



**Guidance for Inviting Members of Congress and
Executive Branch Officials to Campus for Award of Honorary Degrees,
Speeches or Other Events
Including Rules Regarding Gifts, Meals and Travel**

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The increased focus in recent years on inappropriate or illegal lobbying practices in Washington, D.C., has resulted in the passage of much stricter congressional and federal executive branch ethics rules. In 2007, Congress passed the Honest Leadership and Open Government Act (HLOGA), which requires enhanced disclosure and reporting of federal lobbying activities pursuant to the Lobbying Disclosure Act (LDA). This new law has brought greater scrutiny to the lobbying efforts of all types of entities, including higher education associations and individual higher education institutions.

For the first time under federal law, HLOGA applies the new stricter congressional gift and travel rules to entities that employ or retain lobbyists. In the case of organizations required to register under LDA, the law now requires such organizations to certify that no one in the organization has offered anything in violation of these congressional rules. In addition, on January 21, 2009, President Obama signed an executive order imposing strict new rules on Obama administration appointees, prohibiting most gifts from lobbyists or organizations that employ or retain lobbyists. This white paper is designed to provide information to ACE members to help navigate these new ethics requirements as they apply specifically to invitations to members of Congress or senior executive branch officials to visit campus for speaking events or to receive honorary degrees.

Visits to Campus by Congressional and Federal Executive Branch Officials

Members of Congress and staff consider it an important part of their official duties to visit with various constituent groups in their states. Higher education institutions often invite members of Congress and their staff to campus for various events and fact-finding visits. These interactions help foster good relationships and provide federal officials with a greater understanding of issues of importance to individual institutions and the higher education community.

The federal rules applicable to entertaining officials on campus differ depending on the type of institution hosting the campus visit, whether the institution is a registrant under the LDA and whether the invitee is a member of Congress, congressional staff, political appointee, senior executive branch official, or a career federal employee. The major federal guidelines that apply to different types of higher education institutions are summarized below. The rules are complex and may not seem logical. If an institution has any doubt about the propriety of inviting a federal official to campus or about details surrounding the visit, such as gifts, entertainment or travel, it is always wise to seek specific legal advice before extending an invitation. Institutions should take great care to ensure that those representing the institution in dealings with federal officials understand federal ethics rules so that no inadvertent violations occur. Institutions should be diligent in understanding and conforming to federal ethics rules to avoid putting a covered federal official in the awkward or embarrassing position of rejecting an inappropriate offer of a gift, entertainment or travel.

Public Higher Education Institutions

Gifts to Members of Congress and Staff. Congressional gift rules and HLOGA provide a specific exemption for gifts provided by local and state government entities, including public higher education institutions. Thus, any gifts, meals, entertainment or honorary degrees offered by a public higher education institution to members of Congress and their staff are generally excluded from the gift restrictions. This exception also applies to tickets to the athletic events of the institution; however, a public institution should not be a conduit for tickets provided by a third party. For example, World Series tickets given to a university president by a key alumnus could not then be given by the president to a member of Congress.

Travel Provided to Members of Congress and Staff. Congressional rules consider travel provided by a public higher education institution to be government sponsored travel and thus exempt from the restrictions that apply to private entities. There is no limitation on the type or length of travel that may be provided. An in-house lobbyist for a public institution may be involved in the trip planning and no clearance is needed from congressional ethics committees. Public institutions should note, however, that if travel is being provided jointly with a private institution, then the joint invitation must comply with the rules applicable to the private entity.

Gifts to Executive Branch Employees. There is no general exception for gifts received by executive branch employees from state or local government entities. Therefore, public universities must comply with restrictions, which have several exceptions allowing receipt of nominal gifts such as coffee and donuts, gifts based on personal friendship, any item of less than \$20 in value (\$50 cumulatively from the same entity in a calendar year), attendance at widely attended gatherings including receptions and meals where the attendance has been determined to be in the “interest of the agency.” An executive branch employee may accept an honorary degree from a public higher education institution following a written determination of the ethics officer of the agency “that the timing of the award would not cause a reasonable person to question the employee’s impartiality in a matter affecting the institution.” Employees may also accept meals and entertainment for themselves and members of their family at the event at which the presentation takes place. Acceptance of meals or free admission to a conference sponsored by a public institution where the federal employee is a speaker or program participant is not considered a gift but rather is viewed as a customary and necessary part of the performance of their assignment. President Obama’s new executive order significantly restricts gifts from *lobbyists* to federal appointees. While the Office of Government Ethics has provided guidance that this new order does not apply to public and private universities, the interpretation does make clear that an appointee *may not* accept a gift if the gift is offered by a university employee who is a *registered lobbyist* under the LDA.

Travel Provided to Executive Branch Employees. Travel, subsistence and related expenses accepted by an agency as reimbursement in connection with an employee’s attendance at an out of town meeting or similar function related to their official duties is generally allowed, pursuant to federal guidelines. If the ethics officer has approved the campus visit for receipt of an honorary degree or for a speaking engagement, it can be expected that travel expenses may be offered.

Private Institutions with No Lobbyist

Gifts to Members of Congress and Staff. If a private higher education institution is not registered under the LDA and retains no outside lobbyist then the relevant congressional gift rules were not changed by HLOGA. Those rules generally state that members of Congress and their staff should not accept gifts but also set forth more than 20 exceptions to the general gift ban. Among the exceptions are gifts or meals less than \$50 in value, attendance at widely attended events, nominal food including typical reception events, honorary degrees and awards, books, invitations to charitable events, and gifts based on personal friendship. Tickets to athletic events may be accepted as long as the value of the ticket is less than \$50.

Travel Provided to Members of Congress and Staff. Private institutions that do not employ or retain a lobbyist may provide travel to members of Congress and their staff under the general guidelines that limit such trips to three days. Preapproval from the appropriate congressional ethics committee is required before a member or staff can accept the travel, based on an agenda for the trip and estimated costs provided to the committee in advance. Expenses of travel should generally be comparable to the maximum per diem rates for official Federal Government travel: www.gsa.gov/perdiem. A post-trip report including all expenses must be submitted to the appropriate congressional ethics committee. *Under House rules*, recreation unrelated to the purpose of the trip may be provided if it is in compliance with the general gift rules stated above, including the \$50 gift limit. House rules restrict private or charter aircraft to *limited* conditions, such as when the cost of such air travel does not exceed cost of business-class transportation. *Under Senate rules*, no recreation unrelated to the purpose of the trip may be provided as part of a privately sponsored trip. Senate rules prohibit the use of private or charter aircraft for privately sponsored trips. Senate rules do not allow alcohol to be provided unless paid for by the Senator or staffer personally.

Gifts to Executive Branch Employees. Gifts for executive branch employees are restricted but there are several exceptions, including receipt of nominal gifts such as coffee and donuts, gifts from personal friends, any item of less than \$20 in value (\$50 cumulatively from the same entity in a calendar year), and attendance at widely attended gatherings including receptions and meals where the attendance has been determined in advance to be in the “interest of the agency.” An executive branch employee may accept an honorary degree from a higher education institution based on a written determination of the ethics officer of the agency “that the timing of the award would not cause a reasonable person to question the employee’s impartiality in a matter affecting the institution.” Employees may also accept meals and entertainment for themselves and members of their family at the event at which the presentation takes place. Acceptance of meals or free admission to a conference sponsored by a private higher education institution where the federal employee is a speaker or program participant is not considered a gift but rather is viewed as a customary and necessary part of the performance of their assignment.

Travel Provided to Executive Branch Employees. Travel, subsistence and related expenses accepted by an agency as reimbursement in connection with an employee’s attendance at an out of town meeting or similar function related to their official duties is generally allowed, pursuant to federal guidelines. If the ethics officer has approved the campus visit for receipt of an honorary degree or for a speaking engagement, it can be expected that travel expenses may be offered.

Private Institutions That Employ or Retain a Lobbyist

Gifts to Members of Congress and Staff. A private higher education institution that either employs a lobbyist internally and therefore is registered under the LDA or retains an outside lobbyist registered under LDA must comply with the stricter congressional gift rules contained in HLOGA. Those rules generally state that members of Congress and their staff should not accept gifts, although more than 20 exceptions to the general gift ban remain. The biggest change for such entities is that the exception allowing gifts or meals of less than \$50 was eliminated. Other exceptions remain, including nominal gifts of less than \$10 in value, T-shirts, baseball caps, attendance at widely attended events including meals, nominal food including typical reception events, honorary degrees and awards, books, invitations to charitable events, and gifts based on personal friendship. Tickets to athletic events cannot be offered by private institutions utilizing lobbyists unless the value of the ticket is \$10 or less.

Travel Provided to Members of Congress and Staff. Private institutions that employ or retain a lobbyist may provide travel to members of Congress and their staff for trips of up to three days. Preapproval from the appropriate congressional ethics committee is required before a member or staff can accept the travel, based on an agenda for the trip and estimated costs provided to the committee in advance. Expenses of travel should generally be comparable to the maximum per diem rates for official Federal Government travel: www.gsa.gov/perdiem. A post-trip report including all expenses must be submitted to the appropriate congressional ethics committee. Recreation unrelated to the purpose of the trip may not be provided as part of a privately sponsored trip. ***Under House rules***, in-house lobbyist for such an institution may accompany an invitee on the trip and may help with trip arrangements. House rules restrict private or charter aircraft to *limited* conditions, such as when the cost of such air travel does not exceed cost of business-class transportation. ***Under Senate rules***, the involvement of lobbyists in the planning of and participation in such trips is restricted. Senate rules prohibit the use of private or charter aircraft for privately sponsored trips. Senate rules do not allow alcohol to be provided unless paid for by the Senator or staffer personally.

Gifts to Executive Branch Employees. Gifts to executive branch officials are restricted but exceptions include nominal gifts such as coffee and donuts, gifts based on personal friendship, any item of less than \$20 in value (\$50 cumulatively from the same entity in a calendar year), and attendance at widely attended gatherings including receptions or meals where attendance has been determined in advance to be in the “interest of the agency.” An executive branch employee may accept an honorary degree from a higher education institution based on a written determination of the ethics officer of the agency “that the timing of the award would not cause a reasonable person to question the employee’s impartiality in a matter affecting the institution.” An employee may also accept meals and entertainment given to themselves and their family members at the event. Acceptance of meals or free admission to a conference where the federal employee is a speaker or program participant is not a gift but rather is viewed as a customary and necessary part of the performance of their assignment. While the new Obama executive order restricting gifts from lobbyists to federal appointees has been interpreted not to impact private colleges and universities, the new rule does state that an appointee ***may not*** accept a gift if it is offered by a university employee who is a ***lobbyist***.

Travel Provided to Executive Branch Employees. Travel, subsistence and related expenses accepted by an agency as reimbursement in connection with an employee's attendance at an out of town meeting or similar function related to their official duties is generally allowed, pursuant to federal guidelines. If the ethics officer has approved the campus visit for receipt of an honorary degree or for a speaking engagement, it can be expected that travel expenses may be offered.

Useful Links Regarding Congressional and Executive Branch Ethics Rules

House Committee on Standards of Conduct - www.ethics.house.gov

Senate Ethics Committee - www.ethics.senate.gov

Office of Government Ethics - www.oge.gov

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