

# **Political Activity on Campus: Guidelines for the 2020 Campaign**

This document provides general guidelines for employees and students of the UW System who wish to engage in an important but regulated activity: political campaign involvement. This document is not intended as a source of definitive legal advice on the specific situations discussed below, nor is it a comprehensive legal manual that addresses all political campaign activity. To the extent you are a supervisor and have questions about regulating employee speech, please consult with System legal counsel or your campus counsel at UW–Madison and UW-Milwaukee.

In addition to the general guidance below, certain university employees holding highly visible positions, or those who serve in a liaison capacity with state and federal legislators, should be aware of the ethical and practical consequences of political campaign involvement as well as the basic legal issues, such as the application of state and federal lobbying rules to the activities of state university employees.

If you have a specific question regarding political campaign issues, please consult your campus Office of Legal Affairs or the UW System Office of the General Counsel for further guidance.

What follows is a list of frequently asked questions concerning political campaign activity at UW System institutions.

## **I. Guidance for UW Employees**

### **1. What is political campaign activity?**

Political campaign activity can include, among other things, solicitation of campaign contributions, service in furtherance of candidates, political parties and political action committees, and advocating a particular position on a referendum. Further, there should be awareness that comments regarding the specific actions, positions, or records of a particular candidate may be perceived as support or endorsement by the institution of a particular candidate or political party.

There are other “political” activities that might not fall within the scope of “political campaign” activities as discussed in this guidance. For example, advocating for governmental action or legislative change at a local, state or federal level may be political although not related to a political campaign. While this guidance does not cover those activities in detail, because of restrictions on state lobbying and personal use of state resources, individual employees should not use state work time or state resources to engage in political activities unless expressly designated with this responsibility on behalf of the employing institution.

**2. As a university employee, are there restrictions on my political campaign activities?**

Yes. As a university employee, your political campaign activities are restricted by Regent policy and state law in three significant ways: (1) You may not engage in political campaign activities during your work time; (2) You may not use state resources to engage in political campaign activities at any time; and (3) You may not solicit contributions or services for a political purpose from other university employees while they are engaged in their official duties. Wis. Stat. § 11.1207.

State resources include resources such as:

- institutional letterhead and logos
- office space and other facilities
- office supplies
- photocopiers
- telephones or facsimile machines
- electronic resources including email, websites, on-line discussion boards, cell phones, or other similar resources

As a private citizen, you are free to engage in political activities on your own time and with your own resources.

**3. As a university employee, may I run for state office?**

Yes, but this may affect your employment. Wisconsin law provides that no elective state official may hold any other position or be retained in any other capacity with any other state agency when the official is paid for his or her service with that agency. Wis. Stat. § 16.417(2)(b). There are narrow exceptions for unpaid positions. The University of Wisconsin System and its constituent colleges, universities and extension service is a “state agency,” and therefore an individual elected to state office may not hold a paid position in the University of Wisconsin System.

While the law does not preclude university employees from running for office, if elected, you may not hold a paid position at the university while serving in an elective state office. Check local policies regarding leaves of absence to engage in public service.

If you wish to be a candidate in a primary election, you should first consult with the appropriate department chair, as well as the dean or director, to determine whether your campaign activity will impair performance of your university duties. If it is determined that the activity will produce some adverse effect, then a reduced-time appointment or a leave of absence would be appropriate for the duration of the campaign.

If you are a candidate in a general election, upon consultation with the appropriate department chair and dean or director, a reduced-time appointment or leave of absence should be arranged.

You may also run for local office. However, your university appointment may be subject to change, depending on the particular office you are seeking.

Service as an elected official on off-hour demand activities (e.g., school boards, city councils, county boards, or local, state or national commissions) would not normally require a reduced appointment or leave of absence but may require the use of vacation/personal holiday time to cover any activities during the workday.

**4. As a university employee, may I host a political fundraiser off-campus (at my home, for example)?**

Yes. This is permissible if you do so on your own time and do not use state resources in connection with this event. In addition, you may not promote the fundraiser or engage in fundraising activities on state time, or in state office buildings. See Wis. Stat. § 11.1207.

**5. As a university employee, may I use a university conference facility or meeting room for political campaign activities?**

No. You may not use your university position to secure an on-campus conference or meeting room for the purpose of political campaign activities. However, an organization you are affiliated with may rent campus facilities consistent with the rules that apply to facilities rental by any other private organization. Note that state law strictly prohibits the use of state facilities for political fundraising. See Wis. Stat. § 11.1207(3); See also, Section II.1, below.

**6. As a university employee, may I make contributions to a political campaign?**

Yes, but only outside of work hours and university facilities. All UW System employees, including legislative liaisons and other employees who attempt to influence legislation, may contribute to and participate in political campaigns at any time during the election cycle. Pursuant to state campaign finance laws, however, campaign contributions cannot be solicited or collected on state time or in state office buildings. See Wis. Stat. § 11.1207; Wis. Admin. Code § UWS 21.

**7. May I permit an organization to list my name and employment title as a supporter in its political campaign literature—for example, in a letter to a newspaper, a brochure or a fundraiser invitation?**

Yes. Care should be taken, however, about using your official title to promote one candidate over another. Generally speaking, you should seek to clarify that the use of your name indicates neither support nor endorsement by the university of a particular candidate and that you are acting solely in your role as a private citizen.

**8. May I support a candidate or referendum position by wearing political identification or buttons on campus or when working remotely? May I demonstrate my support for a candidate or referendum position in my office**

**or classroom or when I work from a remote location by displaying stickers, slogans or signs in those places?**

It is a violation of state law for university employees to engage in political campaign activities while at work. Consistent with this principle, the State Office of Employment Relations has previously advised that state employees are prohibited from “the wearing of a political identification while on duty where it could impair the effectiveness of the state agency operation.” See OSER-0053-MRS State Employee Political Activity (Classified Civil Service). Although the university currently operates under its own personnel system rather than OSER, we still believe that university employees should carefully consider the impact of wearing such political identifications while on duty.

Similar concerns are addressed in the workplace (whether in a University Office or when working remotely) display of partisan political signs that advocate a candidate, political party or referendum outcome in a current election. Wisconsin Administrative Code UWS section 18.08(9), provides that no person may erect, post or attach any signs, posters, pictures or any similar item in or on a university building, except as authorized under institutional policies. Employees in remote work settings should ensure that such political signs are not visible in work-related videoconferencing or other virtual meeting platforms. See Section II.5, below, for guidance on the posting of political signs in residence hall rooms.

The display of bumper stickers on privately-owned vehicles parked in university parking facilities, however, does not raise concerns about improper or illegal political campaign activities.

## **II. Guidance for UW Students and Recognized Student Groups**

### **1. As a university student or university-recognized student group, may I organize a political event to be hosted on my campus?**

Yes. Political events may be sponsored by either recognized or independent student organizations under certain circumstances. In fact, institutions and student groups are particularly encouraged to arrange non-partisan events such as campus tours for legislators and candidates, as well as to sponsor forums in which political figures or candidates may debate one another.

Student groups wishing to organize such events should contact the appropriate facilities administrator to ensure compliance with UW System policies on use of university facilities, Wis. Admin. Code UWS § 21.03, and applicable institutional policies.

Please note that state law strictly prohibits the use of state-owned buildings for political fundraising. See Wis. Stat. § 11.1207. In addition, student organizations that have federal tax-exempt status may be subject to additional restrictions on political activity. See IRS Publication “Election Year Issues” (<http://www.irs.gov/pub/irs-tege/eotopici02.pdf>).

**2. Can student groups utilize segregated fees or university resources to contribute to a political campaign?**

No. In accordance with UW System Financial and Administrative Policy Segregated University Fees (F50) and consistent with campaign finance law, student groups may not use segregated fees to make direct gifts, contributions, or donations of any kind. See Policy F50.1.B(3)(e).

**3. May segregated fees be used to fund the printing of posters, political advertisements, or t-shirts indicating our group's support of a candidate or political party?**

As discussed above, student organizations may not use segregated fees in a manner which would constitute making a direct gift, contribution, or donation of any kind. Accordingly, if the funding of these materials constitutes a gift, contribution or donation to a candidate or party, it would not be permitted. See Policy F50.I.B(3)(e). Student organizations may, however, use segregated fees to support their own expressive activities and views on public policy issues and other interests.

Questions about appropriate uses of segregated fees should be referred to campus student affairs officers and/or legal counsel.

**4. Can student organizations urge students to vote? What about voting for a particular party or for a particular candidate?**

Yes. Student organizations are encouraged to help educate and inform students about upcoming elections, including urging students to exercise their right to vote. Student organizations are also free to express their views about the parties and candidates, and to urge voting for particular parties or candidates, and—as noted above—to sponsor events for candidates so long as they comply with rules governing the use of university facilities.

Please note that state law strictly prohibits the use of state-owned buildings for political fundraising. See Wis. Stat. § 11.1207. In addition, student organizations that have federal tax-exempt status may be subject to additional restrictions on political activity. See IRS Publication “Election Year Issues” (<http://www.irs.gov/pub/irs-tege/eotopici02.pdf>).

**5. As a university student, may I display a partisan political sign in my residence hall room?**

Yes. So long as you comply with university and residence hall policies governing the posting of signs in dormitory rooms, and any other applicable time, place, and manner restrictions, such activity would be permissible. See, Wis. Admin. Code UWS § 18.08(9).

### **III. Political Activity on Campus**

#### **1. What types of educational events may the campus engage in to encourage voter education and participation?**

The campus may host non-partisan events to encourage voter education and participation, such as candidate forums and voter registration efforts. These activities must be non-partisan for the sole purpose of voter education. If candidates are invited on campus, all legally qualified candidates must be invited and given an equal opportunity to speak and participate. Permissible activities include speeches, question-and-answer sessions, debates, or similar activities. A statement should be given that the university does not endorse nor oppose any of the candidates. The UW System policy on the use of university facilities, Wis. Admin. Code UWS § 21, and relevant institutional policies apply. Please note that state law strictly prohibits the use of state-owned buildings for political fundraising. Wis. Stat. § 11.1207.

Electronic resources may also be used for non-partisan voter education purposes. For example, a university web page with current election information may include a link to candidates' websites if the web page includes all legally qualified candidates and excludes any commentary in support or against a candidate, express or implied. Again, a statement should be included that the university does not endorse nor oppose any of the candidates. If discussion space is provided, the university should include a disclaimer that the opinions expressed on the discussion board do not represent those of the university. Websites used for voter education purposes should be regularly monitored to ensure that they are not modified for the purposes of advocating for a particular candidate or political party.

#### **2. Is it important that institutions sponsor political events that offer opportunities to all candidates seeking election to the same political office?**

Yes. A balanced approach is required. For example, all campaigns of candidates seeking election to the same political office should be offered the same or a similar opportunity to participate in a university-sponsored event. However, if when offered the opportunity, one or more candidates decline, it is still appropriate to host the event for those who have accepted the invitation. During the event a statement should be made indicating that all candidates were provided with an equal opportunity to participate.

It should be noted, however, that the same principle does not necessarily apply to candidates who speak to a class at the invitation of an instructor. For example, a professor who invites a Republican legislator to speak to a class on the history of the Republican Party is not obligated to invite the legislator's Democratic opponent. The invitation, however, should relate to the course material and should not be for the purpose of advancing one political candidate over another.

#### **3. May individuals or candidates distribute campaign literature on campus?**

Yes. Campaigning is permitted in public areas at UW institutions, subject to institutional policies concerning the time, place, and manner for conducting such activities. Similarly, distribution of

political literature and campaigning may be conducted in residence halls, subject to institutional policies governing the time, place, and manner for engaging in such activities.

**4. Do candidates and political organizations have access to mailing lists of faculty, students, and staff?**

Yes, to the extent that this information is available to the public. Some campuses provide this information in their staff and student directories that are available for purchase to the public. Other campuses may supply employee and student mailing lists upon request, with a fee charged at the time of request in order to cover the costs of generating the lists.

University employees and students who choose not to have this information disclosed are annually offered the opportunity to have their names and home addresses withheld from these mailing lists.

**5. Are institutions required to charge candidates who attend campus receptions? What about legislators who are currently in office?**

The general rule for those currently holding office is that university-sponsored functions are a benefit to the UW System and not to a particular legislator or party. Accordingly, there should generally be no charge to state legislators or officials who attend campus receptions. However, care should be taken to comply with applicable ethical and legal requirements (see generally, Wis. Stats. §§ 19.45(3m) and 19.56(3)), including restrictions on the use of federal funds for lobbying purposes and limits on the circumstances in which legislators and state officials may receive hospitality such as food or athletic tickets in connection with events or parties hosted by a campus.

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