

Baker Hostetler

Guidance for Harvard University on Lobbying Disclosure Act Quarterly Reporting *As of September 2008*

Under the Lobbying Disclosure Act of 1995 (“LDA”), organizations that employ lobbyists must register with the Secretary of the Senate and the Clerk of the House of Representatives and file quarterly disclosure statements (April 20, July 20, October 20 and January 20). Lobbyists are persons who make more than one lobbying contact and spend 20 percent or more of their professional time during a three-month period engaged in lobbying activities on behalf of the organization.

The Office of the Vice President of Government, Community, and Public Affairs at Harvard is responsible for representing the University in Washington, D.C. There are individuals in that office who are considered lobbyists and whose activities trigger the registration requirement under the LDA. Harvard University, therefore, is registered with the Secretary of the Senate and the Clerk of the House of Representatives. Harvard currently identifies Kevin Casey, Suzanne Day and Jon Groteboer as its LDA “lobbyists.”

Quarterly Reporting of Expenses for Lobbying Activities

As a registrant under the LDA, the University is required to file reports on a quarterly basis that disclose total aggregate expenditures associated with lobbying activities as defined by the LDA. Specifically, the quarterly reports include:

- a “good faith” estimate of dollars spent on lobbying activities;
- a list of individuals registered as lobbyists for the University;
- a description of specific issues lobbied; and
- a list of Houses of Congress and federal agencies contacted.

In order to compile the information to be disclosed under the LDA, we must determine whether any Harvard employees other than those in the Office of Government, Community and Public Affairs are conducting, or have conducted during the reporting period, activities that constitute “lobbying” under the LDA. To aid in this determination, the following are the Act’s basic definitions.

1) “Lobbying Contact”

A lobbying contact is an oral, written or electronic communication to a covered legislative or executive branch official made on behalf Harvard with regard to legislation, regulations, administration or execution of programs or policies (including the negotiation, award or administration of a federal grant), or other governmental policy actions. There are exceptions to the definition of lobbying contact for specific communications, such as testimony before a Congressional committee, comments

included in the record of a public hearing, participation in the regulatory process, comments made in speeches or articles distributed to the public, and routine information-gathering questions or responses to such questions from government officials.

2) “Lobbying Activities”

Lobbying activities are both lobbying contacts and efforts in support of lobbying contacts. This includes preparation and planning activities, research, and other background work that is intended, at the time it is performed, for use in making lobbying contacts, as well as coordination with the lobbying activities of others. Moreover, communications that do not constitute lobbying contacts because, for example, they are not made to covered executive or legislative branch officials or they fall within one or more of the exceptions to the definition of “lobbying contact,” can nevertheless be considered lobbying activities if they are made “in support of” lobbying contacts.

3) “Covered Executive Branch Officials”

Covered executive branch officials are senior executive branch officials—including the President, the Vice President, employees of the President or Vice President, “Schedule C” employees (those in policy-determining positions who are excepted from competitive service or the Senior Executive Service), Cabinet members, secretaries, deputy secretaries, assistant secretaries, and general counsels—and any member of the Uniformed Services serving at a pay grade of 0-7 or above, such as Brigadier General.

4) “Covered Legislative Branch Officials”

Covered legislative branch officials are members of both Houses of Congress and their staff, including committee, leadership, and joint committee staff.

Reporting Requirements

For the purposes of completing Harvard’s quarterly report, we need information concerning lobbying activities performed at your school or unit. Harvard must disclose all expenditures associated with lobbying activities, that is, lobbying contacts and activities in support of lobbying contacts. **“Lobbying contact” will include contacts made “on behalf of the University” by senior University officers, such as the President, Provost, Deans, Vice Presidents, and Government Relations officers.** Thus, in addition to direct and indirect expenditures of the University’s identified lobbyists, Harvard must disclose expenditures (for example, salary, expenses, and overhead) that may have been incurred by the University officers identified above in connection with lobbying contacts and activities in support of such contacts. **As noted below, contacts to or by faculty related to their areas of expertise are not considered lobbying on behalf of the University.**

Association Dues

Reportable expenditures may include part of the dues your school or unit pays to professional associations of which the University is a member. Many associations put a portion of dues received toward lobbying efforts on behalf of their members. For this reason, the University may need to disclose all or a portion of dues paid to associations

of which it is a member. Associations often provide to members dues statements that reflect the portion of dues that are lobbying expenses, sometimes described as nondeductible lobbying expenditures.

Activities Not Included

Contacts made by faculty or other individuals on behalf of themselves, or other organizations or professional societies of which they are a member, are not contacts "on behalf of the University." Accordingly, expenses associated with such activities should not be included in the University's report.

Worksheet

For your convenience, a simple expense worksheet is attached. Please complete the worksheet for any lobbying activities conducted and forward the completed forms to the Office of Government, Community and Public Affairs (fax: 495-9703).

Questions

If you have any questions regarding the LDA or any aspect of this memorandum, please feel free to call the Office of Government, Community and Public Affairs at 495-4955, or the Office of General Counsel at 495-1280.