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.

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.

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.

Other Related Information

There is no related information relevant to this policy.

Procedures

Purchasing and Contracting (Procurement)

Forms

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

Exhibit B - Standard Clauses

Exhibit C - Standard Clauses

Authority

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

Chapter 386 of the Laws of 1989.

History

There is no history relevant to this policy.

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