

July 11, 2018

MEMORANDUM

TO: State Board of Regents

FROM: David L. Buhler

SUBJECT: Adoption of Board of Regents Policy R250, *Legislative Communications*

Issue

In response to recent concerns from the Legislature and the Governor's Office, the Commissioner is recommending a new policy to provide guidance and limits on legislative communications and related expenditures.

Background

Institutions of higher education hold the unusual position among public entities by being economic drivers within their respective communities, offering many institution-sponsored events such as sporting or performing arts events as well as many meetings or events in which food is provided. These events and meetings present notable opportunities for institutions to showcase the talents, accomplishments of their students and faculty to legislators.

As public institutions, hosting legislators at events and meetings requires additional care to maintain public trust. The proposed policy establishes guidelines and limits that will help institutions maintain appropriate legislative communications and expenditures while allowing institutions to highlight the innovations and contributions their faculty and students make to the community, state and world through research, the arts, and sports.

This policy adopts the Lobbyist Disclosure and Regulation Act (LDRA) with additional restrictions and reporting requirements. Specifically, the policy establishes the following standards and rules:

- Only a president, senior vice-president (or equivalent), or legislative liaison may engage in legislative communications, with limits of two designated legislative liaisons during a legislative session. A president may authorize other employees to engage in legislative communications for limited, subject-specific purposes.
- In general expenditures associated directly or indirectly with legislative communications are prohibited. Expenditures are defined by the LDRA and do not include expenses such as:
 - Food and beverage that does not exceed food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate;

- Items that have a value less than \$10; or
- Food and beverage at events to which all legislators are invited.
- The LDRA list allows for other expenses that are not considered expenditures that institutions may use in legislative communications. In general, institutions may host legislators to meetings or events at which food is provided as long as the institution stays within the expense limits or the expense is part of a meeting for all legislators or a legislative committee.
- The policy also allows institutions to host legislators at school-sponsored events, which are defined as entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing. However, the following conditions apply:
 - Institutions may only host legislators at a maximum of two institution-sponsored men's football or men's basketball athletic events per calendar year.
 - Institutions must annually report that which legislators attend events and the costs associated with their attendance.

These proposed policy provisions will give institutions the ability to engage legislators while also ensuring the necessary limitations and transparency for a public institution.

Commissioner's Recommendation

The Commissioner recommends the Regents approve policy R250 effective immediately.

David L. Buhler
Commissioner of Higher Education

DLB/GTL
Attachment

R250-1. Purpose: To provide guidance on legislative communications and expenditures associated with legislative communications.

R250-2. References

- 2.1. **Utah Code §53B-1-103(2)** (State Board of Regents: Powers and Duties)
- 2.2. **Utah Code §36-11** (Lobbyist Disclosure and Regulation Act)
- 2.3. **Regent Policy 3.3.3.5.** (Advocacy Consistent with Board Actions)

R250-3. Definitions

3.1. **"Event"** means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

3.2. **"Expenditure"** means any of the items listed in Utah Code 36-11-102 when given to or for the benefit of a public official unless consideration of equal or greater value is received, including:

- 3.2.1 a purchase, payment, or distribution;
- 3.2.2 a loan, gift, or advance;
- 3.2.3 money;
- 3.2.4 services or goods; or
- 3.2.5 a ticket or admission to an event.

3.3. **"Expenditure" does not mean:**

3.3.1. the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

3.3.2. the item is not food or beverage, has a value of less than \$10, and the aggregate daily expenditures do not exceed \$10;

3.3.3. food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

3.3.3.1. all members of the Legislature;

3.3.3.2. all members of a standing or interim committee;

3.3.3.3. all members of an official legislative task force;

3.3.3.4. all members of a party caucus; or

3.3.4. travel to, lodging at, food or beverage served at, and admission to an approved activity;

3.3.5. sponsorship of an event that is an approved activity;

3.3.6. admission to, attendance at, or travel to or from an event, a tour, or a meeting;

3.3.6.1. that is sponsored by a governmental entity; or

3.3.6.2. that is widely attended and related to a governmental duty of a public official;

3.3.7. travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to the state; or

3.3.8. other actions excluded from the meaning of "expenditure" under Utah Code Section 36-11-102.

3.4. **"Legislative communications"** means a USHE employee in his or her official capacity, either directly or indirectly, communicating with a legislator to influence legislative action; "Legislative Communications" does not include (i) requests to a legislator to sponsor legislation; (ii) communications between or within a USHE institution or other agencies of the Executive Branch; (iii) testifying before a legislative body, including a legislative committee or task force; (iv) answering questions legislators' questions; (v) communications with legislative staff; or (vi) communications required by law.

3.5. **"Meeting"** means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

3.6. **"Tour"** means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

3.6.1. viewing a facility;

3.6.2. viewing the sight of a natural disaster; or

3.6.3. assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

R250-4. Legislative Communications

4.1. Institutions may represent the Board of Regents by taking official positions on legislative action. Institutions may not take a position on legislative action that is contrary to the Board's position.

4.2. A president, a senior vice-president (or equivalent), or legislative liaison may engage in legislative communications without restriction at any time and for any reason.

4.2.1. A president may appoint up to two legislative liaisons for any General Session or Special Session of the Legislature.

4.3. Unless authorized under this policy, USHE employees in their official capacities shall not engage in legislative communications.

4.3.1. A president may authorize an employee to engage in legislative communications for the limited purpose of explaining technical concepts, or providing subject-matter expertise.

4.3.2. Institutions may not engage outside entities to conduct legislative communications on the institution's behalf unless granted specific authorization from the Board of Regents.

R250-5. Expenditures

5.1. **Expenditures are Prohibited:** Expenditures associated directly or indirectly with legislative communications are prohibited except in the following circumstances:

5.1.1. Institutions may host legislators at institution-sponsored events.

5.1.1.1. Institutions may only host legislators at a maximum of two institution-sponsored men's football or men's basketball athletic events per calendar year.

5.1.1.2. The institutions shall annually report to the Board at the end of the fiscal year the legislators who attended, and the costs associated with hosting the legislators at the events, including the cost of admission (in any).

5.1.2. Institutions may pay travel and registration costs for a legislator to attend a meeting that addresses specific policies and issues impacting public higher education and that would assist legislators in understanding and addressing issues for USHE.

5.1.2.1. The institutions shall annually report to the Board at the end of the fiscal year any meetings legislators attended and the associated travel costs of for any legislators to attend the meeting, including travel, admission, meals and any other associated or incidental costs or benefits the legislator received.