October 14, 2004

ADMINISTRATIVE ADVISORY MEMORANDUM

To: College Presidents

From: Frederick P. Schaffer

Re: Use of College Facilities by Candidates for Public Office

This memorandum addresses questions concerning what is permissible on campus with respect to the use of college facilities by candidates for public office. In this Presidential election season, questions have especially arisen where student groups wish to invite one Presidential candidate or his representative or have candidates for other offices appear on campus.

The courts of this State have recognized that partisan political activities are private, not public functions, and the use of public resources for such purpose is improper. Nevertheless, members of the University community retain the right of all other citizens to free speech, including taking positions on public issues, and as individuals to support and vote for candidates for public office. Internal Revenue Service rulings applicable to tax exempt organizations under Section 501(c) (3) have recognized that while a tax exempt organization is prohibited from using its financial resources, facilities or personnel in support of a particular candidate during an election campaign, a forum which provides fair and impartial treatment of candidates, and which does not promote or advance one candidate over another, is acceptable.
Therefore, consistent with the prior memorandum on this subject issued on December 14, 1999, when a candidate for public office is invited to speak at a campus in connection with his or her candidacy for office, all other recognized candidates should be provided the same or comparable opportunity to speak. This obligation of providing an equivalent opportunity to all candidates may be satisfied either by extending actual invitations to all candidates or having a college policy that provides for equal access to all candidates for public office to speak. In order to satisfy the criteria for equal access through a college policy, the “equal access to political candidates” policy should be available to the public and posted on the college website and should also include the name, address, and phone number of an employee or office to call in the event a candidate wishes an opportunity to speak on the campus. This opportunity should be available to all candidates regardless of whether one has already been scheduled to appear on campus since it would be an unfair burden to require the other candidates to investigate whether their opponents have been invited.

This policy applies to all of the campus constituencies including the administration, faculty, and students. If a student organization chooses to invite one candidate to address the organization or the student body, it must afford any other candidate who asks a comparable opportunity. If a college chooses to continue to require invitations, these invitations may either be extended by the student organization which invites the initial candidate or by another student organization or the college administration.

Finally, college facilities may be rented for partisan political purposes including fundraisers. When this occurs, the political organization or candidates must be charged the fair market value. If the fair market value is not charged, then the college is in the prohibited position of using public resources for partisan political purposes and making the equivalent of a campaign contribution.

c: Chancellor’s Cabinet
College Presidents
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Chief Administrative Officers
Chief Student Affairs Officers
Directors of Student Activities
Legal Affairs Designees
Labor Designees
Chief Security Officers