



Committee Meeting: Policy & Governance Committee	Date: December 7, 2022
Committee Chair: Melodie Baker	
New or Edited: New	

**POLICY NAME:** Commercial Use of Property Policy

**POLICY TYPE:** Board

**SUBMITTED BY:** Paul Danieu, Business Manager- Risk Assessment

**ISSUE OR STATEMENT OF PURPOSE:** This new Policy, as presented to the SUNY Erie Board of Trustees, empowers the College to utilize its facilities for commercial purposes as deemed fit. The intent of this policy is to authorize commercial uses of the College’s facilities for entrepreneurial gain. The guidelines set forth herein for SUNY Erie are derived from the State University of New York (SUNY) policy for its state-sponsored campuses which authorizes each campus to adopt a local policy that identifies who is responsible for authorizing commercial use, facilities available for commercial use, costs to be charged for the use of such facilities, and standards that identify when fair market appraisals shall be undertaken to determine use charges. Allowing for commercial use of SUNY Erie’s facilities, will benefit the public at large by granting access to said facilities in a capacity not previously available. Such an expansion of access and use of SUNY Erie will contribute to the financial growth of the College in furtherance of its educational programs and activities.

**NEW OR EDITED POLICY:** New

**POLICY:**

It is the policy of SUNY to encourage the use of capital facilities of the system’s colleges and universities for appropriate commercial uses. For purposes of this policy, “commercial use” means use for profit or potential profit, including research, by public or private entities.

SUNY Erie may authorize commercial use of its capital facilities subject to the following principles:

- Use of SUNY Erie facilities for instruction, research and public service shall take priority over commercial use of College facilities.
- Commercial use shall not be in conflict with, and shall advance the mission of, the campus, and shall not infringe upon, delay or conflict with normal operations to the campus.
- Commercial use shall not conflict with and shall advance the College’s strategic plan.



**POLICY NAME: Commercial Use of Property Policy- Continued**

- Commercial use shall not have a significant potential for material adverse effect on the reputation of the campus for academic integrity and independence.
- Commercial use shall not compete with or replicate activities of the campus auxiliary services corporation, campus foundation, or other campus-related entities.
- Commercial use shall not violate existing agreements between the campus, its auxiliary services corporation, foundation or other campus-related entities and vendors providing goods or services on campus.
- Commercial use shall conform to federal tax law restrictions on private use of facilities financed by tax-exempt bonds.
- Commercial use shall comply with Federal research guidelines, to the extent applicable.

SUNY Erie shall enter into a written agreement with the public or private entity to authorize use of College facilities for a defined period of time. Said written agreement must include the following terms to which the entity shall agree:

- Comply with the regulations and policies of the College.
- Indemnify the College from any associated liabilities.
- Provide evidence of appropriate insurance protection.
- Reimburse the College for any damage to facilities.
- Provide appropriate compensation to the campus.

**AUTHORIZATION:**

This policy authorizes the College President or their designee to pursue commercial uses of SUNY Erie property when it does not interfere with the core educational mission of the College.

Further, the College President or his designee shall, at a minimum of every 3 years, obtain a professional third-party appraisal to establish the fair market value of the space under consideration. This appraisal shall be obtained in accordance with SUNY Erie's Procurement Policy. This appraisal will also be sought whenever the potential commercial use of SUNY Erie's facilities exceeds a one-year period and there is not an already established fair market value for the space.

Once the fair market value of the space has been established, the President or their designee may then enter negotiations to establish an agreement for the space under consideration. The agreed upon rate will meet or exceed the fair market value as established by the appraisal.



**POLICY NAME:** Commercial Use of Property Policy- **Continued**

**DOES IT SUPERCEDE A POLICY/WHICH ONE (if so, attach redline version):** N/A

**POLICY & GOVERNANCE COMMITTEE RECOMMENDED ACTION:**

Policy & Governance Committee recommends the Board of Trustees approve this Board policy under Committee Briefings, Policy and Governance Committee. This Policy supersedes all prior policies/procedures and practices related to Commercial Use of Property Policy.

**POLICY & GOVERNANCE COMMITTEE MEMBERS PRESENT:** Trustee Melodie Baker, Officer in Charge, Provost, and Executive Vice President Adiam Tsegai, AVP IRAAP Katherine Callesto, Vice President of Human Resources, Equity & Inclusion Cynthia Buckley, Vice President of Enrollment Management Erikson Neilans, Dean of Business and Public Services Juan Martinez, Comptroller Arta Pillana, College Senate President, and Associate Professor Colleen Quinn

**DATE OF BOARD APPROVAL:** December 15, 2022

**POLICY & GOVERNANCE COMMITTEE TEAM FOLLOW-UP:**

Following Trustee approval, this Board policy will be included in the SUNY Erie Community College Board of Trustees Policy Manual.

**INFORMATION/INPUT CONSIDERED DURING POLICY & GOVERNANCE COMMITTEE DELIBERATIONS:**

The Commercial Use Policy (use of University Facilities for Commercial Purposes) of the State University of New York, document number 5607. Effective date March 28, 2012.

The Policy has been reviewed and discussed at the Policy & Governance Committee meeting of December 7, 2022.

**History**

Item:	Date:	Explanation:
Policy adopted	December 15, 2022	

**SUNY Erie Cross References**

Policy Name or Procedure:	Where to find:

**Next Steps**

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