

MODEL POLICY: ALLOCATING STUDENT FEES

VIEWPOINT NEUTRALITY¹

Recognition and funding decisions will not be based on a student organization's point of view, no matter how unusual or unpopular.

- A. Criteria used to evaluate funding proposals and recognition requests shall be applied in the same manner to all organizations.
- B. While viewpoint neutrality does not bar the committee from criticizing the views of an organization or its members, disagreement with the organization's views cannot be the basis for the committee's decision.
- C. A member who believes they cannot exercise viewpoint neutrality in a given vote shall be able to abstain from voting. That abstention should neither count as a vote against recognition or allocation nor count as a violation of viewpoint neutrality. A member who has abstained from voting shall not participate in any deliberation of the vote in question.

MEMBERSHIP OF COMMITTEES²

Any committee making funding and recognition decisions shall be comprised of voting and non-voting members. Every college on campus should be represented in the committee, including graduate students. The committee should contain a representative cross-section of the University's student body.

A member of a committee who has repeatedly violated viewpoint neutrality shall be removed from the committee:³

- A. A violation of viewpoint neutrality includes but is not limited to:
 - a. Influencing other committee members' votes in a viewpoint-based manner,
 - b. Not abstaining from voting when the member cannot exercise viewpoint neutrality, and
 - c. Participating in the deliberation of a vote from which the member abstained.
- B. Any member of the relevant committee, member of the Student Government Association (SGA), or executive member of an organization seeking funding or recognition can bring a charge of viewpoint neutrality violation.
- C. A member facing removal from the committee for a violation of viewpoint neutrality shall have an opportunity to defend himself or herself against the charges.
- D. Removal of a member from a committee requires a two-thirds majority vote from the committee of which the member was a part.

BECOMING A REGISTERED STUDENT ORGANIZATION⁴

The University intends for each Registered Student Organization (RSO) to enhance the social, cultural, political, spiritual, communal, educational, and/or recreational experience of students. Each RSO

¹ See generally *Bd. of Regents of Univ. of Wis. Sys. v. Southworth*, 529 U.S. 217 (2000).

² This relates to both the Recognition Committee and the Allocation Committee.

³ FIRE suggests these steps as measures for an effective process. Any changes to this procedure shall be determined by the committee beforehand and memorialized in writing. However, the process shall include an opportunity for the member facing removal to speak on his/her own behalf and the same process shall be applied to all.

⁴ For the purposes of this document, an RSO is any student group that has already been recognized; a *student organization* is a group who is currently seeking recognition or to whom recognition was denied.

contributes to the multiplicity of voices on campus. A student organization can be formed for any lawful purpose by a group of five⁵ or more students who share a similar interest. While students are free to form groups for any lawful purpose, no for-profit groups will be recognized as RSOs or be eligible for funding.⁶ Once formed, the student organization is eligible to apply for official recognition by the University and the SGA.

For a student organization to receive recognition from the SGA, it shall follow the following process:⁷

1. Formulate a clear purpose for the group and memorialize it in writing.
2. Recruit five or more members⁸ who are interested in joining.
 - a. This includes four members who will be a part of the executive board (President, Treasurer, Vice President, and Secretary).
3. Complete the Application Packet and write a Constitution.
4. Submit the completed Packet and Constitution to the SGA Recognition Committee.
5. If the application has been approved by the SGA and recognition has been granted, a representative of the organization should attend the New RSO Orientation Workshop.
6. All organizations have the right to appeal a recognition decision to the Appellate Committee.

A student organization that satisfies the above criteria will be presumptively recognized unless its purpose is to engage in or incite criminal activities and/or activities that threaten⁹ the physical safety of others. Similarity with existing RSOs cannot be a basis for denial of recognition.

An approval for recognition requires a majority vote from the Recognition Committee. The Recognition Committee's decision shall be based on whether the student organization met the above criteria and not on the group's viewpoint, opinions, or activities, provided those activities are not prohibited under the law or under the institution's code of conduct.¹⁰

If the Recognition Committee denies an application for recognition, it shall issue a written report explaining how the decision was reached, stating the basis for the denial, and including recommendations for how the defect can be corrected. A copy of the report shall be provided to the student organization whose recognition was denied and made available for viewing to all students. The proposed organization will have an opportunity at the next regularly-scheduled meeting of the Recognition Committee to demonstrate that it has remedied the identified defects.

⁵ In the case of small colleges or universities, this number may be changed.

⁶ For the purpose of this code, a for-profit group is defined as any entity that derives a financial benefit for its members.

⁷ See *supra* note 3. Procedures through which recognition or funding decisions are made can differ as long as they adhere to viewpoint neutrality.

⁸ For the purposes of this document, membership shall refer to active members with full voting and participation rights. Membership shall be voluntary and actively entered into by each member, and may not be automatically established.

⁹ A true threat is (1) a serious expression of intent to commit an act of unlawful violence against a particular individual or identifiable group, if (2) the individual or group would reasonably fear the threatened violence. See *Virginia v. Black*, 538 U.S. 343, 359 (2003).

¹⁰ For the purposes of this code, FIRE presumes the University's student code does not prohibit constitutionally protected conduct. If protected conduct is prohibited, the University should revise its policies.

SGA FUNDING FOR RSOs

All RSOs are eligible to receive financial support from the SGA and the University. Student organizations wishing to obtain an annual budget shall reapply for a new budget each year.

RSOs shall follow these steps to apply for SGA funding:¹¹

1. Attend a budget information session/Treasurer workshop.
2. Fill out the Budget Request Form.
3. Provide the required RSO information for the previous year.
 - a. This includes the number of members in the organization and a description of all the events or activities held by the organization during that school year.
4. Provide the budget information for the previous year.
5. Create a budget for the upcoming year.
6. Submit the budget application by the deadline for the upcoming semester.
7. Allocation decisions should be made no later than one month from the original request date.

An RSO that has received funding for the previous year should be presumptively funded for the following year. However, the amount of funding granted is subject to change based on viewpoint-neutral criteria.

In the event that a previously-funded RSO is not funded for the upcoming year, the Allocation Committee shall issue a report explaining why the decision was reached and include recommendations for how defects can be corrected.

Newly-recognized RSOs without a previous budget history shall follow these steps:¹²

1. Attend a budget information session/Treasurer workshop.
2. Fill out the Budget Request Form.
3. Create a budget for the upcoming year.
4. Submit the budget application.
5. A representative of the RSO shall have at least fifteen minutes to present its request to the committee.
6. Members of the committee may ask questions regarding the RSO's proposed budget plan following the presentation.
 - a. The committee is not permitted to ask any questions beyond what is necessary to determine that the funds requested are reasonable to match the organization's needs and SGA's funding capability.
7. Allocation decisions should be made no later than one month from the original request date.

An approval for funding requires a majority vote from the Allocation Committee. If requested, each RSO should receive enough funding to engage in at least one activity.¹³ The Allocation Committee's

¹¹ See *supra* note 5.

¹² See *supra* note 5.

¹³ The minimum funding each organization receives should be a *reasonable* amount to engage in at least one activity during the year. The amount should be set by the Allocation Committee at the beginning of the school year before

funding decisions shall be based on whether the RSO met the above criteria and not on the group's viewpoint, opinions, or activities, provided those activities are not prohibited under the law or under the institution's code of conduct.¹⁴

If the committee denies an application for funding, it shall issue a report explaining how the decision was reached and include recommendations for how the defect can be corrected. A copy of the report shall be provided to the RSO whose funding was denied.

Viewpoint neutrality does not mean that funding levels shall be equal for all organizations. Different groups may be funded at different levels based on objective, viewpoint-neutral criteria related to the administrative requirements and organizational needs and activities.

APPELLATE PROCESS

After a final decision is reached about either recognition or funding, all student organizations have the right to appeal the decision to the Appellate Committee.

- A. Organizations may appeal their budget allocation or their recognition decision to the Appellate Committee on any of the following grounds:
 - a. **Administrative Error**
 - i. Oversight or misinterpretation of information by the committee.
 - ii. Arbitrary and/or unreasonable decisions made by the committee.
 - iii. Inability of the committee to provide reasoning, proposed remedies, and clarification for decisions made.
 - iv. Failure of the committee to follow its own procedures.
 - b. **Viewpoint Neutrality**
 - i. Decisions, comments¹⁵, or motions made by the committee that violated viewpoint neutrality as defined in this Code.
 - ii. Presumptive evidence of viewpoint discrimination exists if other similarly situated groups have been treated differently for substantially similar requests.
- B. When reconsidering decisions, viewpoint-neutral criteria shall be used.
- C. The organization shall produce a copy of the denial report produced by either the Recognition or Allocation Committee to the Appellate Committee.
- D. The Appellate Committee shall be comprised of entirely different members than the Recognition and Allocation Committees.
- E. Appeals should be made no later than two weeks from receipt of notice of budget decision.

any budget decisions are made. No organization requesting funds should receive below the minimum amount agreed to by the committee.

¹⁴ See *supra* note 9.

¹⁵ See Viewpoint Neutrality Subsection B.

After a decision from the Appellate Committee, an organization can appeal to the University's Ombudsman.¹⁶

- A. The Ombudsman may overturn denials, but not approvals.
- B. If a decision was reached in a viewpoint-based manner, the Ombudsman shall reverse the decision.

ALTERNATIVE MEASURES & SPENDING SGA FUNDING

The University encourages RSOs to look to other sources of funding outside of SGA funding.

Alternative sources of revenue may include:

- A. Membership dues.
- B. Proceeds from sales.
- C. Donations from former members, alumni, or others.
- D. Grant allocations.
- E. Funds from other University departments.

Purchases using SGA-granted funds should be appropriate for the RSO's purpose and mission.

SGA funding shall not be spent on the following:

- A. Purchase of alcoholic beverages or controlled substances.
- B. A member's personal items or personal travel.
- C. Payment of personal debts or costs of any disciplinary infractions.
- D. Purchase of any illegal or college-prohibited items.
- E. Any compensation for RSO officers, such as salaries or stipends, other than reimbursement for supplies purchased for (or other expenses of) the RSO.

COMMENTARY

VIEWPOINT NEUTRALITY

As the Supreme Court held in *Rosenberger v. Rector and Visitors of the University of Virginia*, a university may not use a funding system that discriminates based on viewpoint for allocating fees to a student organization.¹⁷ The Court emphasized: “**For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech** and creative inquiry in one of the vital centers for the Nation's intellectual life, its college and university campuses.”¹⁸

The Supreme Court has also held that viewpoint neutrality cannot be achieved through a direct referendum for the student body. In *Board of Regents of the University of Wisconsin System v. Southworth*, **the Court ruled that the will, or vote, of the majority cannot result in a**

¹⁶ A university official who is tasked with resolving grievances between parties that are within the university. Student organizations appealing a decision from the Appellate Committee should appeal to the Ombudsman or equivalent school administrator.

¹⁷ *Rosenberger v. Rector and Visitors of the Univ. of Va.*, 515 U.S. 819, 836 (1995).

¹⁸ *Id.* (emphasis added).

viewpoint-neutral outcome.¹⁹ However, the requirement of viewpoint neutrality does not bar a committee, government, or its members from criticizing the views of an organization or its members.

COMMITTEES

In order to best abide by viewpoint neutrality, the Recognition Committee, the Allocation Committee, and the Appellate Committee shall not have any members in common. This helps prevent prejudice against an organization's beliefs from influencing multiple decisions regarding recognition, funding, and appeals.

Voting and Non-Voting Committee Members

While not required, FIRE recommends that committees be comprised of both voting and non-voting members. Non-voting members are advisory representatives to voting committee members for a more holistic and inclusive decision making process.

FUNDING

The presumption of funding for RSOs that have previously received funding protects organizations from being financially penalized based on actions, events, or statements that are offensive or unpopular.

NEW RSO ORIENTATION WORKSHOP

While not required, FIRE recommends that at least one representative of each newly recognized organization attend an orientation workshop or informational session covering a wide range of topics such as leadership, risk management, finances, and overall University policies. Holding workshops for newly recognized RSOs is an efficient way to ensure all organizations on campus are aware of the University's policies and have the tools to smoothly run the organization.

INFORMATION SESSION/TREASURER WORKSHOP

While not required, FIRE recommends that at least one representative of each organization attend an informational session or workshop regarding budgeting, spending, and alternative funding methods. This should include but is not limited to:

- A. Tools on how to create a budget.
- B. The University's and SGA's policies on authorized expenditures.
- C. How to maintain accurate records of financial transactions.

¹⁹ *Bd. of Regents of Univ. of Wis. Sys. v. Southworth*, 529 U.S. 217, 221 (2000) (emphasis added).