

September 18, 1970

CHANCELLORS:

Restrictions on the Use of University Resources and Facilities for Political Activities

Although various existing policies, regulations, and statements pertain to permitted and restricted use of University resources and facilities, I consider it essential at this time that policies pertaining specifically to the use of University resources and facilities for political purposes be issued and implemented.

The following basic guidelines, effective immediately, constitute Presidential policies governing the use of resources and facilities for political purposes or activities:

1. The name, insignia, seal, or address of the University or any of its offices or units shall not be used for or in connection with political purposes or activity except as consistent with University regulations.
2. In correspondence, statements, or other material relating to political activities or issues, the University title of a faculty or staff member shall be used only for identification; if such identification might reasonably be construed as implying the support, endorsement, advancement, or opposition of the University with regard to any political activity or issue, the identification shall be accompanied by an explicit statement that the individual is speaking for himself and not as a representative of the University or any of its offices or units.
3. University equipment, supplies, and services -- duplicating machines, telephones, mail and messenger service, vehicles, computers, stationery, and other equipment, supplies, or services -- shall not be used for or in connection with political purposes or activities. (This does not prohibit the incidental use of resources, e.g., sound equipment, in connection with permitted use of University facilities.)
4. No University facility shall be used for political activities other than those open discussion and meeting areas provided for in campus regulations.
5. No display or distribution of political materials, such as posters, notices, handbills, and banners, shall be permitted except as specifically authorized by campus regulations concerning the time, place, and manner of exercising rights of speech and advocacy.
6. Nonmembers of the University community shall not be permitted to engage in political activities on University grounds or in University buildings and other facilities except as, specifically provided by campus regulations concerning the invitation of non-University speakers to address meetings on campus.

I urge that each of you take promptly whatever action is appropriate to make these policies applicable to your campus and, where circumstances warrant, that you develop and implement further appropriate guidelines.

Attached is a copy of my statement on the subject which was presented to The Regents' Committee on Educational Policy at its September 17, 1970 meeting. This statement will be printed in the September 28, 1970 issue of the University Bulletin. You may, of course, include all or any portion of my statement in the document concerning use of resources and facilities for political purposes which you issue on your campus. I call to your particular attention the fact that the attached statement superseded my statement entitled Use of Facilities and Resources which was distributed at the July meeting of The Regents' Committee on Educational Policy and which subsequently appeared in the August 3, 1970 issue of the University Bulletin.

I call to your attention also Attachment I to my statement which sets forth American Council on Education (ACE) guidelines on questions relating to tax exemption and political activities at colleges and universities. Please keep the ACE guidelines in mind as you develop any campus regulations supplementary to Presidential policies.

I will appreciate receiving from you a copy of the document on this subject which you issue to members of your campus community.

Charles J. Hitch

Attachment: ITEM FOR INFORMATION

cc:

Administrative Officers, Office of the President
Principal Officers of The Regents

Office the President
September 11, 1970

TO MEMBERS OF THE COMMITTEE ON EDUCATIONAL POLICY:

ITEM FOR INFORMATION

For Meeting of September 17, 1970

Re: Restrictions on the Use of University Facilities and Resources for Political Activities

This Statement supersedes my statement entitled Use of University Facilities and Resources which was distributed at the July meeting of this Committee. You will recall that, because of lack of time, we deferred discussion of that subject at the July meeting. I have carefully considered this subject, and as a result, I am issuing this revised statement.

As I stated in my July report on "Plan for Maintaining the Integrity of the University and its Academic Programs", the use of University facilities and resources is very much connected with the integrity of the University. The events of the last several months highlight the problem of balancing the rights of political expression, advocacy, and activity with the responsibility of assuring that University facilities and resources are not used for unjustifiable purposes.

There are both educational and legal reasons why the University must remain politically neutral. Educationally, the pursuit of truth and knowledge is only possible in an atmosphere of freedom, and if the University were to surrender its neutrality, it would jeopardize its freedom. Legally, Article IX, section 9, of the State Constitution provides in part that "The University shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs..."

There are Federal legal restraints as well. The American Council on Education has recently issued "Guidelines on Questions Relating to Tax Exemption and Political Activities", guidelines which the Commissioner of Internal Revenue regards as "fair and reasonable". The guidelines express concern that "institutions of higher education may inadvertently or otherwise involve themselves in political campaigns in such a way as to raise questions as to their entitlement to exemption under Section 501(c)(3) of the Internal Revenue Code and as to liability under other provisions of Federal law," and provide in part that:

Educational institutions traditionally have recognized and provided facilities on an impartial basis to various activities on the college campuses, even those activities which have a partisan political bent, such as for example, the Republican, Democratic and other political clubs. This presents no problem. However, to the extent that such organizations

extend their activities beyond the campus, and intervene or participate in campaigns on behalf of candidates for public office, or permit nonmembers of the university community to avail themselves of university facilities or services, an institution should in good faith make certain that proper and appropriate charges are made and collected for all facilities and services provided. Extraordinary or prolonged use of facilities, particularly by nonmembers of the university community, even with reimbursement, might raise questions. Such organizations should be prohibited [as in the University of California they are] from soliciting in the name of the university funds to be used in such off-campus intervention or participation.

Every member of the academic community has a right to participate or not, as he sees fit, in the election process. On the other hand, no member of that community should speak or act in the name of the institution in a political campaign [as our rules provide].

A copy of the guidelines and the response of Randolph W. Thrower, Commissioner of Internal Revenue, are attached. (See Attachment I) I am calling these attachments to the attention of the Chancellors and am asking that they ensure that their campus regulations are compatible with the guidelines.

There are well-recognized difficulties in interpreting what is political. In today's disturbed social climate, what is political at one time may not be political at another. Supporting or opposing candidates or propositions in elections is clearly political, but there are grey areas in relation to issues. A distinction must also be drawn between political activity on the one hand, and instruction and research on politically related subjects on the other; certainly, scholarly instruction and research on politics is not only appropriate but desirable. There must be an examination of all the facts and circumstances surrounding an activity and, in the last analysis, the campus administrator must be responsible for determining its appropriateness.

It is important to reaffirm that the University does not restrict any member of the University community -- student, academic appointee, staff employee -- from exercising all political rights afforded to him as a member of society. It is equally important to clearly specify that no member of the University community may use University facilities and resources for political purposes except as specifically permitted by University regulations. The following portion of this document gets forth the University-wide policies which govern the use of University resources and facilities for political purposes. I am instructing the Chancellors to take whatever action is appropriate to make these policies applicable to their campuses and, where circumstances on a particular campus warrant, to implement further appropriate guidelines.

USE OF UNIVERSITY RESOURCES

Over the years, it has been generally understood that University resources, including supplies, equipment, services, and certain intangible assets such as the University's name, may be used only for purposes related to the University's primary functions of instruction, research, and public service. Many statements to this effect exist, including my reminder of May 29 to the faculty, a copy of which is attached. (See Attachment II)

Notwithstanding this background, I believe it is necessary as the Fall political campaign season approaches to make it explicitly clear to all members of the University community that their personal political activities are not University business and therefore may not be supported either directly or indirectly by University resources. I am asking each Chancellor to examine all areas of campus operations to make certain that all resources under his jurisdiction are adequately protected from misuse through involvement in political activities. The following basic guidelines are now issued:

1. The name, insignia, seal, or address of the University or an, of its offices or units shall not be used for or in connection with political purposes or activity except as consistent with University regulations.
2. In correspondence, statements, or other material relating to political activities or issues, the University title of a faculty or staff member shall be used only for identification; if such identification might reasonably be construed as implying the support, endorsement, advancement, or opposition of the University with regard to any political activity or issue, the identification shall be accompanied by an explicit statement that the individual is speaking for himself and not as a representative of the University or any of its offices or units.
3. University equipment, supplies, and services -- duplicating machines, telephones, mail and messenger service, vehicles, computers, stationery, and other equipment, supplies, or services -- shall not be used for or in connection with political purposes or activities. (This does not prohibit the incidental use of resources, e.g., sound equipment, in connection with permitted use of University facilities.)

USE OF UNIVERSITY FACILITIES

As The Regents are aware, University-wide and campus regulations concerning use of University facilities have had considerable attention in recent years. These regulations stem largely from the work of The Regents' Special Committee to Review University Policies (the Meyer Committee) during 1964-65 and the issuance by the President of University of California Policies Relating to Students and Student Organizations, Use of University Facilities, and Nondiscrimination" on July 1, 1965. I have attached relevant portions of the current regulations, which relate specifically to speech and advocacy, student organizations, and use of facilities. (See Attachment III.[\[1\]](#))

Under delegated authority and in accord with University-wide policies, the Chancellors have consulted with their campus communities and have established principles and priorities for the use of facilities on their campuses. Campus regulations typically delineate time, place, and manner for exercising speech and advocacy, and provide for open discussion areas, placement of tables and posters, distribution of notices and handbills, fund raising, and reservation of meeting rooms. Such related subjects as charges for use of facilities and restrictions on the use of the University's name are also included.

¹ Attachment III is no longer current. See the [August 15, 1994 policy](#) (revised July 28, 2004) on the same subject

In my estimation, University policies concerning the use of facilities have provided for the essential balance between protecting the speech and advocacy rights of individuals and groups and assuring that the University is not diverted from its essential functions or improperly implicated in non-University issues and activities. However, the experience of the past several months has demonstrated the need to emphasize to all individuals and groups authorized to use University facilities that political activities proper to campus forum areas cannot be carried over to the rest of the campus without seriously violating the University's policy of political neutrality, as well as materially interfering with regular educational and research activities. Therefore, a supplementary to existing policies concerning the use of University facilities, the following basic guidelines are issued:

1. No University facility shall be used for political activities other than those open discussion and meeting areas provided for in campus regulations.
2. No display or distribution of political materials, such as posters, notices, handbills, and banners, shall be permitted except as specifically authorized by campus regulations concerning the time, place, and manner of exercising rights of speech and advocacy.
3. Nonmembers of the University community shall not be permitted to engage in political activities on University grounds or in University buildings and other facilities except as specifically provided by campus regulations concerning the invitation of non-University speakers to address meetings on campus.

The limitations expressed in these guidelines in no way constitute prohibitions on the right to express political views by any individual in the University community. Nor is there any prohibition placed on faculty, students, or staff from participating, either as individuals or as members of groups, in the political process of supporting candidates for public office or any other political activity. University-wide and campus regulations concerning an individual's right of free expression and advocacy on the campus are unaltered by these guidelines.

(See Attachments)

Attachment I

last year and anticipates none for this year may complete Form W-4E and give it to his employer to claim exemption from Federal income tax withholding on his wages, the IRS explained.

Students now beginning their summer jobs are among those most likely to be affected by this new provision in the law.

Due to an apparent misunderstanding, some employers have not granted exemp-

tion from withholding to employees who furnished the appropriate certificates. However, proposed IRS regulations, which are expected to be made final soon, clearly indicate that an employer must not withhold Federal income tax from an employee who has submitted an exemption certificate.

Copies of Form W-4E for claiming exemption from withholding are available from IRS District Offices.

[¶ 6743] American Council on Education Guidelines, June 21, 1970.

[Code Sec. 501(c)(3)]

Exempt organizations: Colleges and universities: Political activities: Guidelines.—The American Council on Education has released a statement to provide guidelines for colleges and universities in matters relating to their tax-exempt status as it might be affected by intervention or participation in political campaigns. The Commissioner by letter has stated that he believes the statement sets forth "fair and reasonable" guidelines. Back reference: ¶ 3033.0249.

The American Council on Education has released guidelines on questions relating to tax exemption and political activities at colleges and universities.

The guidelines were written by an ad hoc committee.

President Logan Wilson (of the Council) also released the text of a letter from Randolph W. Thrower, Commissioner of the Internal Revenue Service:

"I appreciate your sending me a copy of the proposed statement of the American Council on Education, designed to provide colleges and universities guidance in matters pertaining to their tax exempt status under Section 501(c)(3) of the Internal Revenue Code as it might be affected by intervention or participation in political campaigns.

"I have reviewed the statement and believe that it sets forth fair and reasonable guidelines with respect to the applicability of the relevant provisions of the Internal Revenue Code. I would like to commend the Council on developing these guidelines for the benefit of its members and other colleges and universities of the country."

The Council has a membership of 1,563 colleges, universities, and educational associations, and 82 affiliates.

**Guidelines on Questions Relating to Tax Exemption and Political Activities
Statement of the American Council on Education**

Recent activities on college campuses have given rise to expressions of concern within colleges and universities and on the part of members of Congress and others that institutions of higher education may inadvertently or otherwise involve themselves in political campaigns in such a way as to raise questions as to their entitlement to exemption under Section 501(c)(3) of the

Internal Revenue Code and as to liability under other provisions of Federal law. Activities which would bring into serious question the entitlement of a college or university to tax exemption could undermine the private support of higher education as a whole, so essential to the very existence of many such institutions. For this reason, educational institutions benefiting from the tax exemption should be aware of the problem and exercise care to make certain that their activities remain within the limits permitted by the statute.

Exemption of colleges and universities from Federal income taxes is dependent upon their qualifying as institutions organized and operated *exclusively* for religious, charitable, or educational purposes described in Section 501(c)(3) of the Internal Revenue Code. For some years that section has provided that "no substantial part of the activities of" an exempt institution may be "carrying on propaganda, or otherwise attempting, to influence legislation" and further, that an exempt institution may "not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

By the Tax Reform Act of 1969, the last-quoted prohibition was incorporated in companion provisions of the Internal Revenue Code dealing with the deduction of contributions for income, gift and estate tax purposes. As interpreted, this provision would deny exempt status to institutions engaging in legislative activities which are *substantial* in the light of all the facts and circumstances. Additionally, it *absolutely* proscribes participation in or intervention by an exempt institution in any "political campaign on behalf of any candidate for public office."

The mere rearrangement of an academic calendar for the purpose of permitting stu-

dents, faculty and other members of the academic community to participate in the election process, without more, would not be deemed intervention or participation by the institution itself in a campaign on behalf of a candidate. Nor does it constitute proscribed legislative activity. This assumes that the recess period is in fact a substitute for another period which would have been free of curricular activity, and that the university itself does not otherwise intervene in a political campaign. During the period of the recess, members of the academic community should be entirely free to participate in the election process or not as they choose and should be so advised. The case may be different if the academic calendar, in fact, is shortened rather than rearranged for the purpose of permitting students, faculty and other members of the academic community to participate in the election process. In that case the question might be raised whether releasing faculty and staff members from normal duties, with pay, to participate in the process represents an indirect participation by the institution itself in a political campaign on behalf of a candidate for public office. Presumably those whose employment obligation is not limited to or governed by the academic year could be permitted to adjust their vacation period to permit time off during a political campaign in lieu of a vacation at another time. (Shortening of the calendar could also generate complaints that the institution is not providing a full term of instruction.)

Educational institutions traditionally have recognized and provided facilities on an impartial basis to various activities on the college campuses, even those activities which have a partisan political bent, such as for example, the Republican, Democratic and other political clubs. This presents no problem. However, to the extent that such organizations extend their activities beyond the campus, and intervene or participate in campaigns on behalf of candidates for public office, or permit nonmembers of the university community to avail themselves of university facilities or services, an institution should in good faith make certain that proper and appropriate charges are

made and collected for all facilities and services provided. Extraordinary or prolonged use of facilities, particularly by nonmembers of the university community, even with reimbursement, might raise questions. Such organizations should be prohibited from soliciting in the name of the university funds to be used in such off-campus intervention or participation.

Every member of the academic community has a right to participate or not, as he sees fit, in the election process. On the other hand, no member of that community should speak or act in the name of the institution in a political campaign.

In order to assure compliance with the requirements of Section 501(c)(3), universities in their corporate capacities should not intervene or participate in any campaign by endorsing or opposing a candidate or taking a position on an issue involved in the campaign for the purpose of assisting or opposing a candidate. Those who in their official capacity frequently speak for the university should undertake to make it clear when expressing individual views that they are not stating a university position. Whether or not a university has participated in or intervened in a campaign within the meaning of the Internal Revenue Code can be determined only by looking at all past and present facts and circumstances relevant to the question.

We would make three further observations:

1. Colleges and universities may be subject to restraints of the Corrupt Practices Act which forbid corporations or labor unions from making direct or indirect contributions in connection with political campaigns (including primaries). Adherence to the Internal Revenue Code restrictions discussed above should eliminate any questions in connection with this Act.
2. State law governing all of the above may be more stringent and should be examined.
3. There may be special restrictions on the use of facilities provided in whole or in part with Federal funds.

[¶ 6744] Rev. Rul. 70-328, I. R. B. 1970-26, 7.

[Code Sec. 46]

Investment tax credit: Unused investment credit: Cooperative association.—A cooperative association has no unused investment credit for carryback and carryover purposes in a year during which it has a net operating loss even though it acquired and placed in service section 38 property during that year. Back reference: ¶ 588.021.

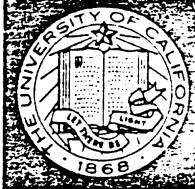
Advice has been requested whether a cooperative association, as defined in section 1381(a) of the Internal Revenue Code of 1954, has an unused investment credit under the circumstances described below.

¶ 6744

During 1968 the cooperative acquired and put into service section 38 property. During that taxable year its operations resulted in a net operating loss as defined in section 172(c) of the Code. No patronage dividends

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Attachment II



University Bulletin

A Weekly Bulletin for the Staff of the University of California ■ Vol. 18 No. 35S May 29, 1970

To the Faculty of the University of California:

As we are all painfully aware, two powerful committees of the California Legislature have taken extraordinary and very serious actions regarding the welfare of University faculty members.

The Senate Finance Committee has not yet reported its recommendations on the University operating budget, but it denied any salary increase for University faculty while approving a five percent salary increase plus other salary adjustment funds for State employees, University and State College nonacademic employees, and State College faculty. The Assembly Ways and Means Committee has acted on both the operating budget and on salaries. It approved a five percent increase for State employees, for University and State College nonacademic employees, and for University faculty, but it denied an increase for State College faculty.

This means that the joint conference committee of the Assembly and Senate will have to deal with the question of faculty salaries in both the University and the State Colleges. The Assembly Ways and Means Committee also cut out of the University budget the entire support component for the work of the University Academic Senate.

These are matters of very grave significance for the future of the University, and I want you to know that I share your feelings of shock and dismay. We in the administration have protested these actions as strongly as we know how, and we will take all possible steps to have these budget cuts restored. You should know, however, that these legislative actions reflect widespread public antagonism and complaint about recent events on the campuses--alleged cancellation of classes, the reconstitution of many courses so that their normal academic content is lost, and prevention of the possibility, for some students, of continuing and completing the normal course work that they need and want. Many legislators believe that the basic academic purposes of our campuses are being distorted and subverted, that academic credit is being given for work that is not appropriate, and that the atmosphere of the campuses has become politicized, with freedom only for some views and not for others.

I think all of us, and the Legislators, too, are aware that the tragic events of this spring have brought about an unprecedented and highly charged atmosphere on campuses throughout the nation. I do not

believe that anyone should really expect campus life to go on as if nothing had happened. At the same time, however, we have a duty to maintain the educational integrity of the institution. Specifically:

1. Each faculty member has professional obligations and assignments; if he cannot or will not meet these obligations, it is our stated policy that, at a minimum, he should go without pay for the time missed.
2. The Academic Senate has been delegated by The Regents the direct responsibility for supervising courses and curricula. Within this responsibility, the various divisions of the Senate must make certain that every student who wishes to do so has full opportunity to complete his normal course work and without penalty.
3. University facilities, supplies, equipment and other resources must not be diverted to partisan political use.
4. The University, as an institution, must not become an instrument of political action.

I want to emphasize that public concern about developments in the University is not merely an expression of those who traditionally have been our critics. Questions are being raised on all sides, and it is up to the faculty and the administration to have sound answers. The Academic Senate is vital to the effective governance of the University. At this time, the faculty--individually and through the Senate--has a direct responsibility for helping to defend the educational integrity of the institution and for enforcing professional standards of academic behavior. This is the only way in which we can regain the confidence of those on whom our support depends.



Charles J. Hitch

(NOTE: For reference purposes, please file this supplement as pp. 190-191, following Volume 18, Number 35.)