




State of New York
Governor's Office of Employee Relations
2 Empire State Plaza, Suite 1201, Albany, New York 12223
(518) 474-6988 • (518) 486-7304 (Fax)

Eliot Spitzer
Governor

Gary Johnson
Director

October 4, 2007

TO: Directors of Human Resources

FROM: Gary Johnson 

SUBJECT: Guidelines for State Union Campaigns
and Elections

Both State agencies and employee organizations have raised questions about campaign activities during internal union election campaigns. This memo provides guidelines for State managers during the various union internal elections currently underway.

The State remains neutral during any internal campaign and election, whether during the pre-election period or the election period itself. Your agency should treat all individuals conducting such activities the same. However, as described below, State managers must maintain limits on union campaign and election activity to ensure the continued safe and efficient operation of the State's business.

Campaign and election activities by union candidates and their supporters are to be conducted so as not to interfere in any way with the conduct of State operations or State employees' discharge of their work responsibilities. Campaigning or distributing campaign literature in work areas is prohibited. Such activities are restricted to non-work areas, such as parking lots, lobbies, and other designated areas that are open to the general public. However, even in these areas, union election activities should not at any time interfere with State operations. In all instances, a campaigning group must first request and receive permission before using even the public areas in a State building, facility, or department. Only an authorized State manager may grant that permission. The use of State equipment or supplies for campaign or election purposes is also prohibited.

In regard to the posting of campaign and election materials, Article 4.3(a) of the 2003-2007 State/CSEA agreements and the 2003-2007 State/PEF agreement states that no such material shall be posted if it "constitutes election campaign material for or against any person, organization or faction." Article 5.1(c) of the State/Council 82 and State/NYSCOPBA agreements and Article 7.1 of the State/NYSPIA and State/PBA agreements have similar language. Therefore, a union posting that alerts employees about an informational meeting or voting dates and times is appropriate, while material that favors or disfavors any particular candidate is inappropriate and must be removed immediately.

If you have any questions, please contact your GOER liaison.

/jch
Attachments

GUIDELINES FOR ORGANIZATIONAL ACTIVITIES AND CAMPAIGNS

1. *Position of the State.* Employees have the right under Section 202 of the Taylor Law to form, join and participate in, or to refrain from forming, joining or participating in, any employee organization of their own choosing. Employee organizations have the derivative right to undertake to persuade public employees to engage in organizational activities, including the signing of authorization cards and election petitions.

The State's position is one of neutrality during organizational campaigns, pre-election periods and the election process. Management/confidential employees shall not use their official positions to help or hinder employee organizational campaigns or activities, nor shall management/confidential employees permit employees under their supervision to use their official positions to help or hinder such activities.

The State shall not harass, coerce, promise or give special treatment to employees in an effort to influence them to join or support a particular employee organization or to participate in its activities. Management/confidential employees shall not distribute material or any information to any employee organization or interrogate any employee concerning his or her organizational activities.

Organizational activities by employee organizations must be conducted so as not to interfere with the safe and efficient conduct of State operations and the discharge of work responsibilities by State employees. The State shall take appropriate action to prevent the violation of these guidelines by any person acting on behalf of an employee organization.

2. *Requests for Lists of Names and Addresses of Employees and Related Information.* Lists of names and addresses of employees and related information demanded for organizational purposes will not be released by any department, agency or board. Agencies receiving requests for such lists should transmit them to OER. OER will provide such information to all employee organizations, incumbents and challengers alike, upon request and appropriate charges for such lists will be made. An employee organization shall be provided such information unless there is substantial evidence that the organization is seeking this information for purposes unrelated to organizational activities among the employees in the negotiating unit involved.

3. *Policy of Nondiscrimination Between Incumbent Organizations and Challenging Organizations.* All organizations shall have equal access to employees for campaign purposes, i.e., soliciting memberships, distributing literature, obtaining signatures on authorization cards and petitions and related activities during a campaign period. When an employee organization has been recognized or certified as the representative of the employees in a negotiating unit, the campaign period shall begin no earlier than 90 days prior to the date upon which the incumbent organization's representation status is subject to challenge under Section 208 of the Taylor Law.

4. *Use of State Facilities for Meetings.* The State will not make meeting space in buildings or areas which it owns or leases available to an employee organization for campaign purposes (as defined above in subdivision 3) except under the following conditions: (a) suitable space is not reasonably available elsewhere in the area, (b) the employee organization reimburses the State for any costs which the State incurs as a result of making such space available, and (c) the organization requests the use of such space in advance, pursuant to the rules of the department or agency concerned.

No employee shall be released from work for the purpose of attending such meetings.

5. *Organizational Activities in an Agency by Employees of That Agency.* Discussions between and among such employees concerning organizational activities, the solicitation of organizational support, and the distribution of membership and authorization cards and organizational literature during nonworking hours and in nonworking areas, such as lounges, restaurants and cafeterias, are permissible. Such activities shall not impair the safe and efficient conduct of the operation, nor shall they interfere with work duties or work performance.

6. *Organizational Activities in an Agency by Employees of Some Other Agency or Persons not Employed by the State.* Such persons shall have access to employees for the purpose of soliciting memberships, distributing literature, obtaining signatures on authorization cards, and other organizational activities in parking lots, entrances to buildings, and other areas to which members of the public are admitted, provided

that such activities do not inhibit the movement of people or vehicles, impair the safe and efficient conduct of the operation, or interfere with work duties or work performance.

Employee organizations shall be permitted to set up manned tables in such areas during normal working hours subject to the proviso set forth above.

7. Use of Bulletin Boards, Posting of Organizational Materials, and Utilization of Agency Communications Systems. The policy of nondiscrimination set forth in subdivision 3 above shall be applicable to the use of bulletin boards and the posting of materials for campaign purposes (as defined in subdivision 3 above.)

Meeting notices and other organizational materials shall not be hung upon, posted or otherwise affixed to the walls, doors, windows or other appurtenances of facilities and buildings owned or leased by the State. The State's inter- and intra-agency office mail, messenger, reproduction and similar facilities shall not be used for the distribution or duplication of organizational materials.

PROCEDURES FOR HANDLING COMPLAINTS

Agencies should designate responsible officials at the local level to receive initial complaints at that level. The employee organization will be asked to direct the complaints, insofar as possible, to the appropriate level. Complaints should be addressed in the first instance to the local level. If the institution or local designee cannot dispose of the problem or has any questions as to how to handle it, he should request advice of the agency central office designee. If the central office designee cannot dispose of the complaints or would like advice from OER as to the State's policy with respect to the complaint, the matter should be referred to OER. When calling OER, the designee should state that he is a central designee and wishes to consult about campaign practices. He will be referred promptly to the appropriate OER staff member.

If one of the local or central office's designees has disposed of a complaint which he feels is particularly significant, a report of such disposition should be sent to OER.

In connection with the disposition of complaints, local supervision should exercise its best judgment in applying the following guidelines:

1. Disposition of complaints should be handled quickly by informal contacts, such as a telephone call or, if essential, by an informal meeting of as small a group as is necessary to dispose of the matter.

2. The general standards for disposition are (a) even-handed treatment of interested employee organizations, (b) avoidance of annoyance to the public and (c) avoidance of interference with the agency's operation.

**PROCEDURES FOR HANDLING EMPLOYEE
ORGANIZATION COMPLAINTS OF ALLEGED UNEQUAL
TREATMENT AND SIMILAR COMPLAINTS
DURING REPRESENTATION ELECTION CAMPAIGNS**

Where appropriate, agencies should designate responsible officials at the local level to receive initial complaints at that level. The employee organization will be asked to direct the complaints, insofar as possible, to the appropriate level. Generally, complaints should be addressed in the first instance to the local level. If the institution or local designee cannot dispose of the problem or has any questions as to how to handle it, he should request advice of the agency central office designee. If the central office designee cannot dispose of the complaint or would like advice from OER as to the State's policy with respect to the complaint, the matter should be referred to OER. When calling OER, the designee should state that he is a central designee and wishes to consult about campaign practices. He will be referred promptly to the appropriate OER staff member.

If one of the local or central offices designees has disposed of a complaint which he feels is particularly significant, a report of such disposition (on the attached form if possible) should be sent to OER.

In connection with the disposition of complaints, the following guidelines should be followed:

1. Disposition of complaints should be handled quickly by informal contacts such as a telephone call or, if essential, an informal meeting of as small a group as necessary to dispose of the matter.
2. Genuine consideration should be given to employee organization views. The overall standards for disposition are (a) even-handed treatment of interested employee organizations, (b) avoidance of annoyance to the public and (c) avoidance of interference with the agency's operation. Disposition of complaints are matters on which local supervision will have to use its best judgment.