

Office/Contact: Office of the President

Source: SDBOR Policies 4.1.7, 4.5.3 and 4.9.3; University Policy 4:9

Link: <https://public.powerdms.com/SDRegents/documents/1726687>;

<https://public.powerdms.com/SDRegents/documents/1727133>;

<https://public.powerdms.com/SDRegents/documents/1727136>;

<https://www.sdstate.edu/sites/default/files/Conflicts%20of%20Interest%20Reporting%20and%20Approval.pdf>

Forms: [Elective Political Office Report Form](#)

SOUTH DAKOTA STATE UNIVERSITY
Policy and Procedure Manual

SUBJECT: Employees Seeking and Holding Elective Political Office

NUMBER: 4:11

1. Purpose

This policy and its procedures set forth the University protocols for employees interested in campaigning for elective political office and holding compatible, part-time elective political office while employed at the University, in order to ensure compliance with SDBOR policies, University policies, and applicable state and federal law.

2. Definitions

- a. Elective Political Office: a position in federal, state, county, municipal, township, school district, or any special district or other body of office exercising executive, administrative, or legislative powers of the government that is subject to popular election.
- b. Neglect of Duty: a conflict of interest, including a conflict of commitment, or more than occasional neglect of some duty of performance evidenced by the employee's position description or by other proof of essential duties or functions, such as in the employee's annual performance review.

3. Policy

- a. The University encourages its employees and students to be engaged participants in community and public affairs. Nothing in this policy is intended to limit the rights of students or employees to express their opinions as private citizens on scholarly matters or matters of public concern, or to devote their efforts to political activity in their individual capacities. State law protects University employees from being dismissed on the basis of their political opinions. SDCL 13-49-14.

Nevertheless, certain political activities that may be pursued by University employees in their official capacities are incompatible with the University's tax-exempt status, or result in the University effectively, and impermissibly, supporting a candidate for public office or a partisan political group. Other political activities undertaken by a University employee in either their official or individual capacities may also become a conflict of commitment or a conflict of financial interest with their University employment. To

avoid these concerns, it is the expectation of the University that its employees will engage in political activities in the manner described in SDBOR Policy 4.1.7 and in this policy.

b. Candidacy for Elective Political Office

- i. University employees are authorized to become a candidate for Elective Political Office, and cannot lose their job or experience a loss of job status for campaigning for such Office, except where campaigning is shown to cause, or where campaigning for or obtaining the Office will inevitably result in, the employee's Neglect of Duty to the University.
- ii. All University employees who are candidates for Elective Political Office, including full-time and part-time Offices, must make specific arrangements with the University President, or designee, to assure that the employee's regular duties are performed.

c. Obtaining Elective Political Office

- i. As with campaigning for Elective Public Office, University employees who are elected to part-time Office are required to make specific arrangements with the University President, or designee, to ensure no Neglect of Duty to the University occurs while the employee serves in Office.
- ii. University employees who obtain a full-time Elective Public Office are presumed to have a commitment of time to that Office that is incompatible with, and would serve as Neglect of Duty to, their University employment. Such employees may obtain leave without pay as provided in SDBOR Policy 4.5.3.
- iii. Pursuant to Article III, Section 12 of the South Dakota Constitution and SDBOR Policy 4.1.7, University employees who obtain the part-time Elective Public Office of South Dakota State Representative or South Dakota State Senator must resign their University employment prior to the beginning of their term in Office.
- iv. In order to practically meet the requirement that specific arrangements be made with the University President, or designee, for all University employees campaigning for full- and part-time Elective Political Office, or for all employees serving in part-time Elective Political Office, the University requires these employees provide an Elective Political Office Report to the University President at the beginning of their campaign. This Report shall include information regarding the duration of the campaign and the Elective Political Office, the estimated time commitments for both, and the extent to which the Office officially engages with the University or the SDBOR—whether via contracts, shared services, legal or policy oversight/ enforcement, or other forms of formal agreement and collaboration..
- v. The University President, or designee, is thereby authorized on behalf of the University, and in consultation with the employee's supervisor, to ascertain via the Elective Political Office Report and other reasonable information requests whether an employee's campaign for Elective Political Office, or holding of part-

time Elective Political Office, may require—and the business needs of the University allow for—adjustments in the employee’s work assignments.

- vi. For a campaigning or office-holding University employee, those employment adjustments that would result in a loss of the employee’s job status will only be pursued where the employee’s political activity has resulted in, or will inevitably cause, (1) the employee’s Neglect of Duty to the University, or (2) an unauthorized or impermissible conflict of interest as defined in state law, SDBOR policy, or University policy.
- vii. Where Neglect of Duty is not found or is not inevitable, employment adjustments may be permitted so long as the adjustments do not result in a materially adverse change to the terms and conditions of the campaigning or office-holding University employee’s employment, as agreed to by the employee in writing.
- viii. The laws and policies regarding conflicts of interest and commitment, such as SDBOR Policy 4.9.3 and University Policy 4:9, also apply to those University employees seeking or holding Elective Political Office.
- ix. Unless a University employee has been authorized to make an official statement on behalf of the University or the SDBOR, employees should make every effort to indicate that they are not speaking or writing as University or SDBOR representatives, and that their opinions are given in their individual capacities.

4. Procedures

- a. Within ten (10) business days after the start of the University employee’s campaign activities for Elective Political Office, or earlier, the employee shall provide a completed copy of the Elective Political Office Report to the Office of the University President.
- b. The Elective Political Office Report shall be updated whenever the campaigning for, or holding of, Elective Political Office results in a substantial increase in the burden on the employee’s regularly scheduled working hours or other obligations to the University (e.g., FLSA-exempt employee obligations) in relation to what was reported in the immediately preceding Report.

5. Responsible Administrator

The University General Counsel, or designee, is responsible for biennial and ad hoc review of this policy and biennial review of procedures. The Office of Human Resources, or successor unit, is responsible for maintaining confidential personnel records and assisting in monitoring conflicts. The University President is responsible for conflicts management as specified by SDBOR policy, and approval of this policy and its procedures.

SOURCE: Approved by President 1/30/2019. Revised 01/29/2024 (clerical).