic communication) must disclose: (a) if the client on whose behalf the lobbying contact was made is a foreign entity and, if so, the name of the client represented and whether the writer is a registrant under the LDA and (b) any foreign entity that has a direct interest in the outcome of the lobbying activity who contributes more than \$5,000 to the lobbying activities of the client and either holds at least twenty percent equitable ownership of the client or actively participates in the planning, supervision, or control of such lobbying activities.

Upon request by individuals making lobbying contacts, the individual being contacted or their employing office must indicate whether the individual is a covered official as defined in [2 U.S.C. § 1602\(3\) and \(4\)](#). Executive or legislative branch officials, or their offices, are required to indicate whether contacted officials are covered officials under the LDA. When such offices decline to indicate whether an individual is a covered official, we recommend providing them the exact statutory language and citation to clarify what the law requires. (2 U.S.C. § 1609).

## Lobbying Contacts and Activities Using IRC Elections (Alternate Reporting Methods)

The LDA permits those organizations that are required to file and do file under [26 U.S.C. 6033\(b\)\(8\)](#) of the Internal Revenue Code (IRC) and organizations that are subject to [26 U.S.C. § 162\(e\)](#) of the IRC to use the tax law definitions of lobbying in lieu of the LDA definitions for determining “contacts” and “lobbying activities” for Executive Branch lobbying. Registrants should note that the tax definition of lobbying is broader with respect to the type of activities reported, while it is narrower with respect to the universe of Executive Branch officials who qualify as covered Executive Branch employees.

Pursuant to the LDA, registrants making such an IRC election under the LDA must use the IRC definition for Executive Branch lobbying, and the LDA definitions for Legislative Branch lobbying. Because there are fewer Executive Branch officials under the IRC definitions than under the LDA definitions, this may result in fewer individuals being listed as lobbyists and fewer lobbying contacts reflected on the quarterly activity report (LD-2).

Also note that definitions under the tax code include “grass-roots” and “state” lobbying, while the LDA excludes those types of lobbying from the definition of “lobbying activities,” and the LDA does not permit modification of the tax code definition to exclude such expenditures when reporting lobbying expenses under IRC definitions.

## Relationship Between 20% of Time and Monetary Threshold

If the definition of “lobbyist” is satisfied with respect to at least one individual for a particular client, the potential registrant (either a lobbying firm or an organization employing the lobbyist, or a self-employed individual lobbyist) is **not** required to register if it does not meet the monetary thresholds of [2 U.S.C. § 1603\(a\)\(3\)\(A\)\(i\)](#), in the case of a “lobbying firm,” or of [2 U.S.C. § 1603\(a\)\(3\)\(A\)\(ii\)](#), in the case of an organization employing in-house lobbyists. Note that the monetary exemption is computed based on the lobbying activities of the potential registrant as a whole for the particular client in question, not simply on the lobbying activities of those individuals who are “lobbyists.”

*Example 1: A law firm has two lawyers who perform services for a particular client. Lawyer "A" spends 15 percent of the time she works for that client on lobbying activities, including some lobbying contacts. Lawyer "B" spends 25 percent of the time he works for the client on lobbying activities, but makes no lobbying contacts. Neither lawyer falls within the definition of "lobbyist," and therefore the law firm is not required to register for that client, even if the income it receives for lobbying activities on behalf of the client exceeds \$3,000.*

*Example 2: Employee "A" of a trade association is a lobbyist who spends 25 percent of his time on lobbying activities on behalf of the association. There are \$7,500 of expenses related to Employee "A's" lobbying activities. Employee "B" is not a "lobbyist" but engages in lobbying activities in support of lobbying contacts made by Employee "A." There are \$7,500 of additional expenses related to the lobbying activities of Employee "B." The trade association is required to register because it employs a "lobbyist" and its total expenses in connection with lobbying activities on its own behalf exceed \$14,000.*

*Example 3: Same as Example 2, except the expenses related to the lobbying activities of Employees "A" and "B" total only \$10,000, but the trade association also pays \$5,000 to an outside firm for lobbying activities. Registration is still required because payments to outside contractors (including lobbying firms that may be separately registered under the LDA), must be included in the total expenses of an organization employing lobbyists on its own behalf. Also note that lobbyists employed by the outside firm are **not** listed on the trade association's registration (LD-1) or quarterly activity report (LD-2). Lobbyists employed by the outside firm must be reported on the outside firm's quarterly activity report (LD-2).*

## Timing

The registration requirement of a potential registrant is triggered either (1) on the date its employee/lobbyist is employed or retained to make more than one lobbying contact on behalf of the client (and meets the 20% of time threshold), or (2) on the date their employee/lobbyist (who meets the 20% of time threshold) in fact makes a second lobbying contact, whichever is earlier. In either case, registration is required within 45 days of that date.

*Example: Lobbying Firm "A" is retained to monitor an issue, but whether or not lobbying contacts will be made depends on future legislative developments. In another case, Corporation "B," which employs an in-house lobbyist, knows that its lobbyist will make contacts but reasonably expects its lobbying expenditures will not amount to \$14,000 in a quarterly period. However, issues of interest to "B" turn out to be more controversial than expected, and the \$14,000 threshold is in fact met a month later.*

*Lobbying firm "A" has no registration requirement at the present time. The requirement to register is triggered if and when the firm makes contacts, or reasonably expects that it will make contacts. Corporation "B's" registration requirement arose as soon as it knew, or reasonably expected, that its lobbying expenditures will exceed \$14,000. "B" needs to register immediately.*

## Listing Lobbyists

The LDA requires registrants to identify the name of each employee of the registrant who acted or is expected to act as a lobbyist on behalf of the client. *Contract lobbyists who are not employed by the registrant should not be listed on the LDA registration or quarterly activity reports.*

Further, if any employee who is listed as a lobbyist has served as a covered executive branch official or a covered legislative branch official in the 20 years before the date on which the employee first acted as a lobbyist for that client, the LDA registration (LD-1) or quarterly activity report (LD-2) must list the position in which the employee served. Please note that it is not appropriate to list an individual lobbyist's *current* position (such as company president, CEO, etc.) in the "Covered Position" field on the registration form (LD-1) or the quarterly activity report (LD-2).

When a lobbyist name is added after the registration form (LD-1) has been submitted for a client, the lobbyist name should be added on the next quarterly activity report (LD-2), along with disclosure of any previous service as a covered executive branch official or a covered legislative branch official in the 20 years before the date on which the employee first acted as a lobbyist for that client.

## Listing Affiliates

The LDA requires that registrations contain the name, address, and principal place of business of any organization (other than the registrant's client) that contributes more than \$5,000 to the registrant or the client during the quarterly period to fund the lobbying activities of the registrant **and** that actively participates in the planning, supervision, or control of such lobbying activities [2 U.S.C. § 1603\(b\)\(3\)](#). Such organizations are known as "affiliated organizations."

However, no such disclosure is required under paragraph (3) if the organization that would be identified as affiliated with the client is listed **on the client's publicly accessible internet website** as a member of or a contributor to the client—**unless** the organization in whole or in major part plans, supervises, or controls such lobbying activities. To use this option, the registrant must list on its registration the specific internet address of the web page containing the information that is being relied on [2 U.S.C. § 1603\(b\)](#).

The LDA requires the reporting of "any changes or updates to the information provided in the initial registration, including information under section 1603(b)(3)[.]" [2 U.S.C. § 1604\(b\)\(1\)](#). Therefore, if for any reason the web page at an address listed on a registration no longer includes all of the information required for the LDA website option, the registration must be updated. To update the listing of such websites, or otherwise update information concerning affiliated organizations, use the Client Information Update on the quarterly activity report (LD-2) or submit a registration (LD-1) amendment. Registrants, including those using the website option, are responsible for ensuring that their registration remains up to date regarding affiliated organizations and all other required information.

## Listing Foreign Entities

Each registration must contain the name, address, principal place of business, amount of any contribution greater than \$5,000 to the lobbying activities of the registrant, and approximate percentage of ownership in the client of any foreign entity that: holds at least 20% equitable ownership in the client or any affiliate of the client required to be reported; **or** directly or indirectly, in whole or major part, plans, supervises, controls, directs, finances, or subsidizes the activities of the client or affiliate of the client required to be reported; **or** is an affiliate of either the client, or an organization affiliated with the client identified on the registration (LD-1) and has a direct interest in the outcome of the lobbying activity. The purpose of the disclosure is to identify the interests of the foreign entity that may be operating behind the registrant or client.

*Example: Lobbying Firm "A" is retained to lobby on behalf of Company "B," which is wholly owned by Foreign Company "C." "C" is wholly owned by Foreign Company "D," and "D" is wholly owned by Foreign Company "E." "C," "D," and "E" must be disclosed on the registration.*

**Filers are expected to use due diligence when filling out and submitting registrations (LD-1), quarterly activity reports (LD-2), and semiannual contribution reports (LD-203).**

## Disclosure of Certain Convictions

The Justice Against Corruption on K Street Act of 2018 (the JACK Act) amended the LDA, effective January 3, 2019. The Act requires all registrations (LD-1) and quarterly activity reports (LD-2) to include:

"for any listed lobbyist who was convicted in a Federal or State court of an offense involving bribery, extortion, embezzlement, an illegal kickback, tax evasion, fraud, a conflict of interest, making a false statement, perjury, or money laundering, the date of the conviction and a description of the offense."

The LDA online filing system provides fields for reporting information required by the JACK Act (Line 15 on the LD-1 registration and Line 29 on the LD-2 quarterly activity report).

To comply with this statutory requirement and ensure the accuracy and completeness of the disclosure, all registrants must list the required information for every listed lobbyist with any prior conviction of an offense involving one of the JACK Act's listed predicates (a "predicate offense").

To satisfy the "description of the offense," for every date upon which a conviction involving a predicate offense occurred for a listed lobbyist, you must indicate for that lobbyist, the jurisdiction of offense (federal judicial district or the specific county or municipal jurisdiction in which a State conviction is on record) and either a list of which predicate offenses from the list above were involved in the lobbyist's conviction, or each code section under which the lobbyist was convicted of a predicate offense.

*Example 1: A listed lobbyist was convicted in the United States District Court for the District of Columbia on January 1, 1970 of 22 counts of violating the Hobbs Act through extortion, 5 counts of making a false statement, 1 count of conspiracy to make a false statement, and the nature of those offenses also involved tax evasion and receiving illegal kickbacks. The registrant lists the lobbyist name and the date of conviction and could list the following description:*

*U.S. District Court (DDC), offenses involving extortion, making a false statement, tax evasion, and receiving an illegal kickback.*

*In that same instance, the registrant could also list the lobbyist name, the date of conviction and the following description:*

*U.S. District Court (DDC), 18 U.S.C. §1951 (22 counts); U.S. District Court (DDC), 18 U.S.C. §1001 (5 counts); U.S. District Court (DDC), 18 U.S.C. §371*

*Example 2: A listed lobbyist has convictions in state court of two counts of Public Bribery and one count of False Accounting, and the nature of the False Accounting conviction involved making a false statement, fraud, and money laundering. The registrant lists the lobbyist name, the date of conviction and could list the following description:*

*State of East Hypothetica, City of Example Criminal Court, offenses involving bribery, false statements, fraud, and money laundering.*

*In that same instance, the registrant could also list the lobbyist name, the date of conviction and the following description:*

*State of East Hypothetica, City of Example Criminal Court, EH Rev. Stat. §37:206 (2 counts); State of East Hypothetica, City of Example Criminal Court, EH Rev. Stat. §37:1309*

Once a JACK Act disclosure is required for a listed lobbyist, that disclosure will be required on every future registration or quarterly report that includes that lobbyist. Please be advised that making false statements on LDA filings, or intentionally omitting required information from LDA filings, may constitute a violation of federal law.

Our offices cannot give legal advice or opinions. For questions regarding whether a conviction involves a predicate offense, or which predicate offenses it may involve, filers may wish to consult with private counsel.

## Section 5 – Special Registration Circumstances

### Elaboration on the Definition of Client

In some cases a registrant is retained as part of a larger lobbying effort that encompasses more than one lobbying firm on behalf of a third party. Generally, the entity that is paying the registrant is listed as the client on behalf of the third party. The third party, who is paying the intermediary (client), is listed also on the registration (LD-1) as an affiliate.

*Example: Client “P” retains lobbying firm “F” for general lobbying purposes but has a new interest in obtaining an outcome in an area new to “P.” “F” realizes that a boutique lobbying firm “L” has an excellent track record for obtaining the type of outcome “P” is seeking, and talks to “P” about subcontracting. “P” agrees with “F’s” strategy. “F” contacts “L” to retain the latter to do the project. “F” is responsible for paying “L.” Within 45 days, “L” registers disclosing “F on behalf of P” as the client, and listing “P” as the affiliate on the registration (LD-1).*

### Lobbying Firms Retained Under a Contingent Fee

Law other than the LDA governs whether a firm may be retained on a contingent-fee basis. There is, for example, a general prohibition on the payment of contingent fees in connection with the award of government contracts. Assuming, however, that the agreement is not contrary to law or public policy, an agreement to make lobbying contacts for a contingent fee, like other fee arrangements, triggers a registration requirement at inception. The fee is disclosed on the quarterly activity report (LD-2) for the period that the registrant becomes entitled to it.

*Example 1: On January 1, 2015, Lobbying Firm “G” agrees to lobby for Client “H” for a fee contingent on a certain result, **and the agreement is permitted under other applicable law.** Lobbying activities begin. “G” is required to register by February 14, 2015. The result is not obtained and “G” is not entitled to any fee during the first quarterly period. “G” must report its lobbying activities for the first quarterly period; the income reported is “Less than \$5,000.” The desired result does occur in the second quarterly period of 2015. In the report for that period, “G” discloses its lobbying activities for that period and the total contingent fee in income reported, rounded to the nearest \$10,000.*

*Example 2: Lobbying Firm “J” discusses an arrangement to accept stock options worth \$4,500 from Client “M” in lieu of payment of a contingency fee. After determining that acceptance of a success fee is not a violation of another statute, “J” signs a contract with “M,” and registers. Late in the first quarter of the lobbying activities, it appeared “J” achieved the result. “J’s” initial quarterly lobbying report disclosed lobbying income of less than \$5,000. “M’s” stock value increased shortly thereafter to be valued at \$6,000, so “J” exercised its options. “J” amended the previously filed quarterly report to reflect income of “\$5,000 or more,” and rounded the amount to \$10,000.*

### Registration for Entities with Subsidiaries or State and Local Affiliates

Assuming a parent entity or national association and its subsidiary or subordinate are separate legal entities, the parent makes a determination whether it meets the registration threshold based upon its own activities, and does not include subordinate units’ lobbying activities in its assessment. Each subordinate must make its own assessment as to whether any of its own employees meet the definition of a lobbyist, and then determine if it meets the registration threshold with respect to lobbying expenses.

*Example: Lobbyist “Z” is an employee of Company “A,” which is a wholly owned subsidiary of Company “B.” “Z’s” lobbying activities advance the interests of both. Which company is responsible for registering and reporting under the LDA?*

*The registration and reporting requirements apply to the organization of which Lobbyist “Z” is an employee. Therefore, Company “A” would register and file the quarterly reports.*

*If Company “B” contributes \$5,000 or more to “Z’s” lobbying activities during a quarterly period and actively participates in the planning, supervision, or control of the lobbying activities, Company “B” must be listed as an affiliate on Company “A’s” registration (LD-1). A contribution may take any form, and may be direct or indirect. For example, if Company “B” established Company “A” with an initial capital contribution of \$1,000,000, which “A” draws upon for employee salaries, including “Z’s,” and to pay for office space used by “Z,” a \$5,000 contribution probably has been made.*

*If Company “B” is a foreign entity, and the facts are otherwise the same as above, “B” would be listed as an affiliate on the registration (LD-1) filed by Company “A.” “B’s” interests in specific lobbying issues would also be disclosed on the quarterly activity report (LD-2).*

The LDA does not make any express provision for combined or consolidated filings. A single filing by a parent corporation may be appropriate in some cases, especially when there are multiple subsidiaries and the lobbyists address the same issues for all and act under the close control of the parent. In this regard, note that the LDA does not contain any specific definition of “employee” (there is only the general definition at [2 U.S.C. § 1602\(5\)](#)), and the policy of the LDA is to promote disclosure of real parties in interest.

In circumstances in which multiple subsidiaries each have only a fraction of the lobbyist’s time and little control over his work, the parent which in fact exercises actual control can be regarded as the “employer” for lobbying registration purposes. In such cases, the parent may file a single registration, provided that the registration (LD-1) discloses that the listed lobbyists are employees of subsidiaries and the subsidiaries are identified as affiliated organizations.

### **Effect of Mergers and Acquisitions on Registrations**

The following examples serve to illustrate hypothetical situations regarding mergers and acquisitions:

*Example 1: Corporation “C” registered under the LDA during 2014. Effective upon close of business on December 31, 2014, “C” merged with Corporation “D.” “D,” the surviving corporation, had no lobbyist employees before the merger and is not registered. How and when should this information be reported? Assuming that “D” retains at least one of “C’s” lobbyist employees and will incur lobbying expenses of at least \$14,000 during the January – March quarterly period, Corporation “D” is required to register. The 45-day period in which its initial registration must be filed begins to run on December 31, 2014, the date “D” first had lobbyist employees, and the registration is due by February 14, 2015. On the other hand, if “D” will not be lobbying after the merger, it is not required to register. In pre-merger discussions, Corporation “C” might have agreed to terminate its registration and file its final lobbying report before ceasing its corporate existence. If, however, “C” did not do so, Corporation “D” should terminate the registration and file the outstanding lobbying report in “C’s” name. “D” may simply annotate the signature block on the quarterly activity report (LD-2) to indicate that it is filing as successor in interest to “C.”*

*Example 2: Lobbying Firm “O” is a registrant under the LDA. It merges with Lobbying Firm “P,” which is also a registrant. The new entity will be known as Lobbying Firm “T.” How and when should this information be reported? The answer depends on the particular facts. If Lobbying Firm “T” is a newly created legal entity, it should file a new registration within 45 days. The registrations of both “O” and “P” should be terminated by filing separate termination reports for each remaining registrant/client relationship. But if “T” is simply the new name adopted by “O” following the merger with “P,” with “P” going out of existence, “O” should report its new name and other updated information (such as the names of lobbyist employees of “P” who are retained or hired by “T”) on the quarterly activity report (LD-2). “P’s” registration should be terminated, and P should file termination reports for each remaining registrant/client relationship, but only after P ceases to exist.*

*Example 3: Corporation “J,” a registrant, acquired Corporation “K,” a non-registrant. At the time of the acquisition, “J” changed its name to “J & K.” How and when should this information be reported? For LDA purposes, this is simply a change in the name of the registrant. The change should be reported on the next quarterly activity report (LD-2) with the registrant name listed as “J&K, formerly reported as J.”*

## Associations or Coalitions

The LDA provides that “[i]n the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.” (2 USC 1602(2)) A bona fide coalition that employs or retains lobbyists on behalf of the coalition may be the client for LDA reporting purposes, even if the coalition is not a legal entity or has no formal name. A registrant lobbying for an unnamed informal coalition needs to adopt some type of identifier for the registration (LD-1), and indicate “(Informal Coalition)” or another applicable description. For all coalitions and associations, formal or informal, the LDA requires further disclosures, e.g., of organizations other than the client that contribute more than \$5,000 toward the lobbying activities of the registrant in the quarterly period, **and** actively participate in the planning, supervision, or control of the lobbying activities ([2 U.S.C. § 1603\(b\)\(3\)](#)). Such organizations are identified as affiliates on the registration (LD-1).

*Example 1: Association “A” has 20 organizational members who each pay \$20,000 as a portion of their annual dues to fund “A’s” lobbying activities. “E” is an employee of Organization “O,” which is a member of “A.” “E” serves as a member of “A’s” board, as a representative of “O.” While “A” carries out various functions, a substantial part of its mission is lobbying on issues of interest to its member organizations. “E’s” board membership constitutes active participation by “O” in the lobbying activities of “A,” and thus “O” would need to be listed as an affiliated organization of “A.”*

*Example 2: Another association “A” has 1000 organizational members who each pay \$20,000 as a portion of their annual dues to fund “A’s” lobbying activities. “E” is an employee of Organization “O,” which is a member of “A.” “E” serves as a member of “A’s” board, as a representative of “O.” “A” performs numerous functions, only a modest portion of which is lobbying. With regard to “A’s” lobbying activities, “A’s” board is only involved in approving an overall budget for such activities, but otherwise leaves supervision, direction, and control of such matters to a separate committee of member organizations. “E’s” board membership in this case does not constitute active participation by “O” in the lobbying activities of “A.”*

*Example 3: Another association “A” has 1000 organizational members who each pay \$1,000 a month in annual dues to “A.” “E” is an employee of Organization “O,” which is a member of “A.” “E” serves as a member of “A’s” lobbying oversight group as a representative of “O.” The lobbying oversight group plans and supervises lobbying strategy for “A.” While “E’s” activities in “A” would constitute active participation, because “O” does not contribute \$5,000 in the reporting quarter to the lobbying activities of “A,” “O” would not need to be listed as an affiliate of “A.”*

*Example 4: Another association “A” has 100 organizational members who each pay \$30,000 a month as a portion of their annual dues to fund “A’s” lobbying activities. “E” is an employee of Organization “O,” and attends “A’s” annual meeting/conference, informally provides “O’s” list of legislative priorities to “A,” and also facilitates responses from “O” to occasional requests for information by “A’s” lobbyists. These activities would not make “O” an active participant in the lobbying activities of “A.”*

*Example 5: Organization “O” joins with a group of nine other organizations to form Coalition “C” to lobby on an issue of interest to it. Each contributes \$50,000 to “C’s” budget. “O’s” vice president for government relations is part of the informal group that directs the lobbying strategy for “C.” “O” would be considered an active participant in “C’s” lobbying activities and would have to be disclosed.*

Note that a coalition with a foreign entity as a member must identify the foreign entity on the registration(LD-1) if the foreign entity meets the test of either [2 U.S.C. § 1603\(b\)\(3\)](#) or [\(b\)\(4\)](#).

## Churches, Integrated Auxiliaries, Conventions or Association of Churches and Religious Orders – Hiring of Outside Firms

Although the definition of a lobbying contact does not include a communication made by a church, its integrated auxiliary, a convention or association of churches and religious orders ([2 U.S.C. § 1602\(8\)\(B\)\(xviii\)](#)), if a church (its integrated auxiliary, a convention or association of churches, and religious orders) hires an outside firm that conducts lobbying activity on its behalf, the outside firm must register if registration is otherwise required.

### **Registration of Professional Associations of Elected Officials**

The LDA ([2 U.S.C. § 1602\(15\)](#)) definition of “public official” includes a professional association of elected officials who are exempt from registration. If the association retains an outside firm to lobby, the lobbying firm must register if otherwise required to do so, i.e., the firm employs a lobbyist as defined in [2 U.S.C. § 1602\(10\)](#) and lobbying income exceeds \$3,000 in a quarterly period.

## Section 6 – Quarterly Reporting of Lobbying Activities

### When and Why a Report is Needed

Each registrant must file a quarterly activity report (LD-2) no later than 20 days (or on the first business day after such 20<sup>th</sup> day if the 20<sup>th</sup> day is not a business day) after the end of the quarterly period beginning on the first day of January, April, July, and October **of each year** in which a registrant is registered. Lobbying firms file separate reports for each client for each quarterly reporting period, while organizations employing in-house lobbyists file one report covering their in-house lobbying activities for each quarterly reporting period. All reports must be filed electronically. **The Secretary and Clerk do not have the authority under the LDA to grant extensions to registrants.**

The obligation to report under the LDA arises from active status as a registrant (with a registration on file for which a termination report has not been filed). The LDA (2 [U.S.C. § 1604\(a\)](#)) requires a registrant to file a report for the quarterly period **in which it incurred its registration requirement**, and for each quarterly period thereafter, through and including the reporting period encompassing the date of registration termination. A timely quarterly activity report (LD-2) is required even though the registration was in effect for only part of the reporting period. So long as a registration is on file and has not been terminated, a registrant must report its lobbying activities even if those activities during a particular quarterly period would not trigger a registration requirement in the first instance (e.g., a lobbying firm's income from a client amounted to less than \$3,000 during a particular quarterly period). A registrant with no lobbying activity during a quarterly period checks the "no activity" box on the quarterly activity report (LD-2).

*Example 1: "A" is the only lobbyist of Lobbying Firm "Z" listed in the registration filed for Client "Y" on February 14, 2015. During January – March 2015, "A" lobbied for "Y" nearly full-time. During the April – June period in 2015, however, "A" made only one lobbying contact for "Y" in April, but lobbying fees for the quarter were \$10,000. For the April – June quarterly period, even though "A" had minimal lobbying activities, Lobbying Firm "Z" must report "A's" lobbying activities (due to "A's" being listed as a lobbyist) and must report the \$10,000 lobbying fees.*

*Example 2: Lobbying Firm "Z" is retained by Client "X" on June 1, 2015 for thirty days to lobby on a particular issue that is on the legislative calendar and the issue is settled prior to the departure of House and Senate Members for the July 4th recess. Firm "Z" must file its registration by July 15, file its quarterly activity report (LD-2) by July 20, and, if it chooses to terminate, file its termination report by October 20.*

### Disclosing that a Client is a State or Local Government or Instrumentality

A client that is a state or local government or instrumentality must be disclosed as such on the quarterly activity report (LD-2).

### Mandatory Electronic Filing

Mandatory electronic filing of all documents is required by the LDA ([2 U.S.C. § 1604](#)). The only exception to mandatory electronic filing is for the purpose of compliance with the Americans with Disabilities Act (ADA). The online electronic filing system provides usability for people with vision impairments who have the appropriate software and hardware. If you have questions regarding additional ADA accommodations, please contact the Senate Office of Public Records at 202-224-0758 or the House Legislative Resource Center at 202-226-5200.

## Preparing to File the Quarterly Report – Income or Expense Recording

The LDA does not contain any special record keeping provisions, but requires, in the case of an outside lobbying firm (including self-employed individuals), a good faith estimate of all income received from the client, other than payments for matters unrelated to lobbying activities. In the case of an organization employing in-house lobbyists, the LDA requires a good faith estimate of the total expenses of its lobbying activities. As long as the registrant has a reasonable system in place and complies in good faith with that system, the requirement of reporting expenses or income would be met. Since the LDA ([2 U.S.C. § 1605\(a\)\(5\)](#)) requires the Secretary and Clerk to “retain registrations for a period of at least 6 years after they are terminated and reports for a period of at least 6 years after they are filed,” it is recommended registrants retain copies of their filings and supporting documentation for the same length of time.

### Lobbying Firm Income

Lobbying firms report income earned or accrued from lobbying activities during a quarterly period, even though the client may not be billed or make payment until a later time. For a lobbying firm, gross income from the client for lobbying activities is reportable, including reimbursable expenses, costs, or disbursements that are in addition to fees and separately invoiced. The quarterly activity report (LD-2) provides boxes for a lobbying firm to report income of less than \$5,000, or of \$5,000 or more. If lobbying income is \$5,000 or more, a lobbying firm must provide a good faith estimate of the actual dollar amount **rounded to the nearest \$10,000**.

Example: Lobby Firm “A” has lobbying income of \$5,700 from Client “Z” for the first quarter of 2015. “A” files a quarterly activity report (LD-2) for Client “Z” by April 20, checking the box for “\$5,000 or More” in income and reporting the amount of income (rounded to the nearest \$10,000) as \$10,000.

### Organization Expenses Using LDA Expense Reporting Method

Organizations that employ in-house lobbyists may incur lobbying-related expenses in the form of employee compensation, office overhead, or payments to vendors, which may include lobbying firms. Organizations must report expenses as they are incurred, though payment may be made later. The quarterly activity report (LD-2) provides for an organization to report lobbying expenses of less than \$5,000, or \$5,000 or more. If lobbying expenses are \$5,000 or more, the organization must provide a good faith estimate of the actual dollar amount **rounded to the nearest \$10,000**. Organizations using the LDA expense reporting method mark the “Method A” box on the quarterly activity report (LD-2).

To ensure complete reporting, the Secretary and Clerk have consistently interpreted [2 U.S.C. § 1604\(b\)\(4\)](#) to require such organizations to report all of their expenses incurred in connection with lobbying activities, including all payments to retained lobby firms or outside entities, without considering whether any particular payee has a separate obligation to register and report under the LDA. Logically, if an organization employing in-house lobbyists also retains a lobbying firm, the expense reported by the organization should be greater than the fees reported by the lobbying firm of which the organization is a client. An organization must contact any other organization to which it pays membership dues in order to learn what portion of the dues is used by the latter organization for lobbying activities. It is necessary for the former organization to include the portion of the dues that is designated for lobbying activities in the total of lobbying expenses reported by the former organization. A registrant cannot apportion the lobbying expense part of the dues to avoid disclosure. Dues payments for lobbying activities should be included in the estimate for the quarter in which they are paid.

All employee time spent in lobbying activities must be included in determining the organization’s lobbying expenses, even if the employee does not meet the statutory definition of a “lobbyist.”

*Example: The CEO of a registrant, "Defense Contractor," travels to Washington to meet with a covered DOD official regarding the renewal of a government contract. "Defense Contractor" has already determined that its CEO is not a "lobbyist," because he does not spend 20 percent of his time on "lobbying activities" during a quarterly period. Nonetheless, the expenses reasonably allocable to the CEO's lobbying activities (e.g., plane ticket to Washington, salary and benefit costs, etc.) will be reportable.*

Similarly, all expenses of lobbying activities incurred during a quarterly period are reportable. The LDA definition of lobbying activities (2 U.S.C. § 1602(7)) is not limited to lobbying contacts. Examples of lobbying expenses to be included are reflected below.

*Example 1: A research assistant in the Washington office of the registrant, "Defense Contractor" (described in the example above) researches and prepares the talking points for the CEO's lobbying contact with the covered DOD official. Likewise, the expenses reasonably allocable to the research assistant's lobbying activities will be included in "Defense Contractor's" expense estimate for the quarterly period.*

*Example 2: Corporation "R" is a registrant that is interested in building a bypass around a city in state "S." "R's" governmental affairs team is comprised of lobbyists who are federally-focused, and lobbyists who are state-focused. The entire staff prepares a strategic lobbying plan to support the building of the bypass. This includes both federal and state lobbying. In this example, the time spent by the state level lobbyists preparing the materials would be included in "R's" good faith estimate of lobbying expenses for the quarter because, at the time the materials were prepared, they were to be used for federal lobbying.*

*Example 3: Same circumstances as Example 2, but in this situation, the aforementioned strategic lobbying plan includes hiring one firm to help with the production of the plan, and another firm to place advertising in media in "S" to encourage citizens in "S" to contact their representatives about the importance of building the bypass. The total cost of producing the plan, but not the cost of the advertising media fees, must be included in "R's" good faith estimate of lobbying expenses for the quarter.*

The examples below are intended to be illustrative of the possibilities of LDA expense reporting, and are not intended to require detailed accounting rules.

*Example 1: An organization employing in-house lobbyists might choose to estimate lobbying expenses by asking each professional staffer to track his/her percentages of time devoted to lobbying activities. These percentages could be averaged to compute the percentage of the organization's total effort (and budget) that is devoted to lobbying activities. Under this example the organization would include salary costs (including a percentage of support staff salaries), overhead, and expenses, including any third-party costs attributable to lobbying.*

*Example 2: Another organization, which lobbies out of its Washington office, might avoid the need for detailed breakdowns by including the entire budget or expenses (whichever the organization believes in good faith is closer to the actual amount) of its Washington office. Care should be taken in this instance to also add any additional lobbying expenses to this amount, such as the cost of fly-ins, events, etc., and outside lobbyists not paid by the Washington office.*

### **Organizations Reporting Expenses Under 2 U.S.C. § 1610 (Optional IRC Reporting Methods)**

The LDA ([2 U.S.C. § 1610\(a\)](#)) allows entities that are required to report and do report lobbying expenditures under 26 U.S.C 6033(b)(8) of the Internal Revenue Code to use IRC definitions for purposes of the LDA ([2 U.S.C. § 1603\(a\)\(3\)](#) and [2 U.S.C. § 1604\(b\)\(4\)](#)). Charitable organizations, as described in [26 U.S.C. § 501\(c\)\(3\)](#), are required to report to the Internal Revenue Service their lobbying expenditures in conformity with [26 U.S.C. § 6033\(b\)\(8\)](#) of the IRC. They may treat as LDA expenses the amounts they treat for influencing legislation under the IRC.

The LDA ([2 U.S.C. § 1610\(b\)](#)) allows entities that are subject to the IRC ([26 U.S.C. § 162\(e\)](#)) to use IRC definitions for purposes of [2 U.S.C. § 1603\(a\)\(3\)](#) and [2 U.S.C. § 1604\(b\)\(4\)](#). The eligible entities include for-profit organizations (other than lobbying firms) and tax-exempt organizations such as trade associations that calculate their lobbying expenses for IRC purposes with reference to [26 U.S.C. § 162\(e\)](#) rules. The Secretary and the Clerk believe that this reporting option is available to include also a small number of trade association registrants not required by the IRC to report non-deductible lobbying expenses to their members (i.e., those whose members are tax-exempt).

If an eligible organization elects to report under [2 U.S.C. § 1610](#), it must do so consistently for all reports covering a calendar year. The electing organization also must report **all expenses that fall within the applicable Internal Revenue Code definition**. The total that is ultimately reportable to the Internal Revenue Service is the figure that would be used for the quarterly activity report. The quarterly activity report (LD-2) would require any organization to report if the amount of lobbying expenses was less than \$5,000, or \$5,000 or more. If the expense amount is \$5,000 or more, it should be **rounded to the nearest \$10,000**. The quarterly activity report (LD-2) also requires the electing organization to mark as applicable, either the “Method B” box ([26 U.S.C. § 6033\(b\)\(8\)](#)) or the “Method C” box ([26 U.S.C. § 162\(e\)](#)).

The Secretary and Clerk are aware that the IRC and LDA are not harmonized in terms of expense reporting. Registrants are advised that if they elect to report under IRS methods per [2 U.S.C. § 1610](#), they may not subtract lobbying expenses for lobbying state and local officials and grassroots lobbying from the total expenses reported. Doing so alters the IRS reportable total, and is not permitted.

### Quarterly Reporting of Lobbying Activities – Contents of Report

The LDA ([2 U.S.C. § 1604\(b\)](#)) requires registrants to report specific information on the nature of the lobbying activities on quarterly activity reports (LD-2), including:

- Disclosing the general lobbying issue area code(s).
- Identifying the specific issues on which the lobbyist(s) engaged in lobbying activities.
- Identifying the Houses of Congress and the most specific Federal Agencies contacted.
- Disclosing the lobbyists who had any activity in the general issue area.
- Describing the interest of a foreign entity if applicable.

*Example 1: Registrant “A” represents Client “B” to monitor an issue of interest to B and make occasional lobbying contacts as necessary. During the Q1 2015 reporting period, “A” received \$3,000 from “B,” but had no lobbying activity because “B’s” issue was dormant. “A” would complete the quarterly activity report (LD-2), mark the box for “No Lobbying Activity,” mark income as “Less than \$5,000,” and submit the report.*

*Example 2: Same circumstances as above, except that “A” has two lobbyists who make lobbying contacts on a single lobbying issue with the Senate and the House. In this case, “A” will need to complete the Lobbying Activity section of the quarterly activity report (LD-2) and submit the report.*

*Example 3: Same circumstances as example 2, but one of the lobbyists retires during the reporting period. In this case, the Information Update Page of the quarterly activity report is required to be included, listing the lobbyist’s name as being no longer expected to lobby for that client, which has the effect of delisting the lobbyist’s name (his/her retirement) from “A’s” registration and reports.*

When reporting specific lobbying issues, some registrants have listed only House or Senate bill numbers on the issues page without further indication of their clients’ specific lobbying issues. Such disclosures are not adequate, for several reasons. First, [2 U.S.C. § 1604\(b\)\(2\)\(A\)](#) requires disclosure of “specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including ... bill numbers[.]” As we read the law, a bill number is a required disclosure when the lobbying activities concern a bill, but is not in itself a complete disclosure. Further, in many cases, a bill number standing alone does not inform the public of the client’s specific issue. Many bills are lengthy and complex, or may contain various provisions that are not always directly related to the main subject or title. If a registrant’s client is interested in only one or a few specific provisions of a much larger bill, a lobbying report containing a mere bill number will not disclose the specific lobbying issue. Even if a bill concerns only one specific subject, a lobbying report disclosing only a bill number is still inadequate, because a member of the public would need access to information outside of the filing to ascertain that subject. The LDA contemplates disclosures that are adequate to inform the public of the lobbying client’s specific issues from a review of the quarterly activity report (LD-2), without independent familiarity with bill numbers or the client’s interest in specific subject matters within larger bills. The disclosures on the quarterly activity report must include

bill numbers, where applicable, but must always contain information that is adequate, standing alone, to inform the public of the specific lobbying issues.

*Example: Client “A’s” general lobbying issue area is “Environment.” During the first quarter of 2015, lobbyists for “A” made contacts concerning the Department of Defense appropriations for environmental restoration. For fiscal year 2016, the Department of Defense Appropriations Act was part of the Omnibus Consolidated Appropriations Act for 2016, H.R. 3610, a lengthy and complex bill that did not have numbered sections throughout. Title II contained separate but unnumbered provisions making appropriations for “Environmental Restoration, Army,” “Environmental Restoration, Navy,” “Environmental Restoration, Air Force,” “Environmental Restoration, Defense Wide,” and “Environmental Restoration, Formerly Used Defense Sites.” Lobbying contacts for Client “A” addressed all environmental restoration funding within the Defense Department bill. An appropriate disclosure of the specific lobbying issue would read as follows: H.R. 3610, Department of Defense Appropriations Act for 2016, Title II, all provisions relating to environmental restoration.*

The Tariff (TAR) issue code is used for tariff bills, including miscellaneous tariff bills. Filers must use this general issue area code to report lobbying activity related to tariff issues, including miscellaneous tariff issues. For any other trade-related issues, filers should use the Trade (TRD) code.

*Example: Registrant “R” is retained by Client “B” to pursue a bill to provide a temporary tariff suspension for chemical X, and a separate bill to provide a temporary tariff reduction for chemical Y. During the first quarter of 2015, “R” made lobbying contacts concerning both matters on behalf of “B” and a separate bill was introduced for each matter (S.123 for chemical X and S.456 for chemical Y). “R” reports in its LD-2 filing for Q1 that the general issue area code for these bills is “TAR,” and the specific issues lobbied upon were the substance of the bills, citing to the bill number, if a bill has been introduced (e.g., “temporary tariff suspension for chemical X (S.123) and temporary tariff reduction for chemical Y (S.456)”). In the Q3 reporting period, the two chemical tariff provisions are each rolled into an omnibus bill (e.g., S.789, the “Miscellaneous Tariff Bill”). If “R” had lobbying activities during the Q3 reporting period encompassing all three bills, then “R” reports that the general issue area code for these bills is “TAR” and the specific issues lobbied upon were the substance of the bills (e.g., “temporary tariff suspension for chemical X and temporary tariff reduction for chemical Y, included in the original bills (S.123 and S.456) and in the Miscellaneous Tariff Bill (S.789)”). In Q4, “R” had lobbying activities focusing on the omnibus bill which “R” then discloses on its Q4 report, using TAR for the general issue area code as well as reporting the specific issues lobbied upon (“modification focused on tariff suspension for chemical X and tariff reduction for chemical Y, included in Miscellaneous Tariff Bill (S.789)”).*

The Houses of Congress and Federal agencies contacted **by lobbyists** during the reporting period must be disclosed on the quarterly activity report (LD-2), picking from the list of government entities provided in the online filing system. Registrants should select the most specific Federal Agency possible. If the list does not display the government entity contacted, then select the department in which the entity is housed. **In the event that no lobbying contacts were made, the registrant must mark the “No Agencies Lobbied” box.**

Previously identified lobbyists and new lobbyists for this reporting period must be listed on the quarterly activity report (LD-2) if they had any lobbying activities during the reporting period, whether or not they made lobbying contacts. The General Issue Area on the quarterly activity report is only intended to reflect lobbying activity **by lobbyists**, and not activity of those who are not lobbyists. The registrant does not report the names of individuals who may perform some lobbying activities, but who do not and are not expected to meet the definition of a lobbyist.

*Example: Lobbying Firm “A” filed its initial registration for Client “B” on February 14, listing Lobbyists “X,” “Y,” and “Z.” From January through March, Lobbyists “W” (hired in February) and “X” and “Y” made contacts for “B,” while Lobbyist “Z” was assigned work for other clients. Lobbyist “Z” is expected, however, to be active on behalf of Client “B” after Spring Recess until adjournment. In its first quarter (LD-2) report for Client “B,” filed on or before April 20, Lobbying Firm “A” lists “W,” “X,” and “Y” as lobbyists. “W” is also identified as “new,” and Firm “A” would disclose if “W” occupied a covered position within the last twenty years. “Z” is not listed on the quarterly activity report (LD-2) filed for Client “B” for the January – March quarterly period, but because of the current expectation that he will lobby during the April – June quarterly period, his name **is not delisted** as a lobbyist for “B.”*

In the case of a registrant organization with in-house lobbyists, which also engages the services of an outside lobbying firm, the names of outside retained lobbyists **are not** listed on the organization's registration or quarterly activity reports. However, the registrant's expenses for such an outside lobbying firm must be part of the registrant's lobbying expense calculations and disclosure. The outside lobbying firm would file its own report pursuant to the LDA, listing the names of its lobbyists, as appropriate.

New lobbyists must be disclosed in the appropriate General Issue Area for the reporting period in which the individual first meets the definition of lobbyist. Filers need to list a new lobbyist's previous covered executive or legislative branch positions held within twenty (20) years of first acting as a lobbyist for a client. Once a filer has met the previously described statutory requirement for listing a new lobbyist's previous covered position(s), then the filer does not have to list those positions again for subsequent reports concerning the same client. If a registrant lists that lobbyist for the first time on a report/registration regarding a different client, then the registrant must list that lobbyist's previous covered positions held within twenty (20) years of first acting as a lobbyist for the new client.

We are aware that there will be situations in which a registrant expects an individual to become a lobbyist and wishes to disclose the name of that individual as a matter of public record. However, the LDA ([2 U.S.C. § 1604](#)), provides that updated registration information is contained in the registrant's next quarterly activity report (LD-2). Therefore, there may be a period of time in which an individual is legitimately making lobbying contacts but is not identified on the public record until the next quarterly activity report (LD-2) is filed. In such cases, the registrant reports updated information as the LDA requires.

A foreign entity is reported on the quarterly activity report (LD-2) if both of two circumstances apply: 1) the foreign entity must be an entity that is required to be identified on the registration (LD-1) or on the Information Update page on the quarterly activity report (LD-2). That, in turn, depends on whether the entity meets one of the three conditions of the LDA ([2 U.S.C. § 1603\(b\)\(4\)](#)); and 2) the entity must have an interest in the specific lobbying issues listed on the quarterly activity report (LD-2). If a foreign entity has an interest in the specific issues, the quarterly activity report (LD-2) requires a description of that interest. For the sake of clarity the registrant should indicate whether the foreign entity(s) is/are the same as identified on the registration. The requirement to disclose a foreign interest is not contingent upon the entity making a contribution of \$5,000 or more to the registrant during that particular reporting period.

*Example: “[Name of foreign entity], identified on Registration (LD-1), exports [type of product] to United States and would benefit from [specific desired outcome].”*

## **Disclosure of Certain Convictions**

The Justice Against Corruption on K Street Act of 2018 (the JACK Act) amended the LDA, effective January 3, 2019. The Act requires all registrations (LD-1) and quarterly activity reports (LD-2) to include:

“for any listed lobbyist who was convicted in a Federal or State court of an offense involving bribery, extortion, embezzlement, an illegal kickback, tax evasion, fraud, a conflict of interest, making a false statement, perjury, or money laundering, the date of the conviction and a description of the offense.”

The LDA online filing system provides fields for reporting information required by the JACK Act (Line 15 on the LD-1 registration and Line 29 on the LD-2 quarterly activity report). See **Section 4 – Lobbying Registration** for additional information about disclosure of convictions.

**Filers are expected to use due diligence when filling out and submitting registrations (LD-1), quarterly activity reports (LD-2), and semiannual contribution reports (LD-203).**

## Section 7 – Semiannual Reporting of Certain Contributions

### When and Why a Report is Needed

Registrants and lobbyists must file a semiannual contribution report (LD-203) by July 30 and January 30 (or on the next business day should either day occur on a weekend or holiday) for each semiannual period in which a registrant or lobbyist remains active (and regardless of whether they do or do not make reportable contributions). An “active” registrant is one that has not filed a valid termination report for all clients. An “active” lobbyist is an individual who has been listed on any registration (LD-1) or quarterly activity report (LD-2) and who has not been terminated/delisted by the registrant. **If a lobbyist is listed as active on a quarterly activity report (LD-2) for all or any part of a semi-annual period**, he or she must file a contribution report (LD-203) for that period (see Guidance Section 8). [2 U.S.C. § 1604](#) states that “each person or organization who is registered or is required to register...and each employee who is or is required to be listed as a lobbyist...shall file a report.” Thus, the requirement to file a contribution report (LD-203) falls upon all lobbyists who were listed on a registration (LD-1) or quarterly activity report (LD-2), regardless of whether they were required to be listed (as in the case in which a registrant listed an individual as a lobbyist in an abundance of caution). Any lobbyist who is reported on a registration (LD-1) or quarterly activity report (LD-2) must file a contribution report (LD-203), unless that lobbyist has been terminated/delisted on the quarterly activity report (LD-2) for all clients of the registrant prior to the beginning of the relevant LD-203 filing period. The Secretary and the Clerk view the registration (LD-1) and quarterly activity report (LD-2) as determinative for an individual lobbyist’s obligation to file a contribution report (LD-203).

Sole proprietors and small lobbying firms are reminded that two contribution reports are required: one filed by the registrant and one filed by the listed lobbyist (even if the lobbyist is the registrant and vice versa).

*Example: A sole proprietor is registered identifying the sole proprietorship business name as the registrant name. The lobbyist’s name is also listed as a lobbyist on the registration (LD-1) and on subsequent quarterly activity reports (LD-2). When the **registrant** contribution report (LD-203) is due from the registrant sole proprietorship business organization, the **lobbyist** contribution report (LD-203) is **also** due from the individual lobbyist. Two contribution reports must be filed, one report using the registrant login ID and password, and one report using the lobbyist login ID and password.*

Filers are expected to use due diligence when filling out and submitting registrations (LD-1), quarterly activity reports (LD-2), and semiannual contribution reports (LD-203). The coverage periods for the semiannual reports are January 1 through June 30, and July 1 through December 31. The Secretary and the Clerk do not have the authority under the LDA to grant extensions for filing lobbying disclosure documents.

### Mandatory Electronic Filing

The LDA ([2 U.S.C. § 1604](#)) requires mandatory electronic filing of all lobbying registrations and reports. The only exception to mandatory electronic filing is for the purpose of compliance with the ADA. The online electronic filing system provides usability for people with vision impairments who have the appropriate software and hardware. If you have questions or need assistance regarding additional ADA accommodations, please contact the Senate Office of Public Records at 202-224-0758.

It is necessary for each active lobbyist to obtain his/her individual user identification number and password in order to file semiannual lobbyist contribution reports (LD-203) electronically with the Secretary and Clerk. The registrant must add every lobbyist name into the contribution reporting system (under the Manage Lobbyist tab) in order for the individual lobbyist to obtain an identification number and set up a private password.

Each and every registrant and lobbyist is responsible for maintaining the confidentiality and use of the user password and for all filings made using their assigned user ID and password. Filers should notify the Secretary and Clerk immediately upon learning of any unauthorized use of a user ID and/or password, as it is presumed that filings are made by the filer.

## Semiannual Reporting of Certain Contributions – Contents of Report

The core information required by the LDA ([2 U.S.C 1604\(d\)](#)) and incorporated into the semiannual contribution report (LD-203) is: (1) certain contributions that are not disclosed in the quarterly activity report (LD-2); and (2) a certification that the filer has read and understands the gift and travel provisions in the Rules of both the House of Representatives and the Senate, and that the filer has not knowingly violated the aforementioned Rules.

The LDA ([2 U.S.C. § 1604\(d\)](#)) requires specific information regarding certain contributions and payments made by the filer (i.e., each active registrant and active lobbyist), as well as any political committee established or controlled by the filer. In determining contributions and/or payments to report, it is important to note that, in some cases, a leadership PAC (as defined by the Federal Election Campaign Act, FECA) or a former leadership PAC (for example, in the case of a lobbyist who was previously a covered official) may be a political committee established, financed, maintained, or controlled by a lobbyist. Also, a political committee that has changed from a principal campaign committee into a multicandidate committee (defined in the FECA) could be considered to have been established by a covered official or federal candidate. Finally, the FECA defines those organizations that may establish separate segregated funds (SSFs).

The LDA ([2 U.S.C. § 1604\(d\)](#)) requires the filer to disclose for itself, and for any political committee the filer establishes or controls:

- The date, recipient, and amount of funds contributed (including in-kind contributions) to any Federal candidate or officeholder, leadership PAC, or political party committee (registered with the Federal Election Commission), if the aggregate during the period to that recipient equals or exceeds \$200. Please note that contributions to state and/or local candidates and committees not required to be registered with the Federal Election Commission need not be disclosed.
- The date, the name of honoree and/or honorees, the payee(s) and amount of funds paid for an event to honor or recognize a covered Legislative Branch or covered Executive Branch official (except for information required to be disclosed by another entity under [52 U.S.C § 30104](#)).
- The date, the name of honoree and/or honorees, the payee(s) and amount of funds paid to an entity that is named for a covered Legislative Branch official, or to an entity or person in recognition of such official (except for information required to be disclosed by another entity under [52 U.S.C. § 30104](#)).
- The date, recipient, the name of the covered official, the payee(s) and amount of funds paid to an entity established, financed, maintained, or controlled by a covered Legislative or Executive Branch official or to an entity designated by such official (except for information required to be disclosed by another entity under [52 U.S.C. § 30104](#)).
- A non-voting board member (e.g. honorary or ex-officio) does not control an organization for these purposes. For purposes of the LDA, the term “designated,” for instance, includes a covered legislative branch official’s or covered executive branch official’s directing a charitable contribution in lieu of an honoraria pursuant to House, Senate, or executive branch Ethics rules. It also includes a payment that is directed to an entity by a covered official who is also on the board of the entity. In contrast, a contribution following a mere statement of support or solicitation does not necessarily constitute a reportable event under ([2 U.S.C. § 1604\(d\)](#)), without some further role by a covered official.
- Please note that a charitable organization established by a person before that person became a covered official and where that covered official has no relationship to the organization after becoming a covered official, is not considered to be one established by a covered official.
- Please also note that a covered official’s de minimis contribution to a charity (in proportion to the charity’s overall receipts of contributions) is not an indication of financing, maintaining, or controlling the charity (although supplemental facts might require reporting the contribution).
- The date, the name of honoree and/or honorees, the payee(s) and amount of funds paid for a meeting, retreat, conference, or other similar event held by, or in the name of, one or more covered Legislative Branch or covered Executive Branch officials (except for information required to be disclosed by another entity under [52 U.S.C. § 30104](#)). Costs related to non-preferential sponsorship of a multi-candidate primary/general election debate for a particular office do not have to be disclosed on an LD-203 report.

- The date, the name of honoree, the payee(s) and amount of funds equal to or exceeding \$200 paid to each Presidential library foundation and each Presidential inaugural committee. Please note that contributions to the official Presidential Transition Organization (“PTO”) of the President-elect and Vice President-elect are reportable under the Presidential Transition Act and not reportable under the LDA.

In the case of items 2-6 above, if a lobbyist makes a reportable payment but is reimbursed by a registrant, the registrant reports the payment as its own, rather than the lobbyist reporting the payment. This section of the LDA ([2 U.S.C. § 1604\(d\)](#)) is written broadly, and, in light of other legal provisions, it would be prudent to consult with the appropriate Ethics Committee, or the Office of Government Ethics, in order to determine if any event listed above is otherwise prohibited under law, Senate or House Rules, or Executive Branch regulations. For some events, it may be prudent to consult with the Federal Election Commission as well. Please note that the LDA and the Federal Election Campaign Act are not harmonized to contributions of exactly \$200.

*Example 1: In State “A,” a group of constituents involved in widget manufacturing decide to honor Senator “Y” and Representative “T” with the “Widget Manufacturing Legislative Leaders of 2015” plaques. Registrant “B” is aware that “Y” has checked with the Senate Select Committee on Ethics regarding her ability to accept the award and attend the coffee, and “T” has checked with the House Committee on Ethics. “B” pays caterer “Z” \$500 and Hotel “H” \$200 to partially fund the event. “B” would report that it paid \$500 to “Z” and \$200 to “H” on November 20, 2015 for the purpose of an event to honor or recognize “Y” and “T” with the plaques.*

*Example 2: After checking to discover if the activity is permissible, Lobbyist “C” contributes \$300 on June 1, 2015 to Any State University toward the endowment of a chair named for Senator “Y.” “C” would report the information above noting that the payment was made to Any State for the endowment of “Y’s” chair.*

*Example 3: Senator “Y” has been asked to speak at a conference held in Washington, DC, sponsored by a professional association of which Registrant “B” is a member. “B” makes a donation of \$100 to Charity “X” in lieu of the association paying a speaking fee (i.e., a contribution in lieu of honoraria). “B” would disclose a contribution of \$100 on the date of the payment, with the notation that the payment was made as a contribution in lieu of honoraria to an entity designated by “Y.”*

*Example 4: There is a large regional conference on “Saving Our River,” sponsored by three 501(c)(3) organizations. Senator “Y” and Representative “T” are given “Champions of Our River” awards at a dinner event that is part of the conference. Registrant “B” contributes \$3,000 specifically for the costs of the dinner event, paying one of the sponsors directly. At the time of the specific or restricted contribution, “B” was aware that “Y” and “T” would be honorees. Regardless of whether “B” is a sponsor under House or Senate gift rules and although B is not listed on the invitation as a sponsor (or the like) nor is publicly held out as a sponsor (or the like), since “B” partially paid for the cost of the event, “B” would disclose a payment of \$3,000 on the relevant date payable to the sponsor with the notation that “Y” and “T” were honored.*

*Example 5: Registrant “B,” an industry organization, hosts its annual gala dinner and gives a “Legislator of the Year” award to Representative “T.” Revenues from the gala dinner help fund Registrant “B’s” activities throughout the year. Registrant “B” must report: 1) the cost of the event (hotel, food, flowers, etc., but not indirect costs such as host staff salaries and host office overhead); 2) the payee(s) (as a convenience to filers, separate vendors may be aggregated by using the term “various vendors”); and 3) that the event honored Representative “T.” Please note that “B” must still separately report the cost of any item that “B” gave “T.” The fact that the event helped raise funds for the organization does not change the reporting requirement, though it could be noted in the filing.*

*Example 6: Registrant “B,” an industry organization, has an annual two-day “Washington fly-in” for its members. Among the events for its members is an event on “The Importance of Industry G to the U.S. Economy.” Senator “T” is listed on the invitation as a speaker at the event. Based on these facts alone, Registrant “B” would not need to report the event under this section. For a covered official to speak at such an event would not, in and of itself, form the basis for concluding that the official is to be honored or recognized. Supplemental facts might require reporting the cost of the event. For example, if Senator “T” were given a special award, recognition, or honor (which may not necessarily be through the receipt of a physical object) by the organization at the event, the cost of the event would have to be reported, even if the invitation did not indicate that such would be given. Simply designating a covered official as a “speaker” at an event at which the covered official receives a special award, recognition or honor, will not permit the filer to avoid or evade reporting the expenses of the event.*

*Example 7: Senator “Y” and Representative “T” are “honorary co-hosts” of an event sponsored by Registrant “R” to raise funds for a charity, which is not established, financed, maintained, or controlled by either legislator. “Y” and “T’s” passive allowance of their names to be used as “co-hosts,” in and of itself, is not sufficient to be considered “honored or recognized.” The purpose of the event is to raise funds for Charity “V,” not to honor or recognize “Y” or “T.” Nor are these facts (i.e. being passive honorary co-hosts), in and of themselves, sufficient to treat the event as being held “by or in the name” of “Y” or “T.” Supplemental facts might require reporting the cost of the event.*

*Example 8: Registrant “R” sponsors an event to promote “Widget Awareness.” “The Honorable Cabinet Secretary Z” is listed on the invitation as an “attendee” or “special invitee” but will not receive an honor or award at the event. Based on these facts alone, “R” would not need to include the costs of this event on “R’s” disclosure under this section. Mere listing of “Z’s” anticipated attendance at an event the purpose of which is to promote Widget Awareness, in and of itself, is not sufficient to be considered “honored or recognized”. Use of the phrase “The Honorable” in this context is consistent with widely accepted notions of protocol applicable to referencing certain very senior government officials. Supplemental facts might require reporting the cost of the event. For instance, if “Z” received a special, award, honor, or recognition by “R” at the event, “R” would have to report the costs of the event noting that “Z” was being honored or recognized.*

*Example 9: Registrant “B” buys a table at a dinner event sponsored by a 501(c) organization to honor Representative “T” but Registrant “B” is not considered a sponsor of the event under House and Senate gift rules. Lobbyist “C” 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) “B” or “C” undertake activities such that “B” or “C” becomes a sponsor of the event for House and/or Senate gift rule purposes; or (2) “B” or “C” purchase 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 (regardless of whether “B” or “C” is a sponsor under House or Senate gift rules), then “B” or “C” would need to report the costs incurred by “B” or “C” (as the case may be) for the event, noting that Representative “T” was the honoree. In the case of filers purchasing multiple tickets and/or tables to an event, a case-by-case analysis will be needed to determine if the quantity is such that it would appear that the filer is paying the costs of the event.*

*Example 10: Lobbyists “C” and “D” serve on the board of a PAC as member and treasurer respectively. As board members, they are in positions that control direction of the PAC’s contributions. Since both are controlling to whom the PAC’s contributions are given, they must disclose applicable contributions of the PAC on their semi-annual LD-203 reports. If “C” and “D” serve on the board of a Separate Segregated Fund (SSF), they may report that they are board members of an SSF in lieu of reporting the SSF’s applicable contributions as long as the SSF’s contributions are reported in the connected organization’s semiannual contribution report (LD-203).*

*Example 11: Registrant “L” holds an annual fundraising event that honors one person from each of the 50 states whom “L” deems to have played a significant role for the cause “L” supports. In 2015, four of the honorees were covered legislative and executive officials. “L” must disclose the total amount that it paid for the event, disclosing in the payee section “various vendors,” and disclosing the names of the four covered officials. Although not required, and thus at its option, “L” could note in the comments section that 4 of the 50 honorees were covered officials. This section of the LDA ([2 U.S.C. § 1604\(d\)](#)) does not contemplate a breakdown, delineation or separation of expenses.*

*Example 12: Registrant “O” is a university. In June 2015, in conjunction with its commencement event, “O” conferred an honorary degree upon Senator “P.” “O” would report all payments relating to the commencement event (chair rental, lunch for honorees, etc.) on its semiannual contribution report (LD-203), listing “various vendors” as the payee, and Senator “P” as the honoree. Although not required, and thus at its option, “O” could comment that “P” received an honorary degree.*

The semiannual contribution report (LD-203) requires a certification that the filer has read and is familiar with those provisions of the Standing Rules of the Senate and the Rules of the House of Representatives relating to the provisions of gifts and travel and has not provided, requested or directed a gift, including travel, with knowledge that receipt of the gift would violate either Chamber’s Rules. Filers check the box to make this certification, and the user’s ID and password verifies the filer’s identity.

Each and every registrant and lobbyist is responsible for maintaining the confidentiality and use of the user password and for all filings made using their assigned user ID and password. Filers should notify the Secretary and Clerk immediately upon learning of any unauthorized use of a user ID and/or password, as it is presumed that filings are made by the filer.

Please note that in the case of a registrant, a signatory is an individual who is responsible for the accuracy of the information contained in the lobbying registration or report. In all cases an individual lobbyist is responsible for all information contained in his or her report. Under the LDA ([2 U.S.C. § 1605](#)), the Secretary and Clerk refer to the U.S. Attorney the names of registrants and lobbyists who fail to provide an appropriate response within sixty (60) days to either officer's written communication rather than the name of the signatory. Both signatories and any third-party preparers should retain appropriate documentation to verify report contents. Third-party preparers should also retain appropriate documentation to demonstrate that they have authorization to make such filings on behalf of all filers (including lobbyist-employees of registrants) using their services.

Each registrant and active lobbyist, regardless of any contribution activity or any lack thereof, must file a semiannual contribution report (LD-203) due to the certification provision.

## Section 8 – Termination of a Lobbyist/Termination of a Registrant

### Termination/Delisting of a Lobbyist

The LDA is not specific as to how far into the future the registrant should project an expectation that an individual will act as a lobbyist. It seems neither realistic nor necessary to expect registrants to make such projections beyond the next succeeding quarterly reporting period. Accordingly, if a registrant reasonably expects an individual to meet the definition of a lobbyist in either the current or next quarterly period, the lobbyist should remain in an “active” status. If a registrant does not believe this to be the case, the lobbyist can be delisted from the list of lobbyists for the registrant or client. A registrant may terminate a lobbyist by delisting the name only when (i) that individual’s lobbying activities on behalf of that client did not constitute at the end of the current quarter, and are not reasonably expected in the upcoming quarter to constitute, 20 percent of the time that such employee is engaged in total activities for that client; or (ii) that individual does not reasonably expect to make further lobbying contacts. In order to properly terminate/delist a lobbyist, the registrant must complete the Information Update page of the quarterly activity report (LD-2), which is used to Update Previously Reported Lobbyist names who are no longer expected to act as lobbyists for the client due to changed job duties, assignments, or employment status. Amending the registration (LD-1) or quarterly activity report (LD-2) to erase a previously listed lobbyist, is not a proper lobbyist termination/delisting. **Simply omitting a lobbyist name from a quarterly activity report is not sufficient to terminate/delist a lobbyist name.**

*Example 1: Lobbying Firm “Y” registers for Client “Z” on March 15, 2015, listing employees “A,” “B,” “C,” and “D” on the registration (LD-1). For the first quarterly reporting period in 2015, “Y” will list “A,” “B,” and “C” on the quarterly activity report (LD-2). “D” has no lobbying activities for that quarterly period, so he would not be listed. During the second quarter of 2015, “D” leaves firm “Y” to start his own lobbying business. For the second quarterly period, “Y” will report that “D” no longer meets the definition of “lobbyist” for Client “Z” and delist “D” in the Information Update page of the quarterly activity report (LD-2).*

*Example 2: Lobbying Firm “Y” registers for Client “Z” as above listing the aforementioned “A,” “B,” “C,” and “D” as lobbyists on March 15, 2015. One month after registration, “C” and “D,” who engaged in lobbying activities for “Z” as partners of “Y,” decide to leave the partnership effective June 1, 2015. On the Q2 Report for 2015, “Y” would report any lobbying activity for “C” and “D” on the quarterly activity report (LD-2). “Y” would also reflect “C” and “D’s” departure by delisting them on the Information Update page in the same report.*

An individual who no longer meets the definition of lobbyist under [2 U.S.C. § 1602](#)(10) can be relieved from having to file a contribution report (LD-203) for future semiannual periods by properly delisting the lobbyist name on the quarterly activity report (LD-2). This is accomplished by the registrant listing such an individual on the Information Update page of the quarterly activity report (LD-2) for each client for which the individual was previously listed. The obligation to file a contribution report (LD-203) arises from being listed as a lobbyist and not being terminated/delisted by the registrant/employer. Thus, if a lobbyist has not been properly terminated/delisted on the Information Update page of the quarterly activity report (LD-2) for every client for which the lobbyist was listed, the Secretary and Clerk will expect to receive a semi-annual contribution report from him/her.

*Example: Registrant “A” employs Lobbyist “C” who has lobbying activity on behalf of Client “R” in January and February 2015. In March, Lobbyist “C” no longer expects to engage in lobbying activities for “R” or any other client in the firm, although “C” will continue to do non-lobbying consultation for numerous clients. “A” delists Lobbyist “C” as an active lobbyist by listing “C” on the Information Update page of the quarterly activity report (LD-2) for the Q1 reporting period, and “C” is not listed on subsequent quarterly activity reports. However in July, Lobbyist “C” is required to file a contribution report (LD-203) due July 30 disclosing his activity from January 1 through the date of his termination/delisting.*

## Termination of a Registrant/Client Relationship

Under the LDA ([2 U.S.C. § 1603\(d\)](#)), a lobbying firm may terminate a registration for a particular client when it is no longer employed or retained by that client to conduct lobbying activities and anticipates no further lobbying activities for that client. An organization employing in-house lobbyists may terminate its registration when in-house lobbying activities have ceased and are not expected to resume. Similarly, in situations in which a registration is filed in anticipation of meeting the registration threshold that subsequently is not met, a registrant also has the option of termination. The obligation to report quarterly under the LDA arises from active status as a registrant; a report disclosing the final lobbying activity of a registrant is mandatory. In order to terminate the registration, the registrant must file the quarterly activity report (LD-2) by the next quarterly filing date, checking the “Termination Report” box, and supplying the date that the lobbying activity terminated. A valid termination report discloses lobbying income or expenses **and** any lobbying activity by lobbyists during the period up to and including the termination date.

*Example 1: Lobbying Firm “A” accepted a contract with Client “B” on January 1, 2015, began lobbying activities, and timely registered on or before February 14. On March 31, the contract with “B” ended. Lobbying Firm “A” must file a quarterly activity report (LD-2) by April 20, 2015, disclosing the lobbying income from and lobbying activity for Client “B” that took place during the period January 1 through March 31. In the filing system, the firm will select the First Quarter and check the box for a “Termination Report” and enter the termination date as “3/31/2015”.*

*Example 2: Corporation “C” filed its registration on February 14, 2015, listing employee “E” as its only lobbyist. Through March 31, “E” spends less than 20 percent of her total time in lobbying activities. “C” would not have filed a registration if it had foreseen that its lobbying activities would be so limited, and there is no expectation that “E” or any other employee of “C” will meet the [2 U.S.C. § 1602\(10\)](#) definition of “lobbyist” for the April – June quarterly period nor that lobbying expenses will exceed \$14,000. While Corporation “C” as a registrant must file a report for January – March 2015, “C” will check the “Termination Report” box and enter 3/31/15 as the termination date. “C” will also disclose the amount of expenses for the reporting period, and “E’s” lobbying activity for the reporting period.*

## Section 9 – Relationship of the LDA to Other Statutes

### Lobbying Disclosure and FARA

The LDA reflects a determination that the Foreign Agents Registration Act (FARA) standards are appropriate for lobbying on behalf of foreign governments and political parties, but that LDA disclosure standards should apply to other foreign lobbying. An agent of a foreign commercial entity is exempt under FARA if the agent has engaged in lobbying activities and registers under the LDA ([2 U.S.C. § 1603](#)). An agent of a foreign commercial entity not required to register under the LDA (such as those not meeting the de minimis registration thresholds) may voluntarily register under the LDA. The statute affirms the bright line distinction between governmental and non-governmental representations, and is not meant to shroud foreign government enterprises. Questions relating to the Foreign Agents Registration Act must be directed to the Department of Justice Foreign Agent Registration Unit at (202)233-0776 or (202)233-0777, or by email at [fara.public@usdoj.gov](mailto:fara.public@usdoj.gov).

### LDA and IRC

Restrictions on lobbying by tax-exempt organizations are governed by the definitions in the Internal Revenue Code (IRC), not those of the LDA. The LDA and the IRC intersect in three different ways.

First, the LDA ([2 U.S.C. § 1610](#)) defines which registrants are eligible for the “safe harbor.” This allows entities that are required to report and do report lobbying expenditures under [26 U.S.C. § 6033\(b\)\(8\)](#) of the IRC to use IRC definitions for purposes of LDA sections [2 U.S.C. § 1603\(a\)\(3\)](#) and [2 U.S.C. § 1604\(b\)\(4\)](#). The LDA ([2 U.S.C. § 1610](#)) also allows entities that are subject to [26 U.S.C. § 162\(e\)](#) of the IRC to use IRC definitions for purposes of LDA sections [2 U.S.C. § 1603\(a\)\(3\)](#) and [2 U.S.C. § 1604\(b\)\(4\)](#).

Second, the LDA advises registrants regarding how they should use IRC definitions. Registrants who make the LDA expense election must use for other reporting the IRC definitions (including the IRC definition of a covered Executive Branch official) for Executive Branch lobbying, and the LDA definitions for Legislative Branch lobbying.

Third, the LDA allows electing registrants to insert the amount that is ultimately reportable to the Internal Revenue Service for LDA quarterly activity reports (LD-2).

### **LDA and False Statements Accountability Act of 1996**

The False Statements Accountability Act of 1996, amending [18 U.S.C. § 1001](#), makes it a crime knowingly and willfully: (1) to falsify, conceal or cover up a material fact by trick, scheme or device; (2) to make any materially false, fictitious, or fraudulent statement or representation; or (3) to make or use any false writing or document knowing it to contain any materially false, fictitious, or fraudulent statement or entry; with respect to matters within the jurisdiction of the Legislative, Executive, or Judicial branch. The False Statements Accountability Act does not assign any responsibilities to the Secretary and the Clerk.

### **LDA and Prohibitions on the Use of Federal Funds for Lobbying**

The LDA does not itself regulate lobbying by federal grantees, or contractors, though other laws, as well as contractual prohibitions, may apply. Questions concerning lobbying activities of federal grantees or contractors should be directed to the appropriate agency or office administering the contract or grant.

Note, however, that [2 U.S.C. § 1611](#) prohibits 501(c)(4) organizations which engage in lobbying activities from receiving federal funds through an award, grant, or loan.

## **Section 10 – Public Availability**

The LDA requires the Secretary of the Senate and the Clerk of the House of Representatives to make all registrations and reports available for public inspection over the Internet as soon as technically practicable after the report is filed.

Filers are encouraged to use the online databases of lobbying reports to verify compliance. Each database is searchable, sortable and downloadable. Registrations and reports are available online at the House website at <http://lobbyingdisclosure.house.gov>, as well as the Senate website at <http://www.senate.gov/lobby>.

## **Section 11 – Review and Compliance**

The Secretary of the Senate (Office of Public Records) and the Clerk of the House (Legislative Resource Center) must review, verify, and request corrections in writing to ensure the accuracy, completeness, and timeliness of registrations and reports filed under the LDA.

## **Section 12 – Penalties**

Whoever knowingly fails: (1) 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 (2) to comply with any other provision of the Act, may be subject to a civil fine of not more than \$200,000, and whoever knowingly and corruptly fails to comply with any provision of this Act may be imprisoned for not more than 5 years or fined under Title 18, United States Code, or both.

### **For Further Information**

#### **Senate Office of Public Records**

232 Hart Senate Office Building  
Washington, DC 20510  
(202) 224-0758

<http://www.senate.gov/lobby>

#### **Legislative Resource Center**

B-81 Cannon House Office Building  
Washington, DC 20515  
(202) 226-5200

<http://lobbyingdisclosure.house.gov>