

Ethical Principles and Code of Conduct Opinion

Opinion Number: 1002-11

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Issue

The Ethics Complyline has received an allegation by an anonymous source concerning a flag displayed in the window of an office. The specific issue is whether or not the display of a flag in an office window in a University building is a violation of University of Kentucky rules and regulations. The University rules and regulations are based on Federal laws and regulations that prohibit tax exempt 501c3 organizations and similar organizations---public universities like the University of Kentucky---from engaging in political activities.

Facts

The anonymous source alleges as follows:

There is a 'Friends of Coal' flag hanging in an office window facing a prominent student walk way. The flag is approximately 3 feet by 5 feet in size. The flag is located in one of the first floor office windows in the Mining and Mineral Research building located at 504 Rose Street in the heart of the University of Kentucky Campus. The flag has been in its current location for more than a year. The message is clearly a political message and is in violation of the paragraph below that is listed on the website of the Office of Legal Counsel.

The facts are stated in the allegation. There is no dispute of facts. The last sentence of the poster's allegations is the heart of the issue.

Applicable Regulations

Governing Regulation I.K Political Activity

"The University cannot endorse, support or promote any political candidate or any partisan political activity. Therefore, University facilities shall not be used for conventions, rallies, or any campaign activities that would further the interests of a political party* or of a candidate or candidates for public office. The facilities of the University may be used for public forums to which all legally qualified candidates for a public office are invited to speak provided that all such candidates are given equal access and opportunity to speak.

University facilities may be used by registered student organizations for meetings with a candidate or candidates for public office when meetings are open in attendance to students, faculty members, and staff employees of the University."

"Political party" is defined as a voluntary association of persons formed and organized for the purpose of nominating or electing candidates for public office. This definition includes, but is not limited to, the meaning of "political party" as defined in KRS 119.010."

NOTE: KRS Chapter 119.010 has been repealed since GR I.K was written. The new applicable law is KRS 118.015(1). The office responsible for the revision of Governing Regulations has been notified of this change and will send an amended GR to the Board of Trustees as appropriate.

KRS 118.015(1) defines as follows: "A 'political party' is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and whose candidate received at least twenty percent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for."

From the University's Legal Office web site:

"CAMPUS POLITICAL ACTIVITY

Members of the University Community:

While the UK campus is always a center of civic involvement and political discussion, there are restrictions, based on federal and Kentucky law and UK regulations, on political activities that may occur on the campus.

Subject to the exact language of the laws and the UK Regulations, those general guidelines must be followed:

1. University resources (buildings, facilities, email system, supplies, etc.) shall not be used to endorse, promote, or support any political candidate or political party.
2. University facilities may be used as a public forum to which all candidates shall be invited to participate.
3. Registered student organizations may use UK facilities for meetings of their organization and the organization may invite political candidate(s) to be their guests.
4. Public support of a candidate or party by members of the University community (for example, a letter to a newspaper, shall come from a UK employee whose identity is that of a citizen of the Commonwealth and not an employee of UK.

The University values the contribution of all students, faculty, staff and visitors. Most importantly, we must always be mindful of fostering an environment dedicated to respecting the rights and beliefs of all members of the University community."

Furthermore, in the Frequently Asked Questions section, the web site states:

"University employees may not use or provide University resources, including but not limited to mailing lists, office space, property, telephones (Office or University-paid cell), technology, photocopying, or personnel to support or oppose a political candidate, campaign, party, or action committee or group. The University and its employees may not use institutional letterhead or the email system in support of or in opposition to a political candidate, campaign, political party, action committee, or group. Unsolicited interoffice communications, including but not limited to email or other digital communications in support of or opposed to a candidate, campaign, political party, action committee, or group, are prohibited. The University or its employees may not place political advertising (e.g., signage) on University property, and no political candidate or non-student political group should be permitted to place political advertising on University property."

Rationale / Discussion

Based on the facts noted below, the Ethics Committee does not believe that there is any violation of University policy or the law.

Discussion of the specific allegation is as follows:

The federal and state laws and University regulations prohibit University resources and facilities, including buildings, from being used to endorse, promote, or support a **political candidate or political party**.

"Friends of Coal" is a volunteer organization in which citizens of Kentucky and other states may be members. Membership is free and involvement of members is at their discretion. On its web site, the mission of Friends of Coal is stated as follows: "The Friends of Coal is dedicated to inform and educate Kentucky citizens about the coal industry and its vital role in the state's future. Our goal is to provide a united voice for an industry that has been and remains a critical economic contributor to Kentucky. By working together, we can provide good jobs and benefits for future generations, which will keep our children and grandchildren close to home."

Friends of Coal is clearly not a political party or a political candidate. Friends of Coal may be considered a social organization and/or an environmental organization. It may be supportive of a controversial subject matter (mining of coal) but it is no more a political party than organizations such as "Citizens for Atomic Energy," "Citizens Against Atomic Energy," or "Citizens for Wind Energy" would be. Furthermore, it is an organization, not a political candidate.

The described action is not a violation of Federal or state law or University regulations.

Members of the Ethics Committee

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