

## **The New Congressional Ethics Rules: What Nonprofits Should Know**

*Dated July 6, 2007:* New ethics reforms have brought much anticipated change in the United States Congress. Largely in response to the much publicized "culture of corruption," the reforms attempt to make the public policy process more transparent and the members more accountable to the greater public. The new rules significantly restrict lobbyist gifts to lawmakers and staff, implement stronger travel limitations on members, mandate disclosure of earmarks and provide for more oversight on congressional procedures. This article summarizes the new ethics rules in the U.S. House of Representatives and changes pending in the Senate.

### **Summary of U.S House of Representatives Rules Changes Regarding Gifts**

#### **Gift ban**

The gift ban applies to [registered lobbyists](#) and entities that employ them.

- House members and staff may accept a gift (other than money) valued at less than \$50 per item and less than \$100 total in a calendar year from a permissible source.
- House members and staff may not accept a gift of any amount from a registered lobbyist or agent of a foreign principal or from a private entity that retains or employs registered lobbyists or agents of a foreign principal.

#### **Exceptions to gift rule continue to apply**

The new gift ban does not prohibit members and staff from accepting gifts if one of the exceptions in the rules applies, even if the gift is from a registered lobbyist or an entity that retains or employs them. The most common exemptions include:

- Food or refreshments of nominal value
- Items of nominal value
- Gifts based on personal friendship
- Attendance at political events
- Gifts from a relative
- Information materials sent to a House office
- Gift paid by state or local government
- Plaque, trophy, or other item that is substantially commemorative in nature and that is intended for presentation.
- Home State products

#### **Widely attended events**

Members and Staff may accept free attendance, including food and refreshments, at a widely attended event, regardless of the sponsor, provided that:

- At least 25 non-Hill attendees expected to attend;

- The event is open to the public, a range of individuals from throughout a given industry or profession, or those in attendance represent a range of persons interested in a given matter;
- The member or staff person reasonable determines that attendance at the event is related to his official duties; and
- The invitation is provided by the sponsor of the event.

## **Travel Rules**

The most extensive changes to the rules involve congressional travel. The new rules provide that, beginning March 1, members of the House:

- cannot accept travel funded by lobbyists or the entity that retains or hires them, or a foreign agent, except for one-day/one-night trips to specific sites, where there is "de minimis" lobbyist involvement. The ethics committee will write rules to govern these situations, which are meant to allow trips to give speeches and attend forums or panel discussions.
- may not travel with a lobbyist present on any segment of the trip. It is not clear if this also applies to the destination event if the lobbyist travels separately.
- cannot pay for non-commercial, non-charter air travel from personal or campaign funds, or use their official allowance for these private jet flights.

Travel expenses that can be paid for by non-lobbyist groups include:

- trips paid for by colleges and universities
- pre-approved trips paid for by non-lobbyist organizations where the expenses are reasonable and the event is official. The sponsor of the trip will be required to certify they have met the requirements for permissible travel, and the House member must file a report within 15 days of the trip, which will be publicly disclosed by the clerk of the House.

## **What do these changes mean for Nonprofits? FAQs**

*If my nonprofit does not employ a registered lobbyist, is the gift ban applicable?*

Gifts from non-registered lobbyists, such as citizen volunteers or organizations, cannot exceed \$50 per item or \$100 in a calendar year.

*Can I give a Member of Congress a complimentary ticket to one of our charitable events?*

Members and staff may not accept free attendance at charitable events sponsored by entities that retain or employ registered lobbyists unless one of the exceptions to the Gift Rule is applicable to the activity.

*How much money is my nonprofit allowed to spend on tickets given to Members for sporting or entertainment events?*

A ticket to a sporting or entertainment event "shall be valued at the face value of the ticket, or in the case of a ticket without a face value, at the highest cost of a ticket with a face value for the

event". The "price printed on the ticket to an event shall be deemed the face value only if it also is the price at which the issuer offers the ticket for sale to the public".

*Can my nonprofit or charity sponsor a member, officer or employee's travel to come and speak at our annual conference?*

Any organization can sponsor travel, including nonprofits and charities, EXCEPT entities that retain or employ registered lobbyists or agents of a foreign principle.

*Can members of Congress use private aircrafts to attend our events?*

Members are prohibited from using personal funds, official funds, or campaign funds for flights on privately owned aircraft. They may still charter commercially available aircraft.

*When are these reforms effective?*

On January 4, 2007 the new rules regarding the House Gifts were adopted. On March 1, 2007, the new House rules on privately sponsored travel went into effect.

*What are the exemptions to the rule that bans legislators and staff members from accepting gifts and free tickets to nonprofits that employ lobbyists?*

Please see a list of exemptions on this [Public Citizen fact sheet](#).

## **Senate Rules Changes Pending in Legislation**

Unlike the House, which adopted most of its new ethics standards as rules, the Senate put their ethics reforms into legislation. On Jan. 18, 2007 the Senate passed its first major piece of legislation, [S. 1](#), the Legislative Transparency and Accountability Act of 2007, which covers congressional travel, gifts, and lobbying activity and increases disclosure. As of early July 2007, the bill had not yet gone to a conference committee. Here is a summary of its provisions:

### **Travel and Gifts**

S. 1 prohibits organizations that employ lobbyists from arranging or paying for congressional travel, but charities and religious organizations are allowed to pay for travel with approval from the Senate Ethics Committee, which will determine whether the trip is educational and whether the funding comes from a lobbying firm. Travel on corporate aircraft is still allowed under the legislation, but it will now become more expensive as Senators will have to pay the full charter rate. One-day trips and travel paid by universities are permitted.

Members will also be required to file travel gift reports, which will be available in an online database by the beginning of 2008. Gifts from lobbyists and organizations that hire lobbyists are strictly banned, and gifts of event tickets from non-lobbyists must be reported at their full value.

### **Lobbying Changes**

S. 1 contains important measures that change lobbying rules and provide more transparency in the system. It increases the frequency of reporting from semi-annually to quarterly and lowers the threshold of expenditures for reporting. In addition, current paper reports will be replaced

with electronic reports, which will be publicly available on an Internet database. Other changes to the Lobbying Disclosure Act include:

- All campaign fundraising activity by lobbyists, including bundling (contributions from their clients and others) must be disclosed.
- Lobbyists cannot host events that pay tribute to members of Congress, even at party conventions.
- The revolving door prohibition, which bars former members of Congress from lobbying during a "cooling off period," will be extended from one year to two and will be broadened to include "lobbying activity," not just direct lobbying contacts. As Sen. Russell Feingold (D-WI) said on the Senate floor, "They must refrain from running the show behind the scenes. They won't be able to strategize with and coordinate the lobbying activities of others who are trying to influence the Congress. Members who have just left Congress should not be capitalizing on the clout, access, and experience they gained here to lobby their colleagues, whether they are doing the lobbying themselves or instructing others."
- Members of Congress will not be allowed to negotiate employment involving lobbying while they are in Congress, and senior congressional staff will be required to notify the Senate Ethics Committee within three days of negotiating for future employment. Spouses of members of Congress will be prohibited from lobbying, unless they were registered lobbyists prior to their spouse's election or more than one year prior to marrying the Member.
- S. 1 increases the penalty for government officials who falsify their personal financial disclosure forms, from \$10,000 to \$50,000, and establishes a maximum one-year prison sentence. The penalty for failing to comply with lobbying disclosure laws is also increased, from \$100,000 to \$200,000.

For updates on Senate action see the [OMB Watch website](#).