



## MEMORANDUM

FR: Bernie Skoch  
Chairman of the Board

TO: Vice Chairman, Field Operations; Regional, State, and Chapter Presidents

RE: The Laws and Rules Now That We Employ a Lobbyist

Since the Air and Space Forces Association (AFA) has hired a lobbyist, many of you have asked if that changes the way AFA Chapters operate. Therefore, this one-page paper, with an attachment, has been written which will hopefully answer many of your questions.

First, the rules have not changed regarding maintaining our 501(c)(3) status. As before, we cannot endorse a candidate or solicit campaign funds on behalf of AFA. You can do so as a private citizen – just do not mention AFA if you do. In addition, you can invite Members and staff to AFA meetings and even publicly thank them -- including inviting press -- for doing something that AFA requested. But remember, you cannot endorse or solicit. You may invite them in their official capacity, through their congressional -- not campaign -- staff. When introducing them, do not reference their campaign, opponent, or any election.

Second, the application of some congressional ethics rules has changed since AFA has retained a lobbyist. So please study the attached paper prepared by our attorneys carefully. The most important rule to remember is not to give a Member or staff a gift. A gift is anything of monetary value. However, there are 24 exceptions to this rule, so please email William Castle, Vice President of Legislative Affairs, at [wcastle@afa.org](mailto:wcastle@afa.org) before offering a gift or extending an invitation to a Member of Congress or their staff. That will enable us to discuss the matter with AFA's counsel about how to structure your event to ensure it is firmly within the "ethical middle field." The attached brochure explains these rules and the exemptions that let AFA provide certain gifts.

If you have any questions, please feel free to email Bill Castle at [wcastle@afa.org](mailto:wcastle@afa.org)

Sincerely,

A handwritten signature in blue ink that reads "Bernie Skoch".

Bernie Skoch  
Chairman of the Board

# U.S. HOUSE AND SENATE GIFT RULES

Kelley  
Drye

Individual lobbyists, their employers, and their lobbying clients may make **no gift of any value** to Members, officers, or employees of Congress *unless* a gift rule exception or waiver applies. If no exception or waiver applies, employers *may not* reimburse employees or permit them to use corporate credit cards for gift expenditures. "Gift" includes a meal, sporting event ticket, travel, discount, and anything else that has monetary value. The following list summarizes the most common gift rule exceptions:

## UNDER \$50

An individual or entity that does not need to register under the Lobbying Disclosure Act of 1995 and does not employ or retain federal lobbyists **may** make a gift worth no more than \$49.99 each and \$99.99 in total for all gifts to the same recipient in a calendar year. ***Lobbyists and their clients or employers may not use this exemption.***

## PAID OR RETURNED

The congressional recipient either pays the donor full market value or returns the gift to the donor without using it.

## NOMINAL VALUE

T-shirt, baseball cap, or greeting card worth no more than \$15 or other items worth \$9.99 or less. Recipients may not "buy-down" to reach a permissible value. ***This exemption does not apply where another, more specific exemption, addresses an item. For instance, it does not permit the provision of a \$5 cup of coffee even though it is below the \$9.99 "other" nominal value gift limit because the "reception" exemption addresses gifts of beverages specifically.***

## INFORMATIONAL MATERIAL

Written or audio/visual informational or reference materials sent to the recipient at a congressional office by the materials' author, publisher, or producer.

## PERSONAL FRIENDSHIP

A gift with a market value of \$250 or less (case-by-case waivers are available). Factors relevant to determining a "friendship's" eligibility: (A) the history of the relationship between the donor and recipient, including any previous mutual gift exchange; (B) whether the donor personally paid for the gift or sought a tax deduction or business reimbursement; and, (C) whether the donor gave similar gifts to other congressional recipients at the same time. Only *individuals* may use this exemption.

## RECEPTION

Non-meal food and beverages of nominal value usually offered at receptions (e.g., hors d'oeuvres, appetizers, beverages), morning meetings (e.g., coffee, juice, pastry, or bagels), or business meetings. ***A Member, officer, or employee of Congress, however, may not accept***

**food or beverages under this exemption in a one-on-one setting with a registered lobbyist.**

### WIDELY ATTENDED EVENT

Attendance, meals (must be taken in a group setting), local transportation, and refreshments *if* (A) the event sponsor reasonably expects at least 25 people from outside Congress to attend (from at least 5-6 groups); (B) the sponsor extends an unsolicited invitation (**House** personnel may accept lobbyist-paid tickets from the organizer, who may consider suggestions from lobbyists for whom to invite but may not identify the source of the ticket(s); **Senate** personnel may not); and, (C) the event is related to the congressional recipient's official duties or the congressional recipient participates as a speaker or panel participant or performs a ceremonial function. Recreational, entertainment, or sporting events do *not* qualify.

### FACILITY TOUR (HOUSE ONLY)

Attendance, meals, and local transportation (outside Washington, DC) to tour a business site or facility. Meals are permitted as a courtesy and must be taken in a group setting, on the premises. The Member or employee must be acting in an official capacity (e.g., touring a constituent business, visiting a facility while on a committee-sponsored trip, etc.).

### COMMEMORATIVE ITEM

A plaque, trophy, or other item that is substantially commemorative in nature and intended for presentation (*i.e.*, requires in-person presentation). An item with significant utilitarian or artistic nature does *not* qualify (e.g., engraved pen or crystal bowl).

### CHARITY EVENT

Attendance, meal, local transportation, and entertainment or recreational activities if the event's *actual sponsor*—not the ticket/table purchaser—extends an unsolicited invitation to the congressional recipient (**House** personnel may accept lobbyist-paid tickets from the organizer, who may consider suggestions from lobbyists for whom to invite but may not identify

the source of the ticket(s); **Senate** personnel may not). A sponsoring 501(c)(3) charity may also provide travel and lodging if all of the event's net proceeds benefit the 501(c)(3) charity.

### TRAVEL IN CONNECTION WITH OFFICIAL DUTIES

Travel and (generally) one night's lodging for fact finding or other official business-related travel to attend a one-day event. Recreational activities do *not* qualify. The sponsor and congressional recipient must each seek advance authorization in writing. Lobbyists may *not* accompany congressional personnel and may have only *de minimus* involvement in trip planning, organization, requests, or arrangements. More permissive exceptions apply to colleges and universities under the **House** gift rule and to 501(c)(3) charities under the **Senate** gift rule.

### TRAINING

Attendance, food, and refreshments provided to all attendees as integral parts of training that is in the interest of Congress. The **Senate** exemption requires the sponsor to expect at least 25 congressional attendees (no minimum non-Hill attendance) and more than one Senate office or committee employs the various Senate employee attendees. While the **House** exemption does not address congressional or non-Hill attendance, it *disqualifies* meals provided in connection with presentations by lobbyists or advocacy groups as well as discussions related to issues before Congress.

### CONSTITUENT EVENT

In the **Senate**, meal costing up to \$49.99 provided at event if (A) it is sponsored by constituents in home state; (B) it is attended primarily by at least five constituents; (C) no lobbyist attends; and, (D) *either* (i) the Senate recipient participates as speaker or panel participant by presenting information related to Congress or by performing a ceremonial function *or* (ii) attendance is appropriate to the Senate recipient's official duties or representative function. The **House** provides a similar "general waiver" with different criteria,

requiring a regularly scheduled meeting that is open to a sponsoring organization's members. The House version does not specify a minimum number of constituents, restrict its location to the Member's district, or ban lobbyist participation. A similar **Senate** general waiver requires a connection to the Senate recipient's official duties and that admission be open to "all members" of the sponsoring organization (as opposed to only its officers or directors).

### CAMPAIGN CONTRIBUTION

Donors' political contributions and attendance, lodging, food, refreshments, and local transportation provided in connection with fundraising events held by "political organizations" defined by Section 527(e) of the tax code, such as PACs or campaigns.

### WIDELY AVAILABLE OPPORTUNITY

Benefits available to the public or to members of a group in which membership is *not* related to congressional employment (e.g., frequent flier programs).

### RELATIVES

Gift of any value from a congressional recipient's parent, child, sibling, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, spouse or fiancé, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepchild, stepsibling, half sibling, or spouse's grandparent.

## KELLEY DRYE'S POLITICAL LAW COMPLIANCE GROUP

We help clients succeed in the political arena by guiding them past the legal pitfalls that might lead to investigations, criminal and civil penalties, and public scandal. Through our comprehensive, continuing focus on evolving campaign finance rules and the tactics of enforcement authorities, we shape clients' advocacy programs, compliance approaches and defensive measures to reduce vulnerabilities and address problems. Many diverse corporations, trade associations and labor organizations turn to us for continuing assistance on government ethics, lobbying, and campaign finance and election law.

### QUESTIONS?

Please contact Dave Frulla or Jeff Hunter if you have any questions.



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