



April 15, 2020

The Honorable James Inhofe
Chairman
Senate Armed Services
Committee
228 Russell Senate Office
Building
Washington, DC 20510

The Honorable Adam Smith
Chairman
House Armed Services
Committee
2216 Rayburn House Office
Building
Washington, DC 20515

The Honorable Jack Reed
Ranking Member
Senate Armed Services
Committee
228 Russell Senate Office
Building
Washington, DC 20510

The Honorable Mac Thornberry
Ranking Member
House Armed Services
Committee
2216 Rayburn House Office
Building
Washington, DC 20515

Dear Chairmen Inhofe and Smith, and Ranking Members Reed and Thornberry:

Issue One strongly opposes the Pentagon's recent proposal to weaken post-government lobbying restrictions on former senior officials. The proposal would flout the purpose of our ethics laws — to prevent undue influence, corruption, and the appearance of corruption. In fact, the current lobbying restrictions on former senior officials do not work well enough to achieve these purposes, and as such, should be strengthened, not weakened. For these reasons, we urge you to reject the Pentagon's proposal and instead strengthen ethics laws in the National Defense Authorization Act for FY 2021.

To be clear, Issue One does not wish to eliminate the right to lobby, which is enshrined in the First Amendment. However, the current post-government lobbying restrictions contain a large loophole — the narrow legal definition of lobbyist. This causes the law to fall short of its objective to decrease corruption and its appearance — an objective repeatedly upheld by the Supreme Court as a substantial governmental interest. The Center for Responsive Politics found that from 2007 to 2014, the number of registered lobbyists dropped by more than 16 percent while the amount of lobbying increased during the same period by 20 percent.



Additionally, while only 11,000 individuals registered as lobbyists in 2018, some estimates show that the number of individuals currently working as lobbyists is closer to 100,000.¹

By defining a lobbyist so narrowly, many individuals can lobby without registering. Currently, a lobbyist is an individual who meets with two or more members of Congress or staff of the executive branch and spends at least 20 percent of their time engaging in lobbying activities for compensation greater than \$3,000. Former senior officials are prohibited for one to two years from becoming lobbyists, and from attending meetings or having professional phone calls with their former colleagues. However, they may still immediately join lobbying firms, create lobbying campaigns, or provide strategic advice to clients after leaving public service — without being considered lobbyists under the current definition. Former officials acting in this capacity are still clearly lobbying, and the laws should be updated to close this loophole.

The House and Senate Armed Services committees have previously recognized that the lobbying definition is too lax. The National Defense Authorization Act for FY 2018 included reforms to expand the definition of lobbying activities to include “lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended ... for use in contacts, and coordination with the lobbying activities of others.” Issue One, along with many others in the reform community, supported this provision. In 2011, the American Bar Association recommended making similar changes to better capture individuals who should be registered as lobbyists.

Congress should be working to strengthen — not weaken — ethics laws. At a time when public confidence in the government, including the Department of Defense, is critical, individuals with outsized influence should not be able to seek favored treatment based on their personal connections and the information they gained serving as public officials. Issue One urges you to reject the Pentagon’s proposal to weaken lobbying restrictions and instead implement common sense ethics reforms in the National Defense Authorization Act for FY 2021.

Sincerely,

Issue One

¹ <https://www.opensecrets.org/news/reports/shadow-lobbying-2019>