Lobbying:
10 Answers you need to know
Faculty

Ronald M. Jacobs

- Co-chair, political law practice, Venable LLP, Washington, DC
- Government and campaign experience
- Counsel to corporations, associations, super PACs, candidates, and individuals
- [www.PoliticalLawBriefing.com](http://www.PoliticalLawBriefing.com)
Agenda

1. May I lobby?
2. Do I need to register as a lobbyist?
3. What do I report on my lobbying forms?
4. What about state lobbying?
5. Can I buy a Senator lunch?
6. How do I invite a staffer to an industry event?
7. May I fly a Member of Congress to my office?
8. Can I make a campaign contribution?
9. What is a PAC and should I have one?
10. What about a Super PAC?
1. MAY I LOBBY?
Yes…But

501(c)(3)

• Yes, but no substantial part

For Profit

• Yes, but cannot deduct lobbying expenses
501(c)(3)s

Facts and Circumstances

501(h) Election
Influencing Legislation

- Congress
- Executive if Legislation
- State Legislation
- Grass Roots
162(e) Deductibility

Federal Legislation
Covered Executive Officials
State Legislation
Grassroots
Political Activity
2. DO I HAVE TO REGISTER?
Do I have to register?

If you:

- Employ a lobbyist
- Spend more than $12,500 per quarter

Then yes.
What is Lobbying?

- Lobbying contacts
- Lobbying activity
Lobbying Contacts

- Oral or written communication to a covered official about:
  1. formulation, modification, or adoption of legislation
Lobbying Contacts

- Oral or written communication to a covered official about:

  2. formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government
Lobbying Contacts

- Oral or written communication to a covered official about:
  3. administration or execution of a program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license)
Lobbying Contacts

- Oral or written communication to a covered official about:
  
  4. nomination or confirmation of a person for a position subject to confirmation by the Senate
Covered Officials

Legislative Branch

- Everyone

Executive Branch

- President
- VP
- EOP
- ES 1-5
- O-7
- Schedule C
Exceptions to Lobbying Contact

Regulatory Activities

• On the record in public proceeding
• Written comments
• Petitions
Exceptions to Lobbying Contact

Requests for Information

• Written response to request from covered official
• Information required by subpoena, CID, or compelled by Congress or an agency (including compelled by contract)
Exceptions to Lobbying Contact

Public Activities

• Testimony before Congress
• Speeches, articles, publications made available to the public or distributed through
  • Radio
  • TV
  • Other means of mass communication
Exceptions to Lobbying Contact

Miscellaneous Contacts

• Administrative requests (must not include an attempt to influence)
• Made in the course of a Federal Advisory Committee
• Not possible to report without disclosing information that may not be disclosed by law
Lobbying Activity

Contacts

Research

Coordination

Planning

Preparation

Lobbying Activity

© 2014 Venable LLP
Why Does This Matter?

>$12,500 + 1 Lobbyist = Must Register
What is a Lobbyist?

- >1 Lobbying Contact
- >20% Time

Lobbyist
3. WHAT DO I REPORT?
Quarterly Reports

- Names of lobbyists
- Issues lobbied
- Amount spent on lobbying
4. WHAT ABOUT STATE LOBBYING?
5. CAN I BUY A SENATOR LUNCH?
Federal Gift Rules

Congress
- Registrant: No, unless exception
- Lobbyist: No, unless exception
- Others: <$50 or exception

Career
- Registrant: $20 or exception
- Lobbyist: $20 or exception
- Others: $20 or exception

Appointee
- Registrant: No, unless exception
- Lobbyist: No, unless exception
- Others: $20 or exception
Personal Friendship

- Cannot expense gifts
- Look to history of relationship
  - Mutual exchange of gifts
  - Duration and formation
  - Similar gifts to others
- Allows gifts up to $250 (without waiver) for legislative branch—no limit on executive
Answer the question

- If a registrant, company cannot reimburse you.
- If not a registrant, company may reimburse you.
- If a lobbyist, no, unless you are a friend.
6. HOW DO I INVITE A STAFFER TO AN EVENT
Is it a gift?

Meetings with no food + No admission fee = Not a Gift
## Widely Attended Events

<table>
<thead>
<tr>
<th>Invitee</th>
<th>Event</th>
<th>Number of People</th>
<th>Audience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Congress</td>
<td>Speaker at the event or determine that attendance is related to official duties</td>
<td>More than 25 non-hill</td>
<td>Individuals from throughout an industry or profession or represent a wide range of persons interested in a given matter</td>
</tr>
<tr>
<td>Appointee</td>
<td>Speaker</td>
<td>If not sponsor, more than 100; if sponsor no number</td>
<td>Diversity of views or interests will be present</td>
</tr>
<tr>
<td>Career</td>
<td>Speaker</td>
<td>If not sponsor, more than 100; if sponsor no number</td>
<td>Diversity of views or interests will be present</td>
</tr>
</tbody>
</table>
Site Visits

- Food and refreshments on site, in group setting with employees
- Local transportation
Receptions

**CONGRESS**
- Hors d’oeuvres & beverages
- Coffee & bagels
- No sit-down meal
- No one-on-one

**EXEC BRANCH**
- $20 per person/$50 per year
- Coffee, donuts, etc.
- Often have to pay to attend
7. MAY I FLY A MEMBER OF CONGRESS TO MY OFFICE?
Travel Rules

- If not a lobbyist, then yes
- If a lobbyist, then limited to one-day trip
- Pre-approved
- Flight, hotel, ground transportation, meals
8. CAN I MAKE A CAMPAIGN CONTRIBUTION?
Campaign Contributions

- Federal: Individuals up to $2,600 per election
- State: Limits vary
No Federal Corporate Contributions

- No monetary or in-kind corporate contributions to:
  - candidates;
  - national political parties; and
  - federal PACs.
Corporations May Not

- Reimburse employees
  - Directly
  - Bonuses
  - Expenses

- Facilitate contributions
  - Restrictions on fundraising
Corporate Limits

- $27,200 governor
- $4,100 legislative
- $6,800 PAC

- $5,000 per year to all political committees
- $41,000 statewide (but only up to aggregate)

- $3,000 statewide
- $1,000 legislative
9. WHAT IS A PAC AND SHOULD I HAVE ONE?
It Depends

- 501(c)(3): Cannot have a PAC
- Companies: May have a connected PAC
What is a PAC?

- Special bank account
- Corporate name
- Administrative support from corporation
- Host fundraising events
Who funds a PAC?

- Stockholders
- Board of Directors
- Members of recognized professions
- Salaried employees with policymaking or managerial responsibilities
- Family members
Who funds a PAC?

- Limit: $5,000 per year
- May use payroll deduction
- Only U.S. Citizens or “greencard” holders
Making Contributions

- $5,000 per year to federal candidates and PACs
- State candidates subject to state law
  - Registration and/or reporting often required
Disclosure

• Filed with FEC
• Donors disclosed:
  • Name
  • Address
  • Occupation
  • Employer
• Online
Corporate Support of the PAC

• Administrative costs
• Fundraising costs
  • Prizes
  • Charitable Match
  • Trinkets
• May not contribute to the PAC
10. WHAT IS A SUPER PAC AND SHOULD I HAVE ONE?
Super PAC

- Committee registered with FEC
- All donations in reported
- All expenditures are reported
- No limits on amount contributed
- May not contribute to candidates

© 2014 Venable LLP
Questions

- Ronald M. Jacobs
  - 202.344.8215
  - rmjacobs@venable.com

- www.PoliticalLawBriefing.com