

NIH POLICY MANUAL

26101-20-1 - OCCASIONAL USE OF NIH-CONTROLLED FACILITIES BY THE PUBLIC

Issuing Office: ORS/DSFM 496-3172

Release Date: 11/01/94

1. **Explanation of Material Transmitted:** This chapter contains new policy and procedures for requesting and authorizing the occasional use of ICD controlled auditoriums, conference rooms, classrooms, courtyards, grounds, and lobbies, in NIH- owned buildings by persons or organizations engaged in cultural, educational, or recreational activities that will not disrupt the operation of the ICDs.
2. **Filing Instructions:**

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A. Purpose and Scope:

This chapter prescribes guidelines and procedures for the occasional use of all National Institutes of Health's (NIH) Institutes, Centers, and Divisions (ICD) controlled auditoriums, conference rooms, classrooms, courtyards, grounds, and lobbies, in NIH- owned buildings by persons or organizations engaged in cultural, educational, or recreational activities that will not disrupt the operation of the ICDs. This does not include spaces controlled by ICDs in buildings operated by NIH under a delegation of

authority issued by the General Services Administration (GSA) or leased by GSA. Use of the public areas provided under the provisions of this chapter will be furnished free of charge. Services routinely provided such as security, cleaning, heating, ventilation, and air conditioning will also be provided free of charge. Applicants will be required to reimburse NIH for services over and above those routinely provided. The NIH may provide services free of charge if the cost is insignificant and if it is in the public's interest.

This chapter does not apply to the processing of applications for activities involving demonstrations and activities which may lead to civil disturbances. All applications involving demonstrations and activities or which may lead to civil disturbances shall be forwarded to the Director, Division of Security Operations (DSO), Office of Research Services (ORS), for processing.

B. Background:

The ICDs have made their space available for use by the public for activities for other than official Government purposes. Until now, no policy or standard procedure has been in place to govern this use.

C. References:

1. Conduct of Persons and Traffic on the National Institutes of Health Federal Enclave (45 C.F.R. Part 3)
2. Conduct on NIH-Controlled Property A copy of the references may be obtained by calling the Issuing Office: OD/ORS/DSFM 496-3172.

D. Policy:

It is the NIH's policy to permit the occasional use of the ICD controlled auditoriums, conference rooms, classrooms, courtyards, grounds, and lobbies by persons or organizations engaged in cultural, educational, or recreational activities, provided that such activities are open to the general public and will not disrupt the operation of the ICDs. An application must be submitted and approved in compliance with the requirements of this chapter.

E. Definitions:

1. Commercial Activities are activities undertaken for the primary purpose of producing a profit for the benefit of an individual or organization organized for profit. These activities are prohibited for purposes of this chapter. Activities where commercial aspects are incidental to the primary purpose of expression of ideas or advocacy of causes are not considered "commercial activities."
2. Cultural Activities include, but are not limited to, film, dramatic, dance, and musical presentations, and fine art exhibits, whether or not they are intended to make a profit.
3. Educational Activities include, but are not limited to, a typically controlled and

structured classroom lecture or product demonstration where participants are seated, classroom operation, and meetings. This term does not include individual or group demonstrations or protest type activities.

4. Occasional Use is a temporary use, over a period of 48 hours or less, on a one-time or intermittent basis. Continuous and uninterrupted occupancy of an area for more than 8 hours during a 48-hour period must be specifically approved in writing by the approving official.
5. Occupancy Load is the predetermined number of persons that may occupy a building or portion thereof at any one time.
6. Political Solicitation is a request for contributions, including any gift, subscription, loan, advance, or deposit of money or anything of value, made by any person for the purpose of influencing any election for Federal office; or the payment by any person of compensation for the personal services of another person, which is rendered to a political committee without charge, for any purpose.
7. Public Area means any area of a building under the control of an ICD which is ordinarily open to the members of the public, including lobbies, courtyards, auditoriums, meeting rooms, and other such areas.
8. Recreational Activities include, but are not limited to, the operation of fitness and aerobics classes.

F. Responsibilities:

1. ICD Executive Officers or Chief Administrative Officers
 - a. May approve or disapprove applications for the use of space assigned to the ICD.
 - b. May cancel an approved application or reschedule the use of space assigned to the ICD.
 - c. Will control the public's use of their respective ICD's assigned space.
 - d. Will process applications in compliance with procedures as outlined in this chapter.
 - e. Must have application pre-approval concurrence from the Director of the Division of Security Operations, ORS, on all applications.
 - f. May consult with and seek assistance from the Director, Division of Safety (DS), ORS, concerning safety issues, and from the Director, Division of Engineering Services (DES), ORS, concerning facilities operation issues.
 - g. Will transmit to the Director, DSO, ORS, for processing all applications

involving demonstrations and activities which could lead to civil disturbances.

2. Director, DS, ORS

- a. May prohibit or restrict any activity or conduct when in his/her sole opinion the activity will or is likely to violate applicable laws or regulations or when it is in the best interest of safety.

3. Director, DSO, ORS

- a. May prohibit or restrict any activity or conduct when in his/her sole opinion the activity will or is likely to violate applicable laws or regulations or when it is in the best interest of security.
- b. May determine a reimbursement charge to be paid by the applicant for services over and above those routinely provided.
- c. Will process all applications involving demonstrations and activities, under separate procedures not outlined in this Chapter: 1) which may lead to civil disturbances; and 2) which may adversely affect the security of property controlled by the Government or the persons on the property.

4. Director, DES, ORS

- a. May prohibit or restrict any activity or conduct when in his/her sole opinion it is in the best interest of the operation of the utility systems within the building.
- b. May determine a reimbursement charge to be paid by the applicant for services over and above those routinely provided.

5. Director, Division of Space and Facility Management (DSFM), ORS

- a. Upon request, shall provide advice and guidance to the ICDs for the processing of applications and will make recommendations on their approval or disapproval.
- b. May determine a reimbursement charge to be paid by the applicant for services over and above those routinely provided.

General Conditions and Limitations:

1. All applicants and organizations, along with everyone participating in an approved activity on the Bethesda Campus, shall conform to the provisions of 45 C.F.R. Part 3, "Conduct of Persons and Traffic on the National Institutes of Health Federal Enclave." Questions concerning the interpretation or clarification of this policy may be obtained from the Director, DSO, ORS, on (301) 496-8404.

2. All applicants and organizations and all persons participating in an approved activity on NIH-owned or controlled property, other than the Bethesda Campus, shall conform to the provisions of "Conduct on NIH- Controlled Property."
3. No public area that is located in animal buildings or is in close proximity to patient care or research areas or other spaces deemed inappropriate by an Executive Officer, Chief Administrative Officer, the Director, DS, or the Director, DSO, will be approved under this chapter for occasional use by the public.
4. Approved use of public areas shall be provided free of charge. Services to be provided are limited to routine security, cleaning, heating or air conditioning, and electricity, and will be provided free of charge. Applicants may be required to reimburse the Government for services over and above those routinely provided. The Government will make every effort to provide these services. The applicant shall hold the Government harmless for incurred damages for activities that are cancelled or deemed unsuccessful due to the Government's failure to provide these services to the activity. Government-owned furnishings located in the public areas may be used by the public during the time of the activity. The applicant is responsible for furnishing any and all additional services, furnishings, and equipment that are necessary for the proposed activity.
5. No alcoholic beverages shall be possessed, served, or consumed.
6. Approved use of public areas may be during or after regular working hours. When public areas are to be used after normal working hours, all adjacent areas not approved for such use shall be locked, barricaded, or identified by signs, as appropriate, to restrict activities to approved areas.
7. Nothing in this chapter shall prevent an ICD from reserving certain time periods for use of public areas for official Government business or from setting aside certain time periods for maintenance, repair, and construction or from permitting a previously approved use for official Government business.
8. The applicant shall be financially responsible for correcting any damages to Government property or facilities that are caused by the applicant, representatives of the applicant's organization, or anyone participating in an approved activity.
9. The number of participants in the activity shall not exceed the allowable "Occupancy Load" limitations for the space. "Occupancy Load" signs are posted in most areas. NOTE: Questions regarding occupancy load can be answered by contacting the Fire Prevention Section, Emergency Management Branch, DS, ORS, on (301) 496-0487.
10. An "Open Flame Permit" must be obtained for activities for which heat-producing devices or any type of open flame may be used. NOTE: Open flame

permits may be acquired by contacting the Fire Prevention Section, Emergency Management Branch, DS, ORS, on (301) 496-0487.

11. Only prepackaged and commercially prepared foods which do not require special handling such as refrigeration, cooking, or reheating may be served or consumed at an activity.
12. The applicant shall not:
 - a. misrepresent his or her identity or the identity of any organization involved in the activity to the public or to Federal employees or officials;
 - b. conduct any activity in a misleading or fraudulent manner;
 - c. discriminate on the basis of race, creed, color, sex, or national origin in conducting activities;
 - d. distribute any item, nor post or otherwise affix any item, for which prior approval of the appropriate Executive Officer or Chief Administrative Officer has not been obtained;
 - e. leave leaflets or other materials unattended on the premises;
 - f. engage in any activities that would interfere with the preferences afforded to blind concessions operators licensed under the Randolph-Sheppard Act (20 U.S.C. 107-07f); or
 - g. use any facilities not approved for use or use the Government's telephones, facsimile machines, computers, copy machines, or other equipment items for any reason.
13. The violation of any term or condition put forth in this manual will be grounds for revocation of any presently approved applications and the disapproval of future applications, submitted by the violating organization(s) or individual(s).
14. Applicants engaged in an approved solicitation of donated materials, services, or funds shall clearly display personal identification badges while on Federal property. Each badge shall be paid for and provided by the applicant and shall clearly indicate the applicant's name, address, telephone number, and organization.
15. The Government reserves the right to advise its employees and the public through signs or announcements of the presence of any applicant activity and of their non- affiliation with the Federal Government.

H. Procedures:

1. Application Submittal:
 - a. Any person, firm, or organization desiring to use a public area shall file

an application with the Executive Officer or Chief Administrative Officer of the ICD to which the space is assigned. Such application shall be made on the form as provided by NIH as in Appendix 1 of this chapter and submitted to the appropriate Executive Officer or Chief Administrative Officer at least 60 days prior to the requested time of use.

b. The following application information is required:

i. Full name(s), mailing address(es), and telephone number(s) of the applicant(s). If applicable, the organization sponsoring the proposed activity, and the individual(s) responsible for supervising the activity;

ii. If applicable, written documentation showing that the applicant has authority to represent the sponsoring organization;

iii. A detailed description of the proposed activity, including the dates and times during which the activity is to be conducted, the number of persons involved, and the specific location being requested; and

iv. If the proposed activity constitutes a use for soliciting funds or donations of any kind, the applicant shall also certify on the application the following statements:

"Funds are not to be solicited for the support of political activities";

"The applicant is a representative of or will be soliciting funds for the sole benefit of a religion or religious group"; and/or

"The applicant's organization has received an official ruling of tax-exempt status from the Internal Revenue Service (IRS) under 26 U.S.C. 501, or an application for such ruling is pending at the IRS."

2. Application Approval: All applications involving demonstrations and activities that are likely to require increased security or police intervention or may lead to civil disturbances shall be processed by the Director, DSO, ORS.

a. The application shall be approved or disapproved within 30 calendar days following its receipt. A copy of the approved or disapproved application will be provided to the applicant within five working days of the decision. After expiration of an approved application, a succeeding application may be submitted; in such case, the succeeding application may incorporate by reference all required information filed with the original application.

- b. When more than one application is submitted for the same area and time, applications will be processed on a first-come, first-served basis.
3. Disapproval of Applications or Cancellation of Approved Application: The Executive Officer or Chief Administrative Officer shall disapprove a pending application or cancel an approved application when, among other reasons:
 - a. If, after consulting with the Director of the DS, the DSO, or the DES, it has been determined to be in the Government's best interest to do so;
 - b. The applicant has failed to submit all information required or has falsified such information;
 - c. The proposed use is a commercial activity;
 - d. The proposed use may interfere with access to the public area, official Government business, or approved uses of the property by ICDs or by the public, or may result in the damage of any property;
 - e. The proposed use is obscene within the meaning of obscenity as defined in 18 U.S.C. 1461-65;
 - f. The proposed use is intended to influence or impede any Government activity; or
 - g. The proposed use is violative of the prohibition against political solicitations in 18 U.S.C. 607.

on the disapproval or cancellation of an application, the Executive Officer or Chief Administrative Officer should immediately notify the applicant of the reasons for the action.

I. Copies of Forms:

Appendix 1 should be copied. A copy of the "Conduct of Persons and Traffic on the National Institutes of Health Federal Enclave (45 C.F.R. Part 3)" and the "Conduct on NIH-Controlled Property" may be obtained from the issuing office: ORS/DSFM.

Appendix 1. Application for the Occasional Use of NIH-Controlled Facilities:

PART I

Date of application:

Applicant Name:

Mailing Address:

Phone Number:

Sponsoring Organization: (Attach documentation showing applicants' authority to represent the organization)

PART II

Individual(s) responsible for supervising the activity:

Name:

Organization:Phone:

PART III

Provide a detailed description of the proposed activity. Include date and time, the number of persons to be involved, and the specific location desired.

PART IV

Check appropriate boxes.

Type of Activity:

This is a "commercial activity." A commercial activity is defined as an activity undertaken for the primary purposes of producing a profit for the benefit of an individual or organization organized for profit. These activities are prohibited and the application will not be approved. Activities where commercial aspects are incidental to the primary purposes of expression of ideas or advocacy of causes are not considered "commercial activities."

This is a "cultural activity." Cultural activities include, but are not limited to, film, dramatic, dance, and musical presentations, and fine art exhibits, whether or not they are intended to make a profit.

This is an "educational activity." Educational activities include, but are not limited to, a typically controlled and structured classroom lecture or product demonstration where participants are seated, i.e., classroom operation, and conducting meetings. This does not include individual or group demonstration or protest type activities.

This is a "recreational activity." Recreational activities include, but are not limited to, fitness and aerobics classes.

Solicitation of Material Donations or Funds:

No

Yes

If Yes,

Funds are not to be solicited for the support of political activities.

The applicant is a representative of or will be soliciting funds for the sole benefit of a religion or religious group.

The applicant's organization has received an official ruling of tax-exempt status from the Internal Revenue Service (IRS) under 26 U.S.C. 501, or an application for such ruling is pending at the IRS.

Disposition of donations or funds:

PART V

Applicant(s) certification and acknowledgement:

1. All applicants and organizations, along with everyone participating in an approved activity on the Bethesda Campus, shall conform to the provisions of the 45 C.F.R. Part 3, "Conduct of Persons and Traffic on the National Institutes of Health Federal Enclave."
2. All applicants and organizations, along with everyone participating in an approved activity on NIH-owned or NIH- controlled property other than the Bethesda Campus shall conform to the provisions of the "Conduct on NIH- Controlled Property."
3. Approved use of public areas shall be provided free of charge. Services to be provided are limited to routine security, cleaning, heating or air conditioning, and electricity, and will be provided free of charge. Applicants may be required to reimburse the Government for services over and above those routinely provided. The Government will make every effort to provide these services. The applicant or organization shall hold the Government harmless for incurred damages for activities that are cancelled or deemed unsuccessful due to the Government's failure to provide services to the activity. Government-owned furnishings located in the public areas may be used by the public during the time of the activity. The applicant is responsible for furnishing any and all additional services, furnishings, and equipment that are necessary for the proposed activity.
4. No alcoholic beverages shall be possessed, served, or consumed.
5. All applicants and organizations, along with everyone participating in an approved activity, engaged in an approved solicitation of donated materials and funds shall clearly display personal identification badges while on Federal property. Each badge shall clearly indicate the applicant's name, address, telephone number, and organization.
6. The Government reserves the right to advise its employees and the public through signs or announcements of the presence of any applicant activity and of their non- affiliation with the Federal Government.
7. The applicant or organization shall be financially responsible for correcting any damages to Government property or facilities that are caused by the applicant or representatives of the applicant's organization, or anyone participating in an approved activity.
8. The activity must be open to the general public.
9. No person other than a specifically authorized police officer shall possess firearms, explosives, or other dangerous or deadly weapons or dangerous

materials intended to be used as a weapon either openly or concealed.

10. The applicant shall not:

- a. misrepresent his or her identity to the public or to Federal employees or officials;
- b. conduct any activity in a misleading or fraudulent manner;
- c. discriminate on the basis of race, creed, color, sex, or national origin in conducting activities;
- d. distribute any item, nor post or otherwise affix any item, for which prior approval has not been obtained;
- e. leave leaflets or other materials unattended on the premises;
- f. engage in any activities that would interfere with the preferences afforded to blind concessions operators licensed under the Randolph-Sheppard Act (20 U.S.C. 107- 07f); and
- g. use any facilities not approved for use or use the Government's telephones, facsimile machines, copy machines, or other equipment items for any reason.

11. Violation of any term or condition put forth in this manual will be grounds for revocation of any presently approved applications and the disapproval of future applications, submitted by the violating organization(s) or individual(s).

Signature(s) _____ , _____ , _____

FOR GOVERNMENT USE ONLY

Approved: _____ Disapproved: _____

Reimbursement charges: \$ _____

Comments: _____

Signature _____ Date: _____

FOR INTERNAL USE ONLY

Date application received: _____

