



The State University  
of New York

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TO: Presidents, State-Operated Campuses  
FROM: Joseph B. Porter, Senior Vice Chancellor for Legal Affairs  
and General Counsel  
DATE: September 21, 2016

**RE: Political Campaign Activity at SUNY Campuses**

As we again are in an election season, it is appropriate to remind campuses of applicable law and State University policy on the use of University facilities for political purposes. The Board of Trustees established the University's policy on non-commercial use of facilities by Resolutions 56-88 and 79-158, dated September 13, 1956 and June 27, 1979, respectively. The section on use of campus facilities for political purposes is discussed below.

**I- Political speech welcome on SUNY campuses:**

As a public educational institution, we recognize the benefits of exposing students to political discourse and information, including partisan political speech. It follows that as a general policy stance, we welcome such discussions. SUNY campuses routinely offer some of our facilities to a wide range of speakers pursuant to SUNY's System-wide facilities use policies for [Commercial](#) and [Non-Commercial](#) organizations, and similarly, must open such facilities to political speech as well.

**II- The First Amendment, the SUNY Use of Facilities Policies, and political speech:**

The First Amendment is at its "zenith" when protecting political speech. While (as described below) employees may not use their official position to advocate for a political candidate, employees in their personal time, and students at all times, maintain robust First Amendment rights to advocate. This is so even if others find advocacy for a certain bona fide political position or candidate to be offensive. Short of hate speech, prohibited harassment, or threats of violence, campuses must exercise extreme care before limiting political speech beyond the neutral time, place, and manner restrictions placed on all speech (for example, not allowing protests in the library or the use of a bullhorn during sleeping or quiet study hours, as applied neutrally to all speech).

In reviewing requests for permission to use campus facilities, we must be guided by the principle of viewpoint neutrality and even-handed treatment as to all terms and conditions of use (e.g. rental charges, security costs, insurance). Neither the University, nor its representatives acting in an official capacity, may take or refuse any action or make any statement that aids or hinders a candidate. Outside entities seeking to engage in political discourse on campus should undergo the same process as any other speaker (for example, facility rental and other costs should be assessed at standard rates, they should receive the same review as comparable events). The campus may not provide better rates or terms as it could risk an accusation of unfair treatment towards one candidate. Costs borne by a candidate or a party for an event should be clearly labeled on marketing material.

Students and student groups should likewise be treated uniformly to any other type of student speech or event (for instance, if a sports club must reserve a room, but pays no fee, a political club should likewise have to reserve a room but pay no fee for that room; if a student concert requires payment for setup, security, catering, etc. then a student rally for a candidate should follow the same standards).

Students engaging in ordinary speech in their classrooms, residence halls, or other parts of campus that, were it non-political speech, would not result in discipline or a warning, should likewise not be disciplined or warned when that speech in the ordinary course is in favor or opposition to a political candidate, party, or issue even if other students, faculty, or staff do not agree with that political speech or find a particular candidate, party or stance on an issue to be offensive.

To Learn  
To Search  
To Serve



If a campus or a student group invites a candidate to campus, a similar outreach should be made to other bona fide candidates for invitation to the same or a similar event or opportunity. If a candidate is invited in his or her position as an elected official (and consequently not charged the costs that a candidate would pay to come on campus), the campus should make clear that campaigning will not be allowed and that the individual is invited in their official capacity without comment about the merits of their candidacy.

When a campus allows use of its facilities for political speech, it should look to the [SUNY System-wide Policy, Use of Facilities by Non-Commercial Organizations, Policy Doc. No. 5603](#) (“Use of Facilities by Non-Commercial Organizations Policy”), available on the [SUNY System-wide Policies and Procedures website](#) and also attached. Campuses should also look to any local policies and procedures that contemplate facilities use or political activity on campuses. The Use of Facilities by Non-Commercial Organizations Policy, Section I. F. requires campuses to establish their own local policies and procedures.

Some relevant provisions of the [Use of Facilities by Non-Commercial Organizations Policy](#) applicable to the use of space for political speech are:

- **Use of Facilities for Political purposes generally:**  
Section K.1. endorses the use of campus facilities for political purposes, stating that “*Every campus has a responsibility to develop its students as fully participating citizens; this includes the development of political literacy. The University has a definite responsibility for sponsoring some kind of non-partisan forum for the exchange of political ideas and for encouraging the formation of students’ own partisan organizations.*”
- **Student Partisan Political Organization Rights:**  
Section K.2 affirms that student partisan political organizations should not be treated different from “any other student organization” when it relates to “regulations governing recognition, membership, sponsorship and use of facilities. The campus, in permitting such groups to use its facilities, is responsible to see that there is equal opportunity for meeting of the various student groups - either for those groups’ own membership or for students generally;”
- **Event Purpose and Parameters:**  
Section K.3 reminds students the purpose of the event will “determine the type and extent of faculty or administrative control over the scheduling of such events” because the campus “is being represented to the public” in political events including the general public, and in turn, the campus must have assurance that “the activity is in conformity with its purposes.”
- **Non-partisan groups:**  
Section K.5 affirms that non-partisan groups may also be permitted to use campus facilities for discussion of political or civic issues, but that this should only happen through a “proper application to an administrative officer” and that approval of the application will be contingent upon “such conditions as the college council or administrative officer may require, and only if the desired facilities are available without interference with regular student or faculty activities.”
- **Partisan Political Organizations:**  
Section K.6 states that partisan political organizations may be permitted the use of University facilities under the same conditions required generally under the Use of Facilities by Non-Commercial Organizations Policy, but must also meet additional conditions, including:
  - a. That the proposed meeting give promise of contributing to the educational purposes of the campus; and
  - b. That the campus sees a reasonable possibility of making the facilities available for other viewpoints to be presented.
- **Use of Facilities to Incite or Procure Imminent Lawlessness:**  
Section K.7 states that campuses will not make University facilities “available for advocacy directed to inciting or producing imminent lawless action and which is likely to incite or produce such action.”
- **Use of Campus Resources:**  
Section C. relates to the use of campus support systems (e.g. telephone, email, photocopier, and printer). Pursuant to this provision, any use of campus support systems would have to be authorized by the campus President, or designee, and the group sponsoring the political speech must reimburse the campus.

### **III- Employee political activism:**

With regard to individual SUNY employees' involvement in political campaigns, the following should be kept in mind: in keeping with State law and guidance from the Governor's Office of Employee Relations, State employees must not use their position to gain political favor, encourage or discourage political contribution or activity or interfere with an election or lawful political activity. State employees may not use State resources (including SUNY letterhead, computers, e-mail and telephones) for partisan political purposes, but have the right to make political contributions, and to be active in political campaigns during nonworking hours.

Appointees of the Board, including Presidents, and management/confidential employees, are prohibited by a New York State Executive Order [renewed by Governor Cuomo](#) (attached) from making monetary contributions, or requesting others to do so, to the campaign of the Governor or to a political campaign committee organized by or for the specific benefit of the Governor.

Additionally, individuals who recruit, interview or hire applicants for SUNY employment; make promotional, disciplinary or other employment decisions relating to a SUNY employee; or award or make decisions related to State contracts or grants, may not ask applicants, employees or current or prospective contractors or grantees, as the case may be, the individual's party affiliation, whether the individual has made campaign contributions to any party, elected official or candidate, or whether the individual voted for any elected official or candidate. No employee may be forced or pressured to contribute to a political campaign by another employee, nor threatened with any harm for making or withholding a contribution. Individuals seeking political contributions may not be admitted to SUNY property to solicit contributions from employees.

### **IV- More information:**

You may find the guide, "[Political campaign-related activities of and at colleges and universities](#)," published by the American Council on Education, helpful as well, since it describes specific scenarios and their permissibility under Federal tax and election law, while noting that it does not treat First Amendment issues in depth. Further, [ACE guidance on inviting Members of Congress and Senior Executive Branch Officials to campus](#) is also a useful resource.

More information is available on the SUNY Compliance webpage on [Political Activity at SUNY Campuses](#), or from the [New York State Joint Commission on Public Ethics](#) website that oversees laws and regulations that govern employee conduct. Especially relevant is a [JCOPE newsletter covering political fundraising](#).

If you have any questions, please contact your Campus Counsel, Deputy General Counsel Sandra Casey, or Associate Counsel Joseph Storch in the Office of General Counsel.

### Attachments

Copy:           Chancellor Zimpher  
                  Chancellor's Cabinet  
                  Presidents, Community Colleges  
                  Office of General Counsel Attorneys  
                  Council of Chief Student Affairs Officers  
                  State University Business Officers Association  
                  State University Human Resources Association

## **Executive Order**

Section 7.7 Executive Order-No. 7: Prohibition Against Personal Use of State Property and Campaign Contributions to the Governor.

WHEREAS, government employment is a privilege rather than a right, and is based upon the trust and confidence placed in the State's workers by the public; and

WHEREAS, all State employees and officers should be able to pursue the interests of the public in an environment that is free from political party influence or interference; and

WHEREAS, it is the obligation of every State employee and officer to pursue a course of conduct that will not engender public concern as to whether the individual is engaged in acts that may violate his or her public trust; and

WHEREAS, all State employees therefore must act in a manner consistent with that public trust, and must not take any actions that are intended, or appear to be intended, to achieve personal gain or benefit; and

WHEREAS, employees and officers of State agencies and public authorities are subject to certain ethical statutes and rules, including but not limited to the State Code of Ethics (Section 74 of the Public Officers Law), and statutory restrictions on business and professional activities (Section 73 of the Public Officers Law); and

WHEREAS, there are some areas where New York's existing statutes governing ethical standards can and should be improved or clarified;

NOW, THEREFORE, I, David A. Paterson, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the laws of the State of New York, do hereby order as follows:

### **A. Definitions**

1. "Agency" shall mean any state agency, department, office, board, commission or other instrumentality of the State, other than a public authority.

2. "Public authority" shall mean a public authority or public benefit corporation created by or existing under any State law, at least one of whose members is appointed by the Governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.

### **B. Prohibition Against the Personal Use of State Property**

1. State supplies, equipment, computers, personnel and other resources may not be utilized for non-governmental purposes, including for personal purposes or for outside activities of any kind. This prohibition includes but is not limited to the following:

a. Official stationery may not be used for non-governmental purposes, nor may State government resources be used to mail personal correspondence. The designation "personal" on agency stationery means only that the contents are meant for the personal viewing of the addressee and not that the sender is acting unofficially. All letters and other written materials printed on such official stationery are considered official, and thus the designation "unofficial" has no meaning and may not be used.

b. Under no circumstances may State mail, postage, internal office mail, or inter-city couriers be used for non-governmental purposes.

c. State telephones may not be used for non-governmental long-distance calls, except for toll-free calls, collect calls, and calls billed to a personal telephone number. State telephones may be used for incidental and necessary personal local calls that are of limited number and duration and do not conflict with the proper exercise of the duties of the State employee.

d. State computers shall be used only for official business, except that state computers may be used for incidental and necessary personal purposes, such as sending personal electronic mail messages, provided that such use is in a limited amount and duration and does not conflict with the proper exercise of the duties of the State employee.

e. State vehicles shall be used only for official business or incidental personal use associated with official business away from an employee's official work station. Individuals who are authorized by their agency or public authority to use a vehicle for personal purposes shall keep records of such use, and the value of such personal use shall be calculated and reported as personal income to such individual for tax purposes.

**C. Prohibition Against Campaign Contributions to the Governor**

1. No state agency officer or employee who serves at the pleasure of the Governor or their appointing authority, and no member of a public authority appointed by the Governor, may make or offer to make any monetary contribution to the campaign of the Governor, or to any political campaign committee organized by or for the specific benefit of the Governor. In addition, no such individual may request or demand that any other person make or offer to make any monetary contribution to the campaign of the Governor, or to any political campaign committee organized by or for the specific benefit of the Governor.

**D. Application to Public Authorities**

1. Each public authority shall adopt policies or rules applying the restrictions set forth above to all officers and employees who serve at the pleasure of their appointing authority.

**E. Penalties**

1. Any violation of this order may result in dismissal or other appropriate sanction as determined by the appointing authority of the individual committing such violation.

Signed: David A. Paterson

Dated: June 18, 2008

[Re-issued by Governor Andrew Cuomo Executive Order Number 2: Review, Continuation and Expiration of Prior Executive Orders, January 1, 2011].



Category:  
Facility Management / Safety

Responsible Office:  
[University Counsel](#)

**Policy Title:**

Use of Facilities by Non-Commercial Organizations

Document Number:  
5603

Effective Date:  
June 03, 1991

This policy item applies to:  
State-Operated Campuses

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**Summary**

The following constitutes the State University of New York (University) policy on the use of University-controlled facilities by non-commercial organizations as approved by the State University of New York Board of Trustees. Also included are guidelines for issuing revocable permits for such use.

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**Policy**

**I. Policy**

- A. It is the policy of the State University of New York, in order to further its commitment to education, research and public service, to support the use of University-controlled facilities by non-commercial organizations where the purposes of such use are not provided by the University or the campus and are consistent with or in furtherance of University purposes and where such use does not infringe upon, delay or conflict with the normal operation of the University's campuses.
- B. In making its facilities available to non-commercial organizations, it is the intent of the University not to compete with private business enterprises having similar facilities of adequate capacity to accommodate the needs of the organizations. Information concerning the availability of campus facilities shall be provided through appropriate channels. Public advertisements for non-commercial organization activities shall be approved by the campus president.
- C. Campus support systems, such as telephone, duplicating and printing, and mail and messenger may be provided to non-commercial organizations authorized to use University facilities under this policy where authorized by the campus president, if the campus is reimbursed for such services. Computer services may also be provided to non-commercial organizations subject to the provisions of the University policy on computer services (see Appendix A).
- D. Auxiliary services, such as food, legal beverages, vending machines and bookstore, shall not be provided to non-commercial organizations either directly by the campus or through the auxiliary services corporation, except as may be incidentally related to other uses of facilities approved under this policy.

E. Non-commercial organizations whose purposes are to provide charitable or public benefit services, may charge an admission fee or accept donations subject to pertinent state and local laws and approval of the campus president. Where admission fees are charged or donations are accepted, the organization shall make it known in all publicity that the proceeds are for the benefit of the organization and not the University.

F. The council of each campus, and the chancellor or the chancellor's designee for system administration facilities, shall establish policies and procedures on the use of local facilities by non-commercial organizations consistent with this policy. In recognition of individual campus circumstances, the campus policies and procedures may limit the use, or make provisions for priority use, of campus facilities by non-commercial organizations. Such procedures shall include, but not be limited to, provisions for appropriate record keeping, equipment control, security and supervision.

G. Recordkeeping for Occasional Users and Other Users

1. Each campus shall maintain a record of the following information on occasional users (see definitions):
  - a. name of non-commercial organization;
  - b. University facilities provided;
  - c. number of full-time equivalent days the facilities were used;
  - d. any additional costs, over and above normal operating costs, incurred as a result of the organization's use of the facilities;
  - e. revenue income, if any, to cover additional costs over and above normal operating costs; and
  - f. nature of the use.
2. Each campus shall maintain a record of the following information on other users (see definitions):
  - a. revocable permit number (as assigned by the New York State comptroller);
  - b. name of non-commercial organization;
  - c. University facilities provided;
  - d. number of full-time equivalent days the facilities were used;
  - e. revenue income;
  - f. costs of providing the facilities;
  - g. construction or modification involved, if any; and
  - h. nature of the use.

H. Revocable Permit Issuance

1. The campus president shall issue a revocable permit to each non-commercial organization authorized to use campus facilities in accordance with this policy and the campus policies and procedures. The campus must ensure that the space provided is suitable for the proposed use and that the use conforms to building and fire codes, including adherence to occupancy limits and maintaining proper ingress and egress to the facility. In addition, the proposed use must conform to federal tax law restrictions on private use.
2. Each such revocable permit shall be issued in the name of the University on behalf of the campus and the non-commercial organization and shall require that the organization:
  - a. observe established University and campus regulations and policies;
  - b. indemnify the University from any liability arising out of the actions of the non-commercial organization or its agents incidental to the use of the facilities by the organization;
  - c. reimburse the University for any damage (beyond normal wear and tear) to the facilities resulting from their use;
  - d. compensate the University for the use of facilities (See Section I);
  - e. provide evidence of appropriate insurance protection or, subject to campus determination, reimburse the campus for the prorated share of insurance purchased on behalf of non-commercial organizations

covering property damage, personal injury or death arising out of the use of University facilities. New York State agencies are exempt from this requirement inasmuch as the State of New York is a self-insurer; and

f. ensure its use is in compliance with building and fire codes.

3. Revocable permits for other users require the prior approval of the vice chancellor for business and industry relations or his designee, in accordance with such standards as are established by such office. In addition, approval of the New York State comptroller and New York State attorney general is required when the value or reasonably estimated value of the state's non-monetary consideration exceeds \$25,000.

I. Compensation for use of facilities:

1. Occasional users shall compensate the University for any additional costs, over and above the normal operating costs, if any, incurred in providing facilities. The campus president may waive such compensation where the additional costs incurred are not significant or reciprocal services of an equivalent value are provided.

2. Other users shall compensate the University for facilities in accordance with charges determined by the campus.

J. Income received from non-commercial organizations shall be deposited in an income fund reimbursable account established by the campus for this purpose, with the exception of dormitory room rentals where the authorized daily rental rate per individual shall be deposited in the Dormitory Income Fund. That portion of the income which represents reimbursement for costs funded through the campus operating budget shall be credited to the University's state purpose account from which the costs were originally charged.

K. Use of University facilities for political purposes:

1. Every campus has a responsibility to develop its students as fully participating citizens; this includes the development of political literacy. The University has a definite responsibility for sponsoring some kind of non-partisan forum for the exchange of political ideas and for encouraging the formation of students' own partisan organizations;

2. Student partisan political organizations are not different from any other student organization as to regulations governing recognition, membership, sponsorship and use of facilities. The campus, in permitting such groups to use its facilities, is responsible to see that there is equal opportunity for meeting of the various student groups – either for those groups' own membership or for students generally;

3. When students sponsor activities which include the general public, they should bear in mind that in each case the institution is being represented to the public and that the institution must, therefore, be assured that the activity is in conformity with its purposes. These purposes will largely determine the type and extent of faculty or administrative control over the scheduling of such events;

4. Assemblies and convocations focused on political matters are appropriate means for augmenting curriculum offerings, enriching the cultural background of the students, and providing contacts with leaders outside the campus faculty. Therefore, the University should welcome and encourage meetings of this kind. To the extent that space permits, the campus-sponsored meetings for students should be open to interested members of the public. The number, form and time of such programs are matters for the discretion of each campus. They should, however, include partisan as well as non-partisan subjects and leaders and should promote interest in, and understanding of, our political governmental system, especially the responsibilities and opportunities of the citizen through our party system. The campus accepts responsibility for insuring that any partisan program be part of a scheduled series which presents a balance of views;

5. Upon proper application to an administrative officer, non-partisan groups ordinarily may be permitted to use the facilities of the campus for discussion of political or civic issues. Approval, however, will be granted subject to such conditions as the college council or administrative officer may require, and only if the desired facilities are available without interference with regular student or faculty activities;

6. Partisan political organizations may be permitted the use of University facilities under the conditions already noted and additionally subject to the following conditions:

a. That the proposed meeting give promise of contributing to the educational purposes of the campus; and

b. That the campus sees a reasonable possibility of making the facilities available for other viewpoints to be presented.

7. University facilities will not be made available for advocacy directed to inciting or producing imminent lawless action and which is likely to incite or produce such action.

## II. Guidelines

A. The president, as defined below, shall issue a revocable permit to each non-commercial organization authorized to use campus facilities.

1. Where the revocable permit is issued to an occasional user, generally no further approvals are required if the Revocable Permit form (Form A) is used without change. If Form A is not used, or is modified, the proposed permit should be forwarded to University counsel's office for legal review. Regardless of whether the Revocable Permit form is used or modified, however, approval of the New York State comptroller and New York State attorney general are required in all instances where the value or reasonably estimated value of the state's non-monetary consideration exceeds \$25,000.

2. Where the permit is issued to Other Users, the permit will require the prior approval of the vice chancellor for business and industry relations, or his designee. In addition, approval by the New York State attorney general and the New York State comptroller is required when the value or reasonably estimated value of the state's non-monetary consideration exceeds \$25,000. Assistance in preparing revocable permits for Other Users is available from the office of University counsel.

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## Definitions

**Facilities** – University-controlled (owned or leased) land, structures, buildings, equipment and furniture.

**Full-time equivalent days** – A period equal to eight hours.

**Non-commercial organizations** – Non-commercial organizations shall be deemed to include:

- Federal, state or local governmental units, departments and agencies;
- Business, charitable, civic, community, cultural, educational, entertainment, industrial, labor, political, professional, recreational and religious organizations, operating on a not-for-profit basis and whose activities are consistent with and in furtherance of University purposes.

However, organizations of the following nature shall not be governed by the terms of this policy:

- Auxiliary services corporations;
- Recognized University or campus student government organizations;
- University or campus alumni organizations;
- University or campus-related foundations;
- Inter-campus organizations composed primarily of University employees such as the business officers, purchasing agents, personnel officers, continuing education directors and librarian organizations; and
- Cultural, recreational or social groups comprised of University or campus faculty and staff members or, subject to the approval of the campus president, members of their immediate families.

**Occasional Users** – Those non-commercial organizations using facilities for an equivalent of not more than 29 full-time equivalent days during a state fiscal year, and which do not involve any construction upon, or modification of, University facilities.

**Other Users** – Those non-commercial organizations using facilities for an equivalent of 30 or more full-time equivalent days during a state fiscal year, or which involve any construction upon, or modification of, University facilities.

**President** – Each campus president or the president's written designee, or, for system administration facilities, the chancellor or the chancellor's written designee.

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## Other Related Information

There is no related information relevant to this policy.

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## Procedures

[Purchasing and Contracting \(Procurement\)](#)

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## Forms

[Form A](#) - Revocable Permit - State University of New York Revocable Permit. (updated April 2016)

[Exhibit B - Standard Clauses](#)

[Exhibit C - Standard Clauses](#)

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## Authority

State University Board of Trustees Resolution 91-2 adopted June 3, 1991.

Chapter 386 of the Laws of 1989.

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## History

There is no history relevant to this policy.

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## Appendices

[Form A](#) - State University of New York Revocable Permit.

[Exhibit B - Standard Clauses](#)

[Exhibit C - Standard Clauses](#)

[Appendix A](#) - Use of Computer Services by Non-Commercial Organizations

[Exhibit A](#) - Standard Contract Clauses State University of New York - Exhibit A