

Policy CO-UF-PO2 Solicitations

- I. Policy
- II. Definitions
- III. Relevant Federal and State Statutes
- IV. Relevant UT System and UTA Policies, Procedures, and Forms
- V. Who Should Know
- VI. UTA Officer(s) Responsible for Policy
- VII. Dates Approved or Amended
- VIII. Contact Information

I. Policy

No solicitation shall be conducted on property or in any building, structure or facility owned or controlled by the University unless permitted by the Regents' Rules and Regulations.

Permissible Solicitations

The following activities shall not be deemed solicitations prohibited by this subsection when conducted in accordance with the approved rules and regulations of the U. T. System or the University. Such activities must be conducted in a manner that does not disturb or interfere with academic programs or administrative activities of the University, or any program or activity that is conducted by, or authorized by, the University; does not interfere with the entry to or exit from a building, structure or facility; does not interfere with the flow of pedestrians or vehicular traffic on sidewalks or streets or at places of ingress and egress to and from property, buildings for facilities; does not harass or intimidate the person being solicited; and does not violate applicable federal, state or local laws or regulations:

Expressive Activities: Engaging in expressive activities, as defined by Texas Education Code Section 51.9315(2) in a common outdoor area of the campus.

Newspapers and Magazines: The distribution, sale or offer for sale of a newspaper, magazine or other publication by means of an unattended rack or vending machine in areas designated in advance by the President or designee.

Food and Drink: The sale or offer for sale of food, drink or any other product that may be lawfully sold by means of a vending machine that is operated by the University or its subcontractors under an approved written agreement in an area designated in advance by the President or delegate.

Publications: The sale or offer for sale by the University or its subcontractors, under an approved written agreement, or any publication of the University or of any book or other printed material to be used in the regular academic work of the University.

Services and Third Party Offerings: Any offering of services and related products by a third party or by the University on behalf of a third party (a "Third Party Service Offering") established and maintained primarily for the convenience of students, faculty, or staff. A Third Party Service Offering that involves campus credit card marketing activities shall comply with all requirements of Chapter 761 of the Texas Business and Commerce Code and the University shall ensure that a session on credit card and debt education, as well as protecting personal information from identity theft, is included in all orientation programs for new students. Such Third Party Service Offerings must be established and maintained pursuant to a written agreement between the third party and the University that:

(a) clearly sets forth the nature and scope of the solicitation activities that the third party is permitted to undertake on University property and is construed to prohibit any solicitation activities not specifically enumerated in such written agreement;

(b) is of specified duration with defined renewal procedures and periods; and

(c) includes appropriate provisions to protect the privacy of students, faculty, staff, and patients and requires compliance with the first paragraph under "Policy".

Services may include any service or service facility for the convenience of the students, staff, faculty, or *bona fide* visitors that is operated or maintained by the University or its subcontractors or lessee, under an approved written agreement, including but not limited to:

(a) any bookstore, specialty store, laundry, pharmacy, cafeteria or food service;

(b) a child care facility limited to children or *bona fide* dependents of students, faculty or staff;

(c) a state or federal credit union with membership limited primarily to students, faculty and staff of the University and other area institutions of higher education or other component institutions and the U. T. System, and the officers and employees of organizations closely related to the University's educational mission, such as officially recognized alumni associations and cooperative bookstores;

(d) private post office boxes, under an approved written agreement, that limits the use to students, faculty and staff of the University; or

(e) unmanned teller machines and drop-boxes for express delivery services that are located and maintained under an approved written agreement that prohibits

advertising the location of the unmanned teller machine or drop-boxes to the general public.

Any provider who violates State law, the Regents' *Rules and Regulations*, or the applicable University guidelines in the course of activities permitted under this provision, shall not be permitted to participate in such activities for a period of one (1) year from the date of the violation.

Sale of Items at Events: The sale or offer for sale by the University or its subcontractor, under an approved written agreement, of food, drink, souvenirs, novelty items and programs at athletic contests or programs or other events sponsored or authorized by the University.

Collections and Sales by University Organizations: The collection of contributions or the sale of merchandise, publications, food or nonalcoholic beverages by Student Congress or a registered student, faculty or staff organization. Student Congress or a registered student, faculty or staff organization may not conduct such solicitation activities on behalf of or for the benefit of any individual, association, organization, corporation or group of individuals that is not registered as a student, faculty or staff organization or that is not otherwise qualified under Item 501(c)(3) Organizations . In the case of specific drives for disaster relief, the Office of Student Affairs and Organizations may approve a drive that complies with all other provisions of the Regents' *Rules and Regulations* and University regulations. Texas law allows a registered student organization to be relieved from State sales tax liability in certain circumstances detailed in the *Texas Tax Code*. All proposed sales events are subject to applicable provisions of this policy and to other UTA policies concerning the time, place and manner of solicitation. The sales must be for the benefit of the registered student organization and may not involve another entity not authorized to solicit under this policy. The items offered for sale may not be items that the organization has obtained on consignment.

Collection of Fees or Dues: The collection of membership fees or dues by registered student, faculty or staff organizations at meetings of such organizations scheduled in accordance with the University's facilities use policies.

Admission Fees: The collection of admission fees for the exhibition of movies or for other programs that are sponsored or presented by the University or by Student Congress or a registered student, faculty or staff organization when scheduled in compliance with the University's facilities use policies.

501(c)(3) Organizations: Solicitation of funds by any organization that can present to the President or delegate written evidence from the Internal Revenue Service that the organization has been granted an exemption from taxation under Section 501(c)(3), Internal Revenue Code. Such solicitation must be conducted in an area(s) designated for that purpose by the President or delegate. Persons soliciting on behalf of an organization must have credentials identifying them as authorized agents of the organization. Permission to solicit shall not be used by the organization as an endorsement by the University. No organization may solicit

under this section for more than a total of 14 days, whether continuous or intermittent, during each state fiscal year.

Goods and Services for Residence Halls: Occasional sales or offers of sales of goods or services that comply with applicable federal, state and local laws and regulations and are conducted solely for the resident(s) of an individual University residence hall room or an individual apartment when a resident of such room or apartment has given specific invitation in advance for salespersons to come to the individual residence hall room or the individual apartment for that purpose. This exception does not authorize sales or offers of sales of goods or services within a University residence hall room or apartment by the occupant, door-to-door sales or offers of sales of goods or services, or sales or offers of sales of goods or services to persons who are present in an individual residence hall or apartment but are not residents of such room or apartment.

Event Sponsors: Under the terms of an approved written agreement, the acknowledgement of a sponsor of an Intercollegiate athletics department or athletic event of the University may be displayed on the official web page of such athletics department and, at the option of the University, a textual hypertext link and/or a graphic hypertext line to the web page of the sponsor may also be displayed. Such agreement may also provide for an acknowledgement of the sponsor to be announced over a public address system, displayed on a scoreboard or electronic message center or displayed by other means in athletic facilities at locations designated for that purpose pursuant to an approved policy of the University. The content of such acknowledgement and any use of the name, logos, symbols or marks of the University by the sponsor must be according to the established formats approved by the Trademark Licensing Director or, if nonstandard, have the prior written approval of the Trademark Licensing Director.

Electronic Message Centers: Advertising displayed on an outdoor electronic marquee or message center owned and operated by the University.

Athletic Tournaments: Advertising and merchandise displayed at an athletic tournament that is sanctioned by the official national or international organization for such athletic competitions; provided that, such advertising and merchandise are required to be displayed under the terms of one or more contractual agreements between such organization and one or more sponsors and such contracts were in effect prior to the date that the University was selected as the site for the tournament.

Raffle Tickets: The sale or offer for sale by a registered student organization of charitable raffle tickets on behalf of an organization that is authorized to conduct a charitable raffle under the provisions of the Texas Occupations Code, Section 2002.001 et seq.

Computer Hardware and Software: The display and demonstration by manufacturers and distributors of personal computer hardware and software suitable for use by students and faculty in the academic programs of the University and the presentation of information and demonstrations related to

remote networks for personal computers by entities that provide access to such networks. Such activities may be conducted once each academic year upon invitation by the President or delegate and must be limited to the time and place designated by and under guidelines specified and controlled by the University. A manufacturer or distributor of personal computer hardware or software or an entity that provides access to remote networks for personal computers may not make sales or take orders.

Benefit Plan Information: The distribution or presentation to officers and employees of the University of material related to health benefit plans, life insurance, tax-sheltered annuities, retirement plans or programs, or other benefits that are available to such officers and employees through employee benefit plans or programs offered by or approved by the U. T. System. Such material may be distributed or presented only at the Office of Human Resources of the University at the benefits office of a health profession practice plan of a health component institution, or at meetings scheduled for that purpose pursuant to guidelines established by the U. T. System Office of Human Resources. Those companies that are currently authorized Optional Retirement Program vendors may, at the invitation of the University, be permitted to engage in on-campus group seminars for the purpose of providing education, product marketing, and participant enrollment, subject to such rules and limitations as the University may deem necessary and appropriate. Currently authorized Optional Retirement Program vendors may advertise such on-campus meetings throughout the University, subject to prior approval by the University. The term currently authorized Optional Retirement Program vendor includes a company that has a current contractual agreement with the U. T. System to provide Optional Retirement Program products to officers and employees of the U. T. System but does not include those companies with grandfathered Optional Retirement Program participation or vendors of Tax Sheltered Annuity products or services.

Employees: Solicitation by the officers or employees of the U. T. System or the University acting in the course and scope of their authority.

Employee Discount Programs: The distribution or presentation to University employees of material related to products and services offered by companies that provide employee discount programs, merchandise membership programs, credit union and banking programs, or other benefits that are available to such officers and employees through discount plans or programs approved by UTA. Such material may be distributed or presented by the Office of Human Resources, with the approval of the President, and placed on UTA web pages for the purpose of providing education, product and service information, and participant enrollment, in accordance with guidelines promulgated by UT System.

Printed Material from UTA Organizations: Subject to the University's reasonable and nondiscriminatory rules concerning the time, place and manner of distribution, sale or display of material, the distribution, sale or display by a students' association or a registered student, faculty, or staff organization of printed material (including any newspaper, magazine or other publication, any leaflet, flyer or other informal matter, or any sign, banner or exhibit), or the

distribution or display of such material, at no cost, by individual students, faculty, or staff, or oral statements by students, faculty, staff or their associations or registered organizations. A publication within this rule may contain paid advertising, but only if the publication is devoted to promoting the views of a not-for-profit organization or to other bona fide editorial content distinct from the advertising. Printed material and oral advertisements under this rule may also contain advertising for academic or administrative units of the University, for registered student, faculty or staff organizations or for organizations that are not operated for profit. This rule does not authorize any form of advertising except as provided in the preceding two sentences. This rule does not authorize the distribution, sale or display of any publication operated for profit. An organization or publication is operated for profit if any part of the net earnings of its operation or distribution inures to the benefit of any private shareholder or individual.

Commonly Used Services

Delegation: The display and distribution of printed material from tables or booths by providers of services that are commonly utilized by students, faculty and staff of the University, such as financial institutions, long distance telephone carriers, utilities, housing locators, printers and duplicators, tutors or employment agencies. The University may designate no more than two, one-day periods each academic year during which all authorized providers may engage in such activities in an area selected by the University. The number of providers authorized to participate on each of the two, one-day periods will be determined by the University. The activities of a provider must be limited to the time and place designated by the University and must be conducted in compliance with this policy's paragraph on Permissible Solicitations and other guidelines specified by the University. A provider may not make sales of or take orders for services. The University shall charge an appropriate fee for the privilege of conducting such activities.

Athletic Events, Professional Entertainment Touring Events, or Cultural or Historical Festivals or Exhibitions:

(a) Delegation. The President may designate a reasonable number of areas in a reasonable proximity to the exterior of a facility used for intercollegiate athletic events, professional entertainment touring events, or occasional cultural or historical festivals or exhibitions, and may authorize such areas to be used for the display of motor-propelled vehicles and for the location of booths, tables, or kiosks to be used for the display of merchandise, the distribution of free samples of merchandise, and the display and distribution of printed material related to merchandise, products, or services. Such activities may be authorized only on the day before and the day or days of an intercollegiate athletic event, a professional entertainment touring event, a cultural or historical festival or exhibition, or an event that is related to athletics that takes place in the facility. The president may designate a reasonable number of areas inside a facility to be used for intercollegiate athletic events, professional entertainment touring events, or cultural or historical festivals or exhibitions for such activities if the UTA PD approves the designation and use of the area for safety purposes. All persons engaged in or associated with such displays and distributions must conduct those

activities in compliance with State law, the Regents' Rules and Regulations, and with other guidelines specified by the institution. Such persons may not make sales of or take orders for such vehicles, merchandise, products, or services. The institution shall charge an appropriate fee for the privilege of using such areas.

Elections: In the course of an election process held pursuant to the approved constitution, bylaws or election code of a faculty or staff governance organization or of the student governance organization of the University, or an election held pursuant to the approved rules, regulations or policies of the University, requests may be made to support or to vote for or against a qualified candidate for an office or position to be filled at such election or to support or to vote for or against a proposition to be decided at such election. Such request may be made only by the candidates for an office or position; by a registered student, faculty or staff organization and its members; or by a student, faculty member or staff member. Individuals and organizations making such requests must conduct all activities in compliance with the approved time, place and manner regulations of the University; the provisions of the constitution, bylaws, election code, rules, and regulations or policies authorizing the election. No faculty member, staff member or student employee may engage in such activities during any period that he/she is being paid to perform services for the University.

Support of a Candidate or Proposition

(a) By institution students, faculty or staff or registered organization. The request to support or to vote for or against a candidate for an elective position or office or for or against a proposition on a ballot for a public election held pursuant to federal, state or local laws when such request is made by a registered student, faculty or staff organization, or by a student, faculty member or staff member. Persons or organizations must conduct such activities in compliance with the first section under Policy, Permissible Solicitations; with the time, place and manner regulations of the University; with the provisions of federal, state or local laws governing such election; and may not use any equipment, supplies or services of the University. No faculty member, staff member or student employee may engage in such activities during any period that he/she is being paid to perform duties for the University. No registered student, faculty or staff organization that receives state funds from any source may engage in such activities.

(b) By non-institution persons or organizations. The request to support or to vote for or against a candidate for an elective position or office or for or against a proposition on a ballot for a public election held pursuant to federal, State or local laws when such request is made by a non-institution person or organization when the polls are open for voting during the early voting period or voting period in which an institution building is being used as a polling place. Persons or organizations must conduct such activities in compliance with the first section under Policy, Permissible Solicitations; the time, place and manner regulations of the University, and the provisions of federal, state or local laws governing such election, including Texas Election Code Sections 61.003, 85.001, and 85.036.

Web Page Link: The placement on a university web page (as defined below) of textual and graphic information and a hypertext link to the web site of a person or commercial entity for which the University may receive revenue or avoid costs as

a result of the permitted solicitation (web site solicitations). Web site solicitations shall be placed on university web pages in accordance with guidelines promulgated by U.T. System. A university web page is a page created or maintained by or on behalf of the University or an office, department, or division of the University, and located within the University's information technology environment.

Roommate Advertisements: Subject to the University's reasonable and nondiscriminatory rules concerning time, place and manner of posting, students, faculty and staff may post advertisements for roommates, subleases and sales of used goods that the seller has personally owned or used.

Bicycle Share Programs: Subject to the University's reasonable and nondiscriminatory rules concerning time, place, and manner of posting, advertising displayed on bicycles and on and round kiosks participating in bicycle share programs approved by the University.

Impermissible Solicitation: All solicitation must be conducted in compliance with the first paragraph under Policy Permissible Solicitations; and the time, place, and manner regulations of the University. If, after reasonable investigation, it is determined that impermissible solicitation is being or has been conducted or that permissible solicitation is being or has been conducted in violation of the Regents' *Rules and Regulations* or the approved rules and regulations of the institution (1) a student, a faculty member, or a staff member will be subject to such disciplinary penalty as may be appropriate, and (2) a students' association or a registered student, faculty, or staff organization shall be prohibited from solicitation for such period or periods of time as may be appropriate. In the case of repeated violations, the registered status of the organization may be cancelled or other appropriate penalties may be imposed. Any penalty or penalties must be imposed pursuant to the due process procedures of applicable Regents' *Rules and Regulations* or approved rules and regulations of the the University.

Disclosure of Solicitation: The students' association and each registered student organization shall, within 30 days after the beginning of each long semester, file with the Office of Student Affairs and Organizations, or other appropriate officials, a statement fully disclosing the sources and amounts of money obtained from solicitations during the preceding semester or summer session and fully disclosing the purposes and amounts of the expenditures made during the preceding semester or summer session. Any organization failing to comply with the provisions of this subsection shall be prohibited from solicitation activities until the organization files the required report.

II. Definitions

Solicitation: the sale, lease, rental or offer for sale, lease or rental of any property, product, merchandise, publication or service, whether for immediate or future delivery; an oral statement or the distribution or display of printed material, merchandise or product that is designed to encourage the purchase, use or rental of any property, product merchandise, publication or service; the receipt

of or request for any gift or contribution; or the request to support or oppose or to vote for or against a candidate, issue or proposition appearing on the ballot at any election held pursuant to state or federal law or local ordinances.

III. Relevant Federal and State Statutes

Texas Government Code Section 572.060 - Solicitation of or Recommendations Regarding Contributions to Charitable Organizations and Governmental Entities

Texas Occupations Code Section 2002.001 et seq. – Charitable Raffles

Chapter 761 of the Texas Business and Commerce Code – Credit Card Marketing at Postsecondary Educational Institutions

Texas Election Code Section 61.003 – Electioneering and Loitering Near Polling Place

Texas Election Code Section 85.001 – Early Voting Period

Texas Election Code Section 85.036 – Electioneering

Texas Tax Code

Texas System Administration Policy UTS122 – Guidelines for Web Site Solicitations.

IV. Relevant UT System and UTA Policies, Procedures, and Forms

UTS122 Guidelines for Web Site Solicitations

V. Who Should Know

The campus community, visitors, vendors, and contractors.

VI. UTA Officer(s) Responsible for Policy

Chief Legal Officer

VII. Dates Approved or Amended

March 20, 2020

VIII. Officer(s) Responsible for Policy

All questions concerning this policy should be directed to the Chief Legal Officer, Office of University Legal Affairs.