

September 20, 2004

M E M O R A N D U M

TO: All University Employees
FROM: Melany S. Newby, Vice Chancellor for Legal and Executive Affairs
RE: Employee Political Activities

Since 2004 is an election year, it is appropriate to remind all university employees of current state law and university policies regarding employee political activities while at work and the use of university facilities or resources for political activities or purposes.

There are three restrictions that should be noted in particular here. The applicable statutory and administrative code provisions and UW-Madison policies are included in the attached.

First, it is a violation of state law for a UW employee to engage in political activities while at work. This has been interpreted to include working on or assisting with a political campaign; displaying signs and similar items or materials supporting a partisan political candidate in the workplace; and using campus mail, e-mail, telephones and equipment for political activities.

Second, it is a violation of state law for anyone to ask a UW employee to make a political contribution or to help with a political campaign while the employee is at work. This includes sending a request for a contribution or help with a campaign to a UW employee's work mailing address or work e-mail address.

Third, it is a violation of state law to enter a UW building or facility for the purpose of requesting a political contribution or help for a political campaign. There is an exception for University residence halls at Chapter UWS 18.06(16m), Wisconsin Administrative Code.

In addition to these specific restrictions on political activities, state and university policies restrict the use of university time, facilities, equipment, information technology resources and supplies to university business. Note that WiscMail accounts are considered UW "information technology resources" and are subject to the same restriction on use for political purposes as regular campus e-mail accounts. See Section 8.05A of the UW-Madison Faculty Policies and Procedures, and in Section 12.05 of the UW-Madison Academic Staff Policies and Procedures, Section 7. of Guidelines for Appropriate Use of University of Wisconsin-Madison Information Technology Resources, the UW-Madison WiscMail Appropriate Use policy, and the UW System memorandum entitled "Laws and Policies Surrounding Political Campaign Activities of UW Employees."

Student and employee organizations may reserve university meeting space for political discussion and debate. The appropriate means for announcements related to these activities are U.S. mail, leafleting outside university buildings, campus bulletin boards that are not reserved for official use, and meeting announcements in *Wisconsin Week*. For information about reserving meeting space, please contact the Central Reservations Office at 262-2511. For any additional questions, please contact the Office of Administrative Legal Services at 263-7400.

MSN/lkh
Enclosure

STATUTES AND RULES REFERENCED IN MEMORANDUM

Wisconsin Statutes

Sec. 11.36 Political solicitation involving public officials and employees restricted.

- (1) No person may solicit or receive from any state officer or employee or from any officer or employee of the University of Wisconsin Hospitals and Clinics Authority any contribution or service for any political purpose while the officer or employee is engaged in his or her official duties, except that an elected state official may solicit and receive services not constituting a contribution from a state officer or employee or an officer or employee of the University of Wisconsin Hospitals and Clinics Authority with respect to a referendum only. Agreement to perform services authorized under this subsection may not be a condition of employment for any such officer or employee.
- (2) No person may solicit or receive from any officer or employee of a political subdivision of this state any contribution or service for any political purpose during established hours of employment or while the officer or employee is engaged in his or her official duties.
- (3) Every person who has charge or control in a building, office or room occupied for any purpose by this state, by any political subdivision thereof or by the University of Wisconsin Hospitals and Clinics Authority shall prohibit the entry of any person into that building, office or room for the purpose of making or receiving a contribution.
- (4) No person may enter or remain in any building, office or room occupied for any purpose by the state, by any political subdivision thereof or by the University of Wisconsin Hospitals and Clinics Authority or send or direct a letter or other notice thereto for the purpose of requesting or collecting a contribution.
- (5) In this section, "political purpose" includes an act done for the purpose of influencing the election or nomination for election of a person to national office, and "contribution" includes an act done for that purpose.
- (6) This section does not apply to response by a legal custodian or subordinate of the custodian to a request to locate, reproduce or inspect a record under s. 19.35, if the request is processed in the same manner as the custodian or subordinate responds to other requests to locate, reproduce or inspect a record under s. 19.35.

Sec. 11.01 (16) Definitions

An act is for "political purposes" when it is done for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, for the purpose of payment of expenses incurred as a result of a recount at an election, or for the purpose of influencing a particular vote at a referendum. In the case of a candidate, or a committee or group which is organized primarily for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, or for the purpose of influencing a particular vote at a referendum, all administrative and overhead expenses for the maintenance of an office or staff which are used principally for any such purpose are deemed to be for a political purpose.

- (a) Acts which are for "political purposes" include but are not limited to:
1. The making of a communication which expressly advocates the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.
 2. The conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state or local office.
- (b) A "political purpose" does not include expenditures made for the purpose of supporting or defending a person who is being investigated for, charged with or convicted of a criminal violation of state or federal law, or an agent or dependent of such a person.

Sec. 230.40 Political activities; public office.

- A. No person holding a position in the classified civil service may directly or indirectly solicit or receive subscriptions or contributions for any partisan political party or any political purpose while on state time or engaged in official duties as an employee. No person may orally solicit or by letter transmit any solicitation to a state office or be in any manner concerned in soliciting any assistance, subscription, or support for any partisan political party or purpose from any person holding any position in the classified civil service while on state time or engaged in official duties as an employee. No person holding any position in the classified civil service may during the hours when on duty engage in any form of political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold partisan political office, nor engage in any political activity when not on duty to such an extent that the person's efficiency during working hours will be impaired or that he or she will be tardy or absent from work. Any violation of this section is adequate grounds for dismissal.

UW-Madison

Faculty Policies and Procedures:

8.05A Use of University Facilities

- A. Use for Personal or Outside Activities. University facilities, equipment, and supplies shall not be used by the faculty for purposes other than carrying out their institutional responsibilities. If for any reason a faculty member deems it essential to use such facilities, equipment, or supplies for personal or outside activities, the faculty member must seek prior written approval of the department chair and the dean or other appropriate administrator.
- B. University Seal. The University seal, or any copy or imitation of it, may not be used by any person, firm or corporation without the express permission of the Board of Regents or its delegate.
- C. Care of University Property. All apparatus, museum materials, scientific collections, books, and other University property shall be in the immediate care of the faculty of the respective departments to which such materials belong, subject to the control of the appropriate administrative authorities.

Academic Staff Policies and Procedures

12.05 Use of University Facilities, Services, and Staff.

Academic staff members may not use University facilities, services, or staff in support of outside activities unless appropriate prior approval is obtained.

Classified Personnel Policies and Procedures

15.04 Political Activities

State law (s.230.40, Wis. Stats) places certain restrictions on the political activities of classified state employees. While on state-time or engaged in official duties, classified employees are prohibited from soliciting or receiving political contributions, soliciting political assistance, subscription from other classified employees or engaging in any partisan political activity. A classified employee may be granted a leave of absence to participate in partisan political campaigning.

If a classified employee runs for partisan political office, he/she shall be given a leave of absence during the campaign and, if elected, shall separate from classified employment upon assuming office. A person who leaves classified service to fill an elective office shall have reinstatement eligibility for three following termination or for one year following the end of the elective term of office, whichever is greater.

Violation of any of these statutory restrictions may be ground for dismissal.

Wisconsin Administrative Code

UWS 18.06(16m) CAMPAIGNING IN STATE-OWNED RESIDENCE HALLS.

- (a) The residence halls students of each institution, subject to the approval of the chief administrative officer, shall establish policies and procedures assuring that political literature may be distributed and political campaigning may be conducted in state-owned residence halls consistent with the rights of residence halls students, and prescribing the time, place and manner in which these activities may be conducted.

Guidelines for Appropriate Use of University of Wisconsin-Madison Information Technology Resources

Section 7. Commercial, Political and Non-University Activities.

Persons may not use University IT resources to sell or solicit sales for any goods, services or contributions unless such use conforms to UW-Madison rules and regulations governing the use of University resources. University employees may not use these resources to support the nomination of any person for political office or to influence a vote in any election or referendum. No one may use University IT resources to represent the interests of any non-University group or organization unless authorized by an appropriate University department.

WiscMail Policies

Appropriate Use.

WiscMail is a University of Wisconsin information technology resource. When using WiscMail, you must abide by the

appropriate use policy that you agreed to when you activated your net id.

UW System Laws and Policies Surrounding Political Campaign Activities of University Employees

Section I.7. Can I demonstrate my support for a candidate at my office or in my classroom through the display of stickers or window signs?

UWS 18.06 (17) of the administrative codes governing the UW System states:

No person may erect, post or attach any signs, posters, pictures or any item of a similar nature in or on any building or upon other university lands except on regularly established bulletin boards, or as authorized by the provisions of this code or by the chief administrative officer.

<http://www.legis.state.wi.us/rsb/code/uws>

For further guidance, a Department of Employment Relations bulletin on state employee political activity states that it is permissible for a state employee to "(park) an automobile bearing partisan political signs and/or stickers in state parking areas while on duty at a state work station." Also according to the bulletin, a state employee is prohibited from "the wearing of a political identification while on duty where it could impair the effectiveness of the state agencies' operation."