

STATE OF MAINE
EMPLOYEE ORGANIZATIONAL ACTIVITIES

I. Policy Statement

It is the State's policy to promote the improvement of the relationship between the State of Maine and its employees by providing a uniform basis for recognizing the right of State employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment. In order to provide equal treatment for each employee organization and, at the same time, be fair to the taxpayers of Maine, the State is adhering to the following policy concerning time off from work to participate in internal employee organization or union affairs.

II. General Requirements

By law, an employer must remain **completely neutral** in the organizing and election processes. Managerial/confidential employees and supervisory employees must not use their official positions to help or hinder any employee organization or election campaign, or to permit any employees under their direction to use their official positions to help or hinder such activity. Employees must not be harassed, coerced or promised special treatment in an effort to influence their support or vote. Managerial, confidential, and supervisory employees are not to distribute material or any information for any employee organization, or to ask any employee how they voted or may vote.

It is also expected that competing employee organizations will conduct organizing and election campaign activities so as not to harass any employee or to interfere with State operations. Appropriate action will be taken to prevent any violations of these guidelines by any person acting on behalf of an employee organization.

III. Supervisor Participation Exception

Supervisors who are members of a bargaining unit (e.g. MSEA Supervisory Services Bargaining Unit or the FOP Maine State Law Enforcement Supervisors) may engage in organizing activity with respect to their own unit, but only in their unit. With respect to organizing activity in other units, all supervisors should be mindful of the State's **legal obligation of neutrality** and must not use their positions as supervisors to interfere with, restrain or coerce other employees, particularly subordinates, in exercising their protected rights to join, form, and participate in activities of labor organizations of their own choice. See 26 M.R.S. § 979-B.

IV. Uniform Guidelines for Organizing and Election Campaigns.

To ensure the State's neutrality, the following guidelines should be followed and applied equally to all employees and employee organizations. These guidelines must be general and cannot anticipate all questions which might arise in this complex area. Please refer any questions to the Office of Employee Relations.

Union organizing activity falls into two categories: distribution of literature and solicitation. These activities, either by State employees or non-employee organizers, are subject to restrictions as to content, time, and place. Different rules apply to State employees and non-employee organizers.

A. Definitions

"Campaign Material" means literature that is not purely informational; it is material that advocates or characterizes a particular viewpoint or set of circumstances, or promotes one organization over another, perhaps by denigrating the other organization.

"Distribution" means handing out or distributing literature concerning unions.

"Non-Work Areas" means parking lots, building entrances and exits, employee lounges and cafeterias, and includes space on bulletin boards as more fully explained in Section H below.

"Solicitation" includes conversations and handing out petitions or union membership authorization cards with or without conversations. Social conversations among employees about labor relations must be treated like any other social conversation, unless the purpose of the conversation is solicitation of membership or bargaining agent authorization, in which case the conversation becomes solicitation.

"Work Areas" include, but are not limited to, offices, hallways, desk areas, reception rooms, areas around copying machines, briefing rooms, and lobby areas. Additionally, "Work Areas" include, but are not limited to State boats, State vehicles, labs, maintenance garages, courts, and areas open to the public while the employee is on duty and in work status.

"Work Time" means the period of time actually spent by employees in the performance of job duties. "Non-work time" includes authorized lunch periods or break periods.

B. Solicitation and Distribution by State Employees

1. State employees may:
 - i. solicit during non-work time in non-work areas;
 - ii. distribute literature in non-work areas during non-work time.
2. State employees may not:
 - i. solicit during their own work time or in work areas;
 - ii. solicit other employees during the other employees' work time;
 - iii. distribute literature in work areas;
 - iv. distribute literature during work time; or
 - v. use the State's mail, messenger, reproduction, email, telephones, instant messenger and related facilities, means of communication and technology for solicitation or distribution of any employee organization materials.
3. In no event may such activities:
 - i. interfere with the performance of employee's duties;
 - ii. interfere with free entrance to and exit from work stations or places of employment;
 - iii. violate the agency's security regulations or policies; or
 - iv. constitute an annoyance to the general public.
4. Off-duty State employees are governed by the solicitation and distribution rules applicable to Subsection C.

C. Solicitation and Distribution by Non-Employee Organizers

1. Non-employee organizers may solicit or distribute literature in non-work areas during employees' non-work time.
2. Non-employee organizers may not:
 - i. solicit or distribute literature during work time;
 - ii. solicit or distribute literature in work areas; or

- iii. use the State's mail, messenger, reproduction, email, telephones, instant messenger and related facilities, means of communication and technology for solicitation or distribution of any employee organization materials.
3. In no event may such activities:
- i. interfere with the performance of employees' duties;
 - ii. interfere with free entrance to and exit from workstations or places of employment;
 - iii. violate the agency's security regulations or policies; or
 - iv. constitute an annoyance to the general public.
4. Access to employees by the current bargaining agent is permitted where appropriate and consistent with relevant collective bargaining agreements.

D. Litter

Distribution of leaflets on cars in parking lots should be permitted only if arrangements have been made in advance by the employee organization to dispose of any litter caused thereby, or to defray the cost of cleaning the area. The littering of other places should not be permitted.

E. Leave for Campaign Activities

Employees may utilize accrued vacation, personnel, or compensatory time, or take leaves of absence without pay from work, for the purpose of soliciting organizational membership, provided, within the judgment of the department head or his/her designee, the employee can be spared without interfering with State operations, consistent with relevant collective bargaining agreements.

F. Requests for Lists of Names and Addresses of Employees

Any requests for names and addresses of employees should be refused and referred to the Office of Employee Relations for action.

G. Use of State Facilities for Meetings

Current bargaining agents may have specific rights to the use of meeting space, consistent with the terms of relevant collective bargaining agreements. Where there is appropriate meeting space available at other times in buildings owned or leased by the State, such space may be made available to other employee

organizations for campaign or other purposes provided that (a) such space is made available on the same basis as to other employee organizations and civic or other groups which request it, (b) the organization agrees to reimburse the State for any additional expense incurred in the furnishing of such space, and (c) requests for the use of such space are made in advance with the appropriate agency or institution head. Any restriction or limitations upon activity by an assembled group shall be continued, but every effort should be made to be consistent - not only with past decisions but with decisions relating to competing union groups.

Preferably, all such decisions should follow existing rules and regulations or written departmental policy. Where no written policy or rule exists, a request should be made to the Office of Employee Relations for determination. A written record of decisions and determinations should be maintained.

State employees may attend such meetings only during periods when they are not on duty and should not be released from regular duties for such purpose.

H. Use of Bulletin Boards

Current bargaining agents may have specific rights to the use of bulletin boards for specific purposes under the terms of relevant collective bargaining agreements. Competing employee organizations may post purely informational literature on certain other bulletin boards provided for employees' use, after obtaining approval from the agency concerned, provided it does not interfere with current bargaining agent posting rights.

Campaign material, or material which is defamatory or derogatory to the State or its representatives, shall not be posted on any bulletin board by any employee organization. Campaign material, which is not permitted, is distinguished from permissible informational literature. Please review the definition of "campaign material" provided above. If such materials are found on bulletin boards, they will be removed by the agency personnel officer or the agency personnel officer's designee and returned to the employee organization, if known. A copy should be preserved and forwarded to the Office of Employee Relations.

Neither Informational literature nor campaign material may be hung upon, posted or otherwise affixed to the walls, doors, windows or elsewhere on facilities and buildings owned or operated by the State.

Any questions as to the appropriateness of any posting should be referred to the Office of Employee Relations.

I. Use of State Resources

The State's mail, messenger, reproduction, email, telephones, instant messenger and related facilities, means of communication and technology shall not be used for solicitation or distribution of any employee organization materials.

J. Office Space

Office space should not be provided to any employee organization.

K. Employee Organization Participation in Management Meetings

No employee organization representatives should be permitted to address employee work groups concerning collective bargaining matters during meetings called by management for State purposes, such as routine staff meetings. This does not, of course, apply to grievance processing.

L. Distribution and Enforcement of These Guidelines; Complaints

Every reasonable effort should be made to bring these guidelines to the attention of the employees in collective bargaining units in the manner most appropriate to each department or agency. Appropriate action should be taken to prevent violation of these guidelines.

Complaints from employee organizations regarding unequal treatment or enforcement of these guidelines should be referred to the Office of Employee Relations.

Any questions concerning these guidelines should be directed to the Director of the Office of Employee Relations employee.relations@maine.gov. Inquiries should be directed to central agency administrative staff, who will consult with the Office of Employee Relations as necessary.