September 8, 2014

TO: Senior Leadership Group, Deans, Center and Institute Directors

FROM: Michael J. Schoenfeld
Vice President for Public Affairs and Government Relations

RE: Campus political activity and engagement with government officials

As we enter another election season, questions inevitably arise about political activity on campus and engagement with current policy makers. This memo is intended to provide general guidance to members of the Duke community as they consider their engagement in these activities. It is based on guidance from the Office of General Counsel as well as best practices for colleges and universities developed by the American Council on Education and other organizations. I encourage you to share it with your departments and units, and it will also be available on the Office of Federal Relations website for future reference.

Please note that the Duke policies and guidelines referenced below apply specifically to Duke faculty, staff, and contractors. Students and student groups are strongly encouraged to consult with the Office of Federal Relations when planning major events involving government officials or political candidates, particularly on campus and in Duke facilities.

This memo neither addresses every situation nor constitutes legal advice. Rather, it summarizes certain longstanding University policies and guidance as well as Federal and state law regarding, among other things, permissible political activity on campus, visits to campus by Congressional and Federal Executive Branch officials and state officials, earmarks and lobbying. I encourage you to contact my office about any specific situations.

Political Activity on Campus

As a non-profit, tax-exempt entity, Duke must abide by Federal and state laws prohibiting the use of its facilities, funds, services, personnel or other resources to support or oppose individuals or organizations campaigning for public office. Guidelines to help members of the Duke community promote vibrant discussions on campus about candidates and political issues without violating the law can be found at:


These guidelines are designed to address the most common questions about political activity from the Duke community. We strongly encourage faculty and staff to seek clarification regarding specific situations from their supervisor, department chair, and/or directly from the Office of Public Affairs and Government Relations.
Visits to Campus by Congressional and Federal Executive Branch Officials

Members of Congress, executive branch officials and staff frequently visit Duke’s campus as part of their official duties, to learn about Duke programs and issues, attend public events, and to speak to classes. The University supports and encourages such visits as an important way to provide policy makers with a greater understanding of issues that impact our students, faculty and staff and as an opportunity for our faculty and researchers to serve as a general resource to government officials on a variety of pressing national and international matters.

As a registrant under the Federal Lobbying Disclosure Act (LDA), Duke must follow the rules that govern gifts to and visits from government officials. The rules are complex, cover even the smallest items (including food and drink) and can sometimes seem illogical; they must be followed, however, and violations can result in civil and criminal penalties for individuals and the institution. I strongly urge you to review the basic guidelines below and to alert our offices of your intentions before issuing invitations to officials who may be covered by these laws. Also, note that as a general rule Duke is not permitted to pay honoraria (cash or in-kind contribution) to Federal, state and local government officials for speeches, guest lectures or serving as a panel at a conference.

We are fully prepared to offer you advice and guidance on how to manage within these guidelines.

Members of Congress and Staff

The expenses of members of Congress and their staff traveling to Duke generally should be and will be covered by the government. If a Duke department wishes to pay for such travel, or is asked to do so by the official or their staff, the action must be approved in advance by the appropriate congressional ethics committee, and we must have a written copy of the authorization.

Generally, members of Congress and their staff should not accept any gifts from Duke or its employees, although there are a few exceptions, such as for items of nominal value (T-shirt or baseball caps), light food and refreshments, attendance at widely attended events including meals, honorary degrees and awards, books, invitations to charitable events, and gifts based on personal friendship. Members of Congress and staff cannot receive free or discounted tickets to any Duke athletic event; they must purchase tickets at face value.

Executive Branch Employees

Similar to Congressional officials, Executive Branch employees (members of the cabinet and employees of government agencies) are subject to many restrictions on gifts and travel. These officials generally cannot accept any gifts, though there are certain often-used exceptions for attendance fees, food and refreshments served at a “widely attended” event, and for attendance fees, subsistence and related expenses for training, meetings, conferences and speaking engagements that relate to the employee’s official duties. In some instances, travel expenses can be covered by Duke, but in most cases, the Executive Branch employee’s expenses must be covered directly by the government.

In order for any of the above items to be provided or paid for by Duke, the government employee must receive approval from the appropriate agency official (typically an ethics officer). A copy of that approval should be obtained by Duke and submitted to the Office of Federal Relations before any items are provided or reimbursements or payments are made.

Honoring or Recognizing a Member of Congress, Executive Branch Official or Staff

If a member of Congress or Executive Branch official is honored or recognized at an event sponsored by Duke, then Duke must report the entire cost of the event as a lobbying expense.
Broadly defined, if the official is given an honorary degree, award or a plaque, you must document the costs related to the event (chair rental, audio visual, food, security, etc.) and provide a report to the Office of Federal Relations in order for Duke to comply with the LDA. We also ask that you let the Office of Federal Relations know in advance of any invitation to an official to accept an award or honor, as prior government approval may be required in some cases.

**State Officials**

Like many other states, North Carolina has enacted a series of ethics and lobbying laws that significantly increase the state's regulation of various interactions between Duke personnel and “covered” state officials, including candidates for public office, legislators, and judicial officers. Information regarding these interactions can be found at https://federalrelations.duke.edu/wp-content/uploads/2013/05/FAQs-about-NC-Ethics-Laws-2-2013.pdf. This document provides general information about many important aspects of these laws, such as “gift” provisions, as well as general guidance regarding common Duke interactions with state officials that may be subject to state ethics and lobbying laws. Please notify the Office of Public Affairs and Government Relations if you plan to invite state government officials to speak on campus or to attend events.

**Lobbying**

Duke personnel engaged in a broad range of government interactions involving Duke, on Duke’s behalf or using Duke resources, may be subject to heavy and complex state and federal regulations, including certain prohibitions and/or registration and expense reporting requirements. Thus, Duke community members who are considering any government interaction or advocacy involving Duke, on Duke’s behalf or using Duke resources, should consult the Duke’s lobbying policy at https://federalrelations.duke.edu/wp-content/uploads/2013/05/DU-govtrelations_policy-4-10.pdf, as well as with the Duke government relations professionals referenced in that policy.

**Earmarks**

Duke is a strong advocate for increased financial support for federally-funded, peer-reviewed, competitive grant programs. Our faculty's success in securing these grants from NIH, NSF, the Department of Defense and other agencies has directly led to our status as one of the top research institutions in the country. In 2006, Duke adopted the following policy on federally earmarked funds:

*Duke University is committed to excellence in research and hence to competitive peer review in the federal funding of research. Research funded by earmarks threatens to undermine national excellence in research by diverting resources from the peer review process. As a result, the University does not seek or accept earmarks except under extraordinary circumstances and with the express permission of the President of the University. Such extraordinary circumstances would include only those in which the President, in consultation with the senior administrative leadership of the University, determined that the proposed project involved inherently unique circumstances that could not be replicated elsewhere. When the case for an exception is considered, the strong presumption must be against the taking of earmarks.*

In addition, we also want to remind you that Duke personnel must refrain from promoting and advocating for Congressional earmarks that might be directed to another entity (corporation, municipality, institution of higher education, etc.) that could potentially finance research or projects at Duke as a result of such legislative directives. We are grateful to the faculty and to the deans and department chairs for alerting the Office of Federal Relations when considering any earmark effort.