

*SAC report, excerpted from the EC Minutes of 10/27/04:*

**SAC:** Orientation has been scheduled for January 11<sup>th</sup> and 13<sup>th</sup>, and possibly the 7<sup>th</sup>, if necessary; this information is now available on the web. Concerning notification of student deaths, Poullard shared with SAC a memo which his office directs to multiple departments including appropriate faculty members. Poullard also provided SAC with a report of misconduct cases for 2003-04, but noted that not all cases of academic misconduct are reported to his office.

A lengthy discussion ensued concerning classroom accommodations for disabled students. Despite meeting codes, some rooms remain less desirable for one reason or another, some have furniture removed after the start of the semester, and not all TVs are equipped with closed-captioning decoders. The provost noted that additional permanent funding has been provided to the Disabled Student Services office to ensure accommodation issues are addressed. It was noted that not all disabled students register with DSS, and that tracking them and their classroom needs is a complicated issue, as is monitoring the status of classrooms on an ongoing basis. Knowing which classrooms are particularly accommodating would be helpful for scheduling purposes, particularly in cohort or sequential course situations.

The committee is also working on adding Student Services issues to the A form.



**Resolution Regarding Academic Advising at Cal State San Marcos and the  
California State University  
Associated Students, Inc.  
Cal State University- San Marcos  
2004-2005**

**WHEREAS;** there is a consensus of all member campuses of the California State Student Association that too many California State University (CSU) students are not receiving quality academic advising in a consistent manner; and

**WHEREAS;** Cal State University San Marcos is a member of the California State Student Association.

**WHEREAS;** students are not getting academic advising in a timely manner; and

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**WHEREAS;** improving academic advising throughout Cal State San Marcos and the CSU is a proactive approach to remedying student accumulation of excess units; and

**WHEREAS;** improving academic advising throughout Cal State San Marcos and the CSU is relevant to the Facilitating Graduation Initiative currently being implemented by the CSU Board of Trustees; and

**THEREFORE, BE IT RESOLVED;** that Associated Students, Inc. takes the position that the University and the CSU should request and dedicate resources to improve academic advising; and

**THEREFORE, BE IT FURTHER RESOLVED;** that the following entities be involved in the process of finding ways to improve academic advising: administration, faculty, advising staff, students; and

**THEREFORE, BE IT FURTHER RESOLVED;** that Associated Students, Inc. takes the position that the preponderance of this responsibility of this issue rests within the University and the CSU.

**THEREFORE, BE IT FINALLY RESOLVED;** that this resolution be distributed to the Academic Senate, the University President, the Provost, and the Vice Presidents of the University.

## MEMORANDUM

TO: Jackie Trischman  
Chair, Academic Senate

FROM: COAS Department Chairs and Program Directors

SUBJECT: Communications

Over the course of the current semester, department chairs and program directors in the College of Arts and Sciences have received memos either from the Academic Senate or from Senate Committees asking us to supply information or otherwise respond to them.

Examples of this would be the communication from the Senate about the Lower Division Transfer Project or the request from the Program Assessment Committee to supply information about departmental learning outcomes and assessment tools.

We understand that in most cases the Senate and/or its committees are seeking information from us for larger university or system purposes and that you are not just 'making work' for department chairs. And, we would like to comply with your information needs as quickly as possible.

However, there are some issues involved in these requests that we want you to consider. First, it would be helpful if requests for information were accompanied by some explanation of why the information was being requested and how, or for what purposes, it was going to be used. Second, we have found occasionally we need the assistance of the Dean's Office in responding to information requests but when we approach the Dean's office for help, that they have no knowledge of the task. Third, given the typical chair's workload, we need at least two weeks to respond to any requests for information, although please understand that even that turnaround time may not be sufficient in some cases and at some times during the semester.

It is our hope that in the future that the Senate and its committees will think about providing full information along with any requests that they make of department chairs, that they will take chair workload into consideration when setting response dates and, equally importantly, that they will consider also sending a courtesy cc of the requests for information sent to chairs to the COAS Dean's Office.

We believe that not only will this allow us to prioritize our daily work as department chairs more effectively, but that it will also provide our immediate supervisor (the Dean) with a better understanding of our workload and will improve the assistance that the Dean's Office can offer in completing these tasks.

Cc: COAS Department Chairs and Program Directors  
Vicki Golich, COAS Dean

# HANDBOOK OF ELECTION ISSUES



Office Of General Counsel

REVISED: OCTOBER 2004

**HANDBOOK OF ELECTION ISSUES**  
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# HANDBOOK OF ELECTION ISSUES

## I. INTRODUCTION

This is a general reference guide to issues that have arisen within the CSU relating to the use of state resources in elections and guidance for other election questions.

## II. THE LAW

The law prohibits the use of public funds for political campaign activity. As stated in the leading case which established this principle, Stanson v. Mott (1976) 17 Cal.3d 206, 210, 130 Cal. Rptr. 697, 699:

“[A] public agency may not expend public funds to promote a partisan position in an election campaign.”

Government Code section 8314 similarly provides:

“It shall be unlawful for any elected state officer, appointee, employee, or consultant to use or permit others to use state resources for a campaign activity . . . which [is] not authorized by law.”

This rule of campaign neutrality is consistent with other laws that establish the foundational principle that the CSU must remain “entirely independent of all political and sectarian influence.” Education Code section 66607. (See also, a similar restriction applicable to the University of California in Art. IX, Sec. 9 of the California Constitution.) It also furthers the California Constitutional proscription against gifts of public funds (Cal. Const. Art. XVI, Sec. 6),

and the statute which prohibits the misappropriation of public funds. (Penal Code § 424). It is consistent with the related proscription on the involuntary assessment of student fees to support political positions. See, Smith v. Regents of University of California, 4 Cal. 4<sup>th</sup> 843, 16 Cal.Rptr.2d 181 (1993). Requiring state agencies to be politically neutral in election campaigns also promotes basic equity and fairness in the democratic process.

State resources are implicated whenever any state property or asset is used in an election campaign, including land, facilities, equipment, supplies, telephones, computers, vehicles, employee time and funds.

It is impossible to establish clear or bright lines that apply universally in every situation, because the law is premised on reasonableness and balance, and the facts are different in each individual circumstance. Nevertheless, it is hoped that the following general information will be helpful in arriving at thoughtful decisions. Further consultation with the University Counsel assigned to your campus is encouraged with respect to any specific situation that is in doubt.

### **III. APPLICATIONS**

#### **A. WRITTEN MATERIALS**

In Stanson, it was ruled that to determine whether written materials are informational, or promotional, reference must be made to their overall content, including style, tenor, and timing. Therefore, it is impossible to establish hard and fast rules which govern every situation. Information which leads to only one logical conclusion will always be suspect.

The closer in time to an election, the more scrutiny written materials can expect to undergo. In 35 Ops.Cal.Atty.Gen. 112, the Attorney General determined that a full page

ad, which contained factual information, but did not explicitly advocate a particular vote, was still campaign advocacy because the ad was placed the day before the election.

## **B. DEBATES**

It is the function of an educational institution to inform the public on both sides of important policy issues. Therefore, a debate, where both sides have an opportunity to present their opinions, is unquestionably an appropriate expenditure of public funds.

Where University officials are participants in a debate and advocate a particular point of view, they should make clear at the outset that they are presenting their own personal opinion and not an institutional position.

## **C. SPEAKERS**

Every university campus is considered “a market place of ideas.” Healy v. James, 408 U.S. 169, 180, 92 S.Ct.2338, 2346 (1972). Broad latitude therefore must be provided for speakers from every spectrum to address groups on campus, both in formal and informal settings, subject only to reasonable campus time, place and manner restrictions.

Reasonable restrictions are those which are designed to avoid material disruption of instruction and/or campus security. Public funds may be used to pay speakers who advocate a particular point of view, and even advocate for a candidate or position in an election year. Balance in viewpoints needs not be achieved at every speaking event. However, over time campuses should ensure that various points of view have been presented. The closer a speaker comes to the date of an election, the more compelling the need for balance.



**D. “FREE SPEECH ZONES”**

Areas of campus may be designated as the usual gathering places where public speech occurs (“free speech zones”). These locations should be selected to accommodate large groups, appropriate for sound amplification, and away from places on campus where quiet is important (e.g. dwellings or academic buildings). Speakers can be directed to these locations as the usual place where it is accepted on campus that speech regularly occurs. They should not be regarded, however, as the only locations on campus where public speech is appropriate. Events and locations outside of the “free speech zones” are subject to regulation as to appropriate time, place and manner that is reasonable under all of the circumstances.

Much care needs to be exercised in developing advance notice requirements for use of the campus for purposes of speech. It may be appropriate to require advance notice where large groups are anticipated, where sound amplification is required or used, where the speaker is not a member of the campus community, where unusual security issues are presented, and so on. A blanket advance notice requirement for all users would likely be viewed as an inappropriate prior restraint.

**E. LEAFLETING**

The distribution of printed matter is “permitted on campus,” but is also “subject . . . to reasonable directive by the campus president as to the time, place and manner thereof.” (Title 5, Calif. Code of Regs. Sec. 42352(b)). A campus might for example prohibit leafleting at the bottom of an escalator or near roadways to avoid creating a dangerous condition.

## **F. POSTERS**

Campaign posters, which advocate a position, are a campaign activity and no public money can be used in their production.

Political posters, like all other posters, are subject to content neutral time, place and manner restrictions. Campuses may, for example, have regulations to limit the size or location of all campus posters to protect against fire risk, access problems, or other health or safety issues.

Political posters can be displayed in traditional public areas, such as kiosks or other bulletin board or information arenas. They also can be displayed in areas which are generally regarded as private space, belonging to particular individuals. This could include the interior of dormitory rooms and private office space, depending on the size and nature of the poster, and whether it creates any ambiguity about an “official” position being taken (e.g. office space which is open and adjoined to other public areas). Other displays of political posters are not permissible.

## **G. USE OF FACILITIES**

Campaign groups which request the use of campus facilities for meetings, rallies or other gatherings must be treated like all other outside public groups which request to use campus facilities. If the campus charges other groups for the use of campus facilities, it should also charge campaign groups, and at the same rental rate. If the campus makes its facilities available to other groups without any charge, it should not charge campaign groups for use of the facilities.

## **H. USE OF E-MAIL**

Campuses provide e-mail for employees to conduct official University business.

Therefore, it is not appropriate for individual employees to conduct campaign advocacy or solicit funds by using their University e-mail accounts. On the other hand, to the extent that a certain degree of personal communication is tolerated or allowed under applicable campus policy, then personal communication which includes the expression of political views must also be tolerated. Even if it is appropriate for a campus to expend effort to promote and encourage voter registration, a broadcast effort to get out the vote on e-mail is not appropriate.

Student e-mail and webpages are generally accepted as being made available for personal use. A campus could therefore become vulnerable to a charge of violation of the First Amendment if it attempts to interfere with student communications with political content. Campus policy which limits the use of e-mail accounts and webpages for nonuniversity purposes would also limit the use of student e-mail or webpages for political campaign purposes.

## **I. PUBLIC RESOLUTIONS**

There is a rich tradition in academia that certain bodies within the university may express their common views on matters of public importance. The Academic Senate, for example, frequently “takes positions” on various matters in furtherance of its function within the institution.

There is no reason why such bodies cannot continue to express their viewpoints, even on matters which go before the electorate. University employees do not lose their personal right of individual or collective free speech because of university employment. Thus, a deliberative body may take a position on an issue of importance to society or on a ballot

proposition. But having exercised rights of expression, the body may not then spend state funds to publicize its point of view other than preparing the usual minutes of the meeting and engaging in the normal communications that follow the meeting. If the position is adopted in procedures that are out of the ordinary course – e.g., calling a special meeting just before an election only for the purpose of taking a political position – there is a possibility that such could be labeled illegal campaign activity.

**J. CSU AUXILIARIES**

CSU auxiliary funds are not “public,” even though they exist only to support the university’s public purpose. Auxiliary funds may, therefore, be used for purposes of campaign advocacy, but only if the position taken is consistent with a formal position taken by the Board of Trustees, and the maintenance of the auxiliary’s tax exempt status.

**K. SIGNING ADVOCACY LETTERS**

First Amendment rights to free expression are not sacrificed upon assuming public employment. Faculty and staff may sign their name to letters or other written documents that advocate political positions. Where the campus employee’s name is accompanied by his or her campus title, however, there is a risk of confusion that the name listed in support of a political issue represents an official position of the institution. The higher up in rank or office, the more likely that this confusion may exist, and/or that the signature is being solicited, in part, because of an implication of institutional endorsement. Careful judgment should be exercised depending upon the circumstances and the employee’s position.

**L. CAMPAIGN BUTTONS**

Employees may wear political campaign buttons to work as an expression of their own personal opinion.

**M. USE OF UNIVERSITY STATEMENTS**

The university cannot restrict the use of its official opinions, by others, as a part of their campaign advocacy. Care should be exercised, however, to ensure that the campus is not so closely affiliated with the campaign advocates to give rise to an argument that the official statement was really engineered for an outside purpose. Circumvention of the restrictions of the law is not permissible.

**IV. TIME OFF TO VOTE**

If a voter does not have sufficient time outside of working hours to vote at a statewide election, the voter may, without loss of pay, take off enough working time (not to exceed two hours) that, when added to the voting time available outside of working hours, will enable that voter to vote. The time must be taken at the beginning or ending of the employee work period unless otherwise mutually agreed. The employer is required to post notice of this opportunity ten days before every statewide election. Elections Code section 14000. A sample notice form prepared by the Secretary of State is found at: <http://www.ss.ca.gov/elections/toveng.pdf>.

**V. CONCLUSION**

When questions regarding election issues arise, campuses are urged to consult with their University Counsel. Decisions about appropriate behavior in the context of election issues almost always depend on the peculiar facts of each situation.