

Procedures for Lobbyist Activities

(Revised June 20, 2019)

Hillsborough County School Board policy 6321 outlines the rules associated with lobbyist activities. It is important to emphasize the policy specifically addresses the actions of lobbyists and it is solely the responsibility of the lobbyists to comply with the rules of the policy. Additionally, nothing contained within the policy or these guidelines is intended to relieve the lobbyist of any and all federal and state regulations related to lobbyists and any obligations to report such activity.

These procedures have been developed to provide further information in the implementation of policy 6321.

Policy 6321 states:

“All persons acting as lobbyists must register with the District annually and disclose the identity of the principal whom they represent at the beginning of every communication, when the intent of the communications is to lobby. This includes such communications with the School Board, School Board Members, Superintendent, the Deputy Superintendent, Cabinet and Assistant Superintendents and Officers.

For purposes of this policy, a lobbyist is defined as any individual, firm, corporation, or other business entity who engages in lobbying for the economic gain of a principal, regardless of whether they are compensated for lobbying or not. The term lobbyist specifically includes the principal, as well as any agent, officer, or employee, of a principal regardless of whether or not the employee’s normal scope of employment includes lobbying activities.

The annual registration fee for lobbyists shall be set at \$250, due upon registration.

The Superintendent or his designee shall establish a registration form and registry of lobbyists and shall collect the annual fee.

The Superintendent or his designee shall investigate any alleged violation of this policy. Violation of this policy may result in penalties including prohibiting the violator from lobbying in the District for a period not to exceed one year.”

The overarching intent of this statement and the policy is not to discourage lobbying activities, but rather to bring transparency to such activities. By requiring lobbyists to register annually, our district is able to maintain an active record of all lobbyists and post such information for the community. It is important to emphasize that the requirement for disclosure prior to communications is only pertinent in those instances when the intent of the communication is to lobby/influence the business of the School

Board. This policy is not intended to impact general communications between School Board members or staff and individuals who may lobby.

Example: An individual and a board member jointly serve on a community committee. The individual is not required to disclose they are a lobbyist prior to communicating with the board member about the committee's business or any other general topic of discussion. However, if the individual is representing an entity that has a business issue coming before the School Board and desires to discuss the issue with the board member at the committee meeting, it is expected the individual would be registered as a lobbyist for the entity with our district and preface the conversation with the fact that he/she is representing the entity in a lobbyist capacity.

Requiring individuals to disclose they are lobbying on behalf of an entity creates clear boundaries for such activities, and provides an opportunity for School Board members or district staff to determine whether they want to entertain such communications.

Definitions

Lobbyist is defined as “any individual, firm, corporation, or other business entity who engages in lobbying for the economic gain of a principal, regardless of whether they are compensated for lobbying or not. The term lobbyist specifically includes the principal, as well as any agent, officer, or employee of a principal regardless of whether or not the employee's normal scope of employment includes lobbying activities.”

The policy's definition of lobbyist is specifically broad to account for all practical forms of lobbying. Owners, agents and employees of a principal are also considered lobbyists when they engage in lobbying activities for economic gain. This would include the principal's lawyer. Simply because the individual lobbying on behalf of the principal is a lawyer does not exempt him or her from registering as a lobbyist prior to engaging in lobbying activities aimed at influencing a board member or district staff for the economic gain of the principal. The only exception for lawyers pertains to the representation of a client during legal proceedings. Again, this is not to preclude an owner or agent of a business entity from engaging in lobbying activities; it only requires such individuals to register as lobbyists and disclose their intentions prior to any communication when the intent of the communication is to lobby for a financial interest or economic gain. To the contrary, communications regarding the routine business interactions of previously awarded contracts, projects or issues are not considered lobbying.

Example: A contractor is awarded a contract for a capital project. The owner and employees of the contractor have regular communications and interactions with board members and/or employees of our district regarding the implementation of this project. These communications are not considered lobbying and are exempt from the requirements of this policy. However, if the owner, agent or employee of the contractor has any communication with board members or employees of our district for the purpose of influencing the award of future projects, this is considered lobbying and the individual should be registered as a lobbyist and disclose his or her intent to lobby prior to such a communication. Further, if the solicitation for such construction services had been issued before the lobbying effort, this would constitute a violation of the district's Cone of Silence and this policy.

It is also important to clearly identify those individuals not considered to be lobbyists. These include:

- Individuals representing school-allied groups (e.g. PTA, band boosters)
- A public official or employee of a governmental agency acting in his or her official capacity
- An attorney representing a client in a judicial or formal administrative proceeding conducted pursuant to Chapter 120 (or any other formal hearing before an agency, board, commission or authority of this state)
- Any person in his or her individual capacity for the purpose of self-representation

These exclusions to the lobbyist definition are specifically included to encourage the interaction between elected officials and their constituents.

Principal is defined as “the individual, firm, corporation or other business entity which has employed or retained the services of a lobbyist or which stands to benefit from lobbying activities.”

Simply stated, a principal is the benefactor of the lobbying efforts. It is important to stress that principals are considered lobbyists when they conduct lobbying activities for their own benefit regardless of whether they have technically hired a lobbyist or not. This is codified by including a principal in the definition of a lobbyist, combined with the indication that a principal is the entity that stands to benefit from lobbying activities.

Lobbying is defined as “any communication (on behalf of a principal) for the purpose of influencing any action, non-action or decision or attempting to obtain the good will of a School Board member or employee of the school district where there would be an economic gain to the principal.” This is applicable to such communications with:

- The School Board
- Member(s) of the School Board
- School Board committees
- Employees of Hillsborough County Public Schools

The key distinction in the definition of lobbying is “*where there would be an economic gain.*” This language is specifically included in the definition to differentiate between a business purpose and a policy purpose. It is not intended to have individuals who want to influence the policy decisions of the School Board to abide by the lobbyist policy. However, the definitions of lobbyist, principal and lobbying have been crafted to address efforts of specific individuals to persuade the business decisions of our district.

It is also important to distinguish that solicitations and marketing efforts are not defined as lobbying. Board members and district employees routinely receive solicitations introducing products or services offered by a company. Routinely, appropriate staff members review these solicitations to determine the need for such products or services. If such a need exists, staff may develop a competitive solicitation for such products or services. At this juncture, the lobbyist policy may apply on future communications depending on the nature of the communication.

Example: The marketing director of Company ABC meets with district staff to introduce the products and services of his company and indicates how utilizing such services would benefit our district. This communication by itself would not be considered lobbying, and the marketing director would not have to be registered as a lobbyist under the requirements of the policy. However, after the meeting, if it became known by the marketing director that our district was preparing a competitive solicitation for certain services offered by Company ABC, and the marketing director wanted to meet with the superintendent or specific board members before the issuance of the RFP to specifically lobby to have the work awarded to Company ABC, then this communication would be considered lobbying under the policy. It is expected the marketing director would be registered as a lobbyist for Company ABC and indicate the purpose of any such meeting was to lobby on behalf of Company ABC. More importantly, if this example of lobbying had occurred after the RFP had been issued and before the work had been awarded, this would be a violation of the “Cone of Silence” and Company ABC’s proposal would be considered not responsive and ineligible for award. It would also constitute a violation of the policy, and the marketing director would be subject to penalty under the terms of the policy.

Immediate Family is defined as “spouse, mother, father, children or sibling(s) and those immediate family members of the spouse.”

Disclosure

Lobbyists must be registered prior to engaging in any lobbying activities with our district by completing a Lobbyist Registration Statement Form for each principal they represent. Forms can be obtained in the Communications Office or [online](#).

This form must be completed prior to engaging in any lobbying activities and must be re-filed annually by July 1. All individuals representing a principal must register and an

individual must register for each principal they represent.

The required fee of \$250 must be submitted with an individual's first registration statement for each fiscal year, beginning July 1. The fee is paid one time per fiscal year per individual lobbyist, not per principal.

The lobbyist must disclose any direct business association with current School Board members, employees of our district or any immediate family of the School Board members or employees within the space provided on the form. Direct business association is simply defined as any mutual endeavor undertaken for profit or compensation. (The definition of a direct business association is not intended to be so far-reaching as to include present or past legal clients, for example. A registered lobbyist would not need to identify a direct business association with a district employee because he or she is currently representing that employee in his or her professional capacity as an attorney.)

The Communications Office will maintain an active list of all registered lobbyists and the principals they represent. This list will be posted on the school district's website.

Should the lobbyist-principal relationship end, it is recommended the lobbyist or principal provide such information to the Communications Office in order to maintain the accuracy of the list of registered lobbyists. The [Notice of Cancellation of Lobbyist Registration form](#) was developed to provide such notice to our district. If a Notice of Cancellation form is not provided to our district, the information contained within the active list of registered lobbyists will not be updated until July 1 when the lobbyist statement form is not re-filed.

In addition to completing a Lobbyist Registration Statement Form for each principal a lobbyist represents, the lobbyist is required to disclose his or her intent to lobby a School Board member or district employee before all communications intended for such a purpose. This allows board members to determine whether they wish to entertain such communication.

Prohibition of Lobbying

Lobbying is prohibited during the Cone of Silence. The Cone of Silence is the period of time during the competitive procurement process from the time the solicitation is issued or made public to the time the School Board takes action on a recommended award of the solicitation.

Routinely, the Business Services Division issues solicitations for products or services through a competitive procurement process. The solicitation may be an Invitation to Bid (ITB), Request for Proposals (RFP) or other document requesting competitive proposals for products or services. Once a competitive solicitation is issued, any individual (including a lobbyist) is prohibited from discussing the nature of the competitive procurement with School Board members, the superintendent, evaluation committee

members or any employee of our district other than those individuals specified within the terms and conditions of the solicitation. The solicitation will identify the appropriate individuals within the Business Services Division where questions regarding the solicitation may be posed for answer. Clearly, this does not prohibit individuals from communicating with the School Board or staff on other issues. The prohibition is strictly limited to communications relative to the solicitation. The Cone of Silence ends following School Board action on the recommended award.

Reporting a Potential Violation

Any individual wishing to report a potential violation to the policy must initiate a sworn complaint with the Communications Office. The policy requires a sworn complaint to be initiated for all alleged violations of policy 6321 to ensure the veracity of an alleged violation and to prevent the potential abuse of anonymous complaints for inappropriate purposes. Further, as all alleged violations are reviewed by the superintendent or his or her designee, it is important to prevent the waste of valuable time and resources incurred when investigating frivolous complaints.

Investigation of Violations

In the event a potential violation of the lobbyist policy is reported to our district, the superintendent or his or her designee will initiate an investigation to determine whether there has been an actual violation of the policy provisions. The scope of the investigation shall be determined by the superintendent or designee based on the nature of the alleged violation. If it is apparent no violation has been committed, the extent of the investigation may be limited to only a cursory review of the alleged violation and the policy. Otherwise, the superintendent or his or her designee shall conduct such investigation as he or she deems necessary under the circumstances.

In the event a violation is found to have been committed, the superintendent shall make a recommendation for penalty to the School Board. The matrix below provides guidelines on potential violations to the policy and the penalties that may be recommended for such a violation. Keep in mind, this matrix is for illustrative purposes only and the recommended penalty is at the discretion of the superintendent or his or her designee. Additionally, the superintendent has the final authority to impose any penalty he or she deems appropriate given the nature of the alleged violation and the results of the investigation.

Penalty Matrix

Penalty	Potential Violation for Penalty
Warning	-Previously registered lobbyist is late to re-file a new registration statement by July 1 with the Communications Office -Lobbyist fails to preface his or her intent to lobby before a communication intended to influence a business action of the School Board
Reprimand	Lobbyist engages in repeated lobbying activities on behalf of a principal without filing a registration statement
Suspension	Lobbyist violates the Cone of Silence and engages in lobbying activities relative to a competitive solicitation prior to the award
Prohibition from Lobbying	Lobbyist falsifies documentation on file with the Communications Office and intentionally misrepresents information relative to an issue forthcoming for School Board action

If a penalty is to be recommended, the lobbyist allegedly in violation shall be provided reasonable notice of the penalty recommendation and be provided an opportunity to be heard.

Revisions to Procedures

These guidelines have been developed in an effort to provide clarification to facilitate the implementation of policy 6321. These guidelines will be continuously enhanced to address future considerations that may arise in order to provide full clarification of the policy's intent. To the extent future considerations require a modification or expansion of the policy, staff will seek such modifications through a formal policy revision.