



## Office of Legal Affairs

UNIVERSITY OF WISCONSIN-MADISON

Date: May 12, 2014

To: Interested Parties

From: Raymond P. Taffora  
Vice Chancellor for Legal Affairs

Re: University Policies Relating to Use of University Facilities for Political Purposes

We have been asked to provide guidance on those University policies that address the use of University of Wisconsin – Madison facilities for political purposes. We have identified a number of policies that bear on this issue.

### **Background**

The Board of Regents has declared that “the facilities<sup>1</sup> of the University are to be used primarily for purposes of fulfilling the University’s missions of teaching, research and public service.” *Section UWS 21.01, Wis. Admin. Code.* The Board has promulgated administrative rules in Chapter UWS 21 that govern use of University facilities by organizations associated with an institution<sup>2</sup> and those not associated with an institution.

For organizations associated with an institution, the Chancellor of each institution (or designee) *shall* permit organizations associated with that institution to use University facilities for events, *for staff and students* and *may* permit the use of such facilities for such organizations for public events, provided the Chancellor determines that;

- (a) The proposed use will not interfere with or detract from the teaching, research and public service missions of the institution;
- (b) The institution has appropriate facilities available for the proposed use; and
- (c) The organization has complied with institutional procedures...

*Section UWS 21.03(1),(2), Wis. Admin. Code.*

For organizations not associated with an institution, the Chancellor (or designee) may permit the use of University facilities at an institution if the Chancellor determines that:

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<sup>1</sup> “Facilities” means “the publicly owned or leased buildings and grounds which are subject to the custody and control of the Board [of Regents]”. *Section UWS 21.02(3), Wis. Admin. Code.*

<sup>2</sup> An “organization associated with an institution” means that “an origination is an officially recognized staff or student group, or an administrative or academic unit, or a state agency.” *Section UWS 21.02(5), Wis. Admin. Code.*

- (a) The proposed use is, under the sponsorship or at the invitation of an organization associated with the institution;
- (b) The proposed use will not interfere with or detract from the teaching, research and public service missions of the institution, or the use of the facilities by organizations associated with the institution;
- (c) The institution has appropriate facilities available for the proposed use;
- (d) The person or organization has complied with institutional procedures...

*Section UWS 21.04(1), Wis. Admin. Code.*

### **University Policies**

UW-Madison has several institutional procedures that address this subject, they are discussed in turn.

### **Faculty Legislation II-900**

First, the Faculty Senate has passed legislation currently codified at Section II-900. Section 6 of that Policy addresses the use of the University facilities “by political parties or candidates for public office”. Section 6 states, in relevant part:

Leaders of political parties and candidates for public office may hold public meetings on each campus, if facilities are available, and subject to necessary routine procedures administered by the Chancellor or his or her designee. During any election campaign, a University auditorium may be made available for one public meeting on behalf of each recognized candidate for public office. In an election year, each political party may make use of a University auditorium for one public meeting on behalf of its candidates for national office, and one public meeting on behalf of its candidates for statewide office. State conventions of recognized political parties may also use University facilities.

In essence, this Policy contemplates that each *recognized* candidate for public office may use a University facility for a single public meeting *during any election campaign*. In addition, each political party may use a University facility for one public meeting for its candidates for national office and one public meeting for its candidates for state office in a *general election year*.

### **Facilities Use Policy P-6**

Additionally, a Facilities Use Policy of UW – Madison (P-6) also addresses the use of campus facilities for political purposes. Section 2 of Policy P-6 addresses the use of University facilities by student organizations. That section says, in relevant part:

Student organizations may use University facilities only for events that are primarily for students, faculty and staff. Student groups may invite candidates for public office to speak in University facilities with no limit on the number of appearances by candidate. All publicity for such events must state that attendance is limited to students, faculty and staff and that the events are not open to the public.

(Emphasis in original). Section 2 of Policy P-6, therefore, addresses the use of facilities by *student* groups and places no limit on the number of appearances by candidates for public office, provided, however, that any marketing for such an event must indicate that attendance is limited to *students, faculty and staff (not the public)*.

Section 5 of Policy P-6 addresses the use of University facilities by political parties and candidates for public office. This Section states, in relevant part:

Leaders of political parties and candidates for public office may hold public meetings on campus, if facilities are available, and subject to necessary routine procedures established by the Chancellor or his/her designee.

During an election campaign, such as the primary or general election, each recognized candidate for public office may hold one public meeting at a University auditorium. In addition, each political party may hold one public meeting at a University auditorium on behalf of its candidates for national office and one public meeting on behalf of its candidates for statewide office.

State conventions of recognized political parties may also use University facilities.

Under Section 5, a *recognized* candidate for public office may hold *one* public meeting at a University facility during an *election campaign*. Further, each *political party* may hold *one* public meeting at a University facility for its candidates for national office and for one public meeting for its candidates for state office.

#### **Athletic Board Facilities Use Policy P-9 and Use of Bascom Hill**

In addition to these two policies, two other policies are also relevant. The first, a Facilities Use Policy of the Athletic Board (Policy P-9) governs the use of facilities of the Athletic Department. This policy notes that while “facilities of the Athletic Department are primarily for the competition, practice, training and support service needs of the teams and student athletes of the Division of Intercollegiate Athletics”, other departments, registered student organizations and non-university organizations may use Athletic Department facilities if such an event is (a) sponsored by a University department or program or (b) held at the invitation of the Division of Intercollegiate Athletics or the Chancellor. (Policy P-9, Sections 1, 2). Any such use is also governed by Facilities Use Policy P-1, which outlines procedures governing use of University facilities. Facilities Use Policy P-1 notes that the use of University facilities and grounds for a “political purpose” is subject to Facilities Use Policy P-6. (Facilities Use Policy P-1, Section (II)(E)(8)).

Finally, given its prominence on the campus, there is a Facilities Use Guideline governing use of Bascom Hill. That Guideline (G-2), notes that:

Use of the lower third of Bascom Hill can only be reserved for the installation of banners, signs, balloons, displays, etc. by registered student organizations and other University agencies, so long as the banners, signs, etc. are not used to

support candidates in municipal, county, state or national elections. Areas for display of such political materials as well as for other scheduled events should happen on the Library Mall...or the State Street Mall.

***Analysis & Conclusions***

The gist of these policies is that registered student organizations may invite an unlimited number of candidates to appear and speak in University facilities (subject to availability). However, any publicity for such events must indicate that attendance is limited to students, faculty and staff (and not open to the public).

Subject to institutional procedures and facility availability, candidates for public office and political parties may reserve University facilities for public meetings. During a general election year, a political party which desires to use a University facility is limited to one public meeting for its candidates for national office and one public meeting for its candidates for statewide office.

Finally, a *recognized* candidate for public office who desires to use a University facility is limited to one public meeting *during an election campaign*. In our view, a person becomes a *recognized* candidate when the candidate qualifies for access to the election ballot. Under Wisconsin law, this occurs when the candidate qualifies for nomination for a public office. A candidate typically qualifies after the candidate has filed (a) a declaration of candidacy and (b) nomination papers, and is determined by the appropriate election authority to qualify for a primary election ballot position. *See Wis. Stat. Section 8.10, 8.15, 8.21<sup>i</sup>*. Further, an *election campaign* begins, in our view, once the candidate similarly qualifies for access to the election ballot (that is, after a declaration of candidacy and nomination papers are filed and the election authority determines the candidate qualifies for a ballot position).

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<sup>i</sup> For non-partisan Spring Elections, the date by which a declaration of candidacy and nomination papers for an office must be filed is on or near the first Tuesday in January preceding the Spring Election. For partisan Fall Elections, that date will be on or near June 1<sup>st</sup> preceding the Fall Election.