



# Personal and Private Activity Using University Property and Facilities

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## POLICY STATEMENT

Cornell University uses its property and facilities, primarily, to further its mission of learning, discovery, and engagement. The university permits the use of its property and facilities for collaboration with industry or community, where such use is consistent with the university's mission, its status as a tax-exempt educational institution, and with applicable university policies. Cornell has established procedures to ensure proper use of its property and facilities.

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## REASON FOR POLICY

The university supports limited use of its facilities by external entities and individuals provided such use benefits its educational, research, land-grant, and patient care mission. However, the university relies on its tax-exempt status to conduct its mission, and must act in ways that preserve such status.

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## ENTITIES AFFECTED BY THIS POLICY

- Ithaca-based locations
- Cornell Tech campus
- Weill Cornell Medicine (WCM) campuses, which will administer this policy under WCM procedures

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## WHO SHOULD READ THIS POLICY

- Those who will be responsible for reading and understanding this policy in order to implement the associated procedures; persons who must understand the policy in order to do their jobs; and people who are affected by the policy.

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## WEBSITE ADDRESS FOR THIS POLICY

- This policy: [www.policy.cornell.edu/](http://www.policy.cornell.edu/)
- University Policy Office: [www.policy.cornell.edu](http://www.policy.cornell.edu)

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## RELATED RESOURCES

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### University Policies and Documents

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[University Policy 1.5, Inventions and Related Property Rights](#)

[University Policy 2.7, Reporting the Use of Facilities](#)

[University Policy 3.4, Use of Cornell Vehicles](#)

[University Policy 3.8, Program Income from Sponsored Projects](#)

[University Policy 3.9, Capital Assets](#)

[University Policy 3.10, Recharge Entities, Ithaca Campus Units](#)

[University Policy 4.3, Sales Activities on Campus](#)

[University Policy 4.6, Standards of Ethical Conduct](#)

[University Policy 4.14, Conflicts of Interest and Commitment \(Excluding Financial Conflict of Interest Related to Research\)](#)

[Access to Space for Events](#)

[Fees for Internal Users of Cornell Physical Space](#)

[Guidelines for Addressing Potential Conflicts of Interest and Commitment in Faculty/Staff Involvement in Startup Companies](#)

[Space Management Principles \(3/17/14\)](#)

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[Treasury Office Private Use Policy and Guidelines](#)

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### Other Resources

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[Uniform Guidance §200.313\(c\)\(3\)](#)

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### Websites, Forms, and Tools

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[Event Planning Guidelines](#)

[Office of Sponsored Programs “Gateway to Partnership”](#)

[Space Planning Resources](#)

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## CONTACTS

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Direct any general questions about this policy to your college or unit administrative office. If you have questions about specific issues, contact the following offices.

### *Contacts, Ithaca Locations and Cornell Tech*

<b>Subject</b>	<b>Contact</b>	<b>Telephone</b>	<b>E-mail/Web Address</b>
<b>Policy Clarification, (Research)</b>	Office of the Vice Provost for Research	(607) 255-7200	vp_research@cornell.edu
<b>Policy Clarification (Non-research)</b>	Office of the University Treasurer	(607) 254-1590	treasurer@cornell.edu
<b>Assistance with Rate Development</b>	Cost and Capital Assets Department	(607) 255-9368	uco-cost@cornell.edu
<b>Sponsored Research Agreements</b>	Office of Sponsored Programs	(607) 255-5014	osp-help@cornell.edu

### *Contacts, Weill Cornell Medicine (WCM) Units*

<b>Subject</b>	<b>Contact</b>	<b>Telephone</b>	<b>E-mail/Web Address</b>
<b>Policy Clarification, (Research)</b>	Office of the Senior Associate Dean for Research	(646) 962-6125	adg2016@med.cornell.edu
<b>Policy Clarification (Non-research)</b>	Office of the Executive Vice Provost	(646) 962-3635	jos2067@med.cornell.edu
<b>Assistance with Rate Development</b>	Office of Budget & Financial Strategy	(646) 962 -3215	spuccin@med.cornell.edu
<b>Sponsored Research Agreements</b>	Office of Sponsored Research Administration (OSRA)	(646) 962-4042	<a href="mailto:sjh2004@med.cornell.edu">sjh2004@med.cornell.edu</a>

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## DEFINITIONS

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These definitions apply to terms as they are used in this policy.

<b>De Minimis Use</b>	Use that is so minor or inconsequential that it does not rise to the level of concern.
<b>Private Benefit</b>	A benefit bestowed upon a person or private entity that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means. The presence of private benefit, if substantial in nature, can jeopardize the university's tax-exempt status.
<b>Private Business Use</b>	<p>Use of university facilities or property for non-university purposes, including personal use by university faculty, staff, or students or use by or for an outside entity for private business purposes.</p> <p>Common examples of private business use include use of facilities by Cornell faculty, staff, or students to conduct start-up related activities, and granting access to space or equipment to an external entity to conduct its own research or other business purposes. Clinical trials, third party management agreements for university facilities, product testing agreements, and sponsored research agreements that deviate from the university's standard intellectual property terms can also result in private business use.</p> <p>Use of university facilities or property by vendors, contractors, or other outside entities to perform services for the university is not private business use.</p>
<b>Research Facility</b>	Laboratory space, bench space, storage, equipment, offices and support space, testing and processing instrumentation and supporting space/facilities, and any other spaces in which research is or will be conducted.
<b>Standard Office Equipment</b>	Equipment in a typical office environment, such as laptop or desktop computers, printers, or copiers.

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# Personal and Private Activity Using University Property and Facilities

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## RESPONSIBILITIES, ITHACA-BASED LOCATIONS AND CORNELL TECH

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The major responsibilities each party has in connection with this policy are as follows:

<b>Cornell/Community Coordination Committee (4C)</b>	Review private activities that may result in loss of university tax exemptions or place the university in competition with local businesses.
<b>Office of Sponsored Programs</b>	Administer the Gateway to Partnership and manage other private business use issues arising out of sponsored research.
<b>Risk Management and Insurance</b>	Consult on requests for approval under this policy.
<b>Space Use Advisory Committee (SUAC)</b>	Evaluate and recommend allocation of campus space. Review and approve, when appropriate, space requests for non-research use of existing space and expansion into new space.
<b>Tax Office</b>	Consult on requests for approval under this policy.
<b>Treasurer</b>	Review private business use activities for bond compliance requirements.
<b>University Counsel</b>	Consult with parties related to the administration of this policy. Review facility use and other agreements related to this policy.
<b>Unit Head</b>	Exercise approval over activities qualifying as Permitted Private Activities Making Use of Research Facilities. Advance other private activity requests for approval as appropriate.
<b>Vice Provost for Research</b>	Exercise oversight over private activities making use of Cornell research facilities. According to the criteria and procedures contained in this policy, grant or deny permission for activities making use of Cornell research facilities.

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## POLICY 4.19

# Personal and Private Activity Using University Property and Facilities

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## RESPONSIBILITIES, WEILL CORNELL MEDICINE CAMPUSES

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The major responsibilities each party has in connection with this policy are as follows:

<b>Controller</b>	Working with the University Tax Office, consult on requests for approval under this policy.
<b>Cornell/Community Coordination Committee (4C)</b>	Review private activities that may result in loss of university tax exemptions or place the university in competition with local businesses.
<b>Executive Vice Provost, Administration and Finance</b>	Evaluate and recommend allocation of campus space. Review and approve, when appropriate, space requests for non-research use of existing space and expansion into new space.  Review private activities that may result in loss of university tax exemptions or place the university in competition with local businesses.
<b>Office of the Assistant Vice Provost, Financial Planning and Institutional Reporting</b>	Working with the University Treasurer, review private business use activities for bond compliance requirements.
<b>Risk Management and Insurance</b>	Consult on requests for approval under this policy.
<b>Senior Associate Dean for Research and Office of the Executive Vice Provost, Administration and Finance</b>	Administer and manage other private business use issues arising out of sponsored research.  Exercise oversight over private activities making use of Cornell research facilities.  According to the criteria and procedures contained in this policy, grant or deny permission for activities making use of Cornell research facilities.
<b>University Counsel</b>	Consult with parties related to the administration of this policy.  Review facility use and other agreements related to this policy.
<b>Unit Head</b>	Exercise approval over activities qualifying as Permitted Private Activities Making Use of Research Facilities.  Advance other private activity requests for approval as appropriate.

## POLICY 4.19

# Personal and Private Activity Using University Property and Facilities

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## PRINCIPLES

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### Overview

The property, facilities, and services of Cornell University are for the conduct of instruction, research, general university programs, patient care and related administrative uses.

Activities using university property, facilities, and services for other purposes is permissible only if expressly authorized through the procedures provided in this policy. Such other uses will generally be permitted where such use does not interfere with the conduct of university business, including university research and other scholarly or instructional activities, and is consistent with the university's status as a tax-exempt educational institution.

Private activities making use of Cornell research facilities fall under the general oversight of the Vice provost for research (VPR) (for WCM campuses, the Senior Associate Dean for Research (SAD-WCM)). The VPR or SAD-WCM may grant permission for such activities where such use serves the best interests of the university, after consultation with University Counsel, the University Treasurer's Office (for WCM campuses, the Executive Vice Provost, Administration and Finance (EVP-WCM)), and the University Tax Office. Approval will be contingent on the establishment of a service charge representing full cost recovery for the equipment use or service provided.

Private activities making use of any non-research facility require sponsorship from the dean or vice president responsible for administering the facility, the completion of a Request for Allocation of Space, and approval by the Space Use Advisory Committee (SUAC) (for WCM campuses, the EVP-WCM) followed by consultation with University Counsel, the Treasurer's Office (for WCM campuses, the EVP-WCM), and the Tax Office.

For all facilities at Ithaca-based locations and Cornell Tech, if the private activity is likely to affect any university tax exemption or place the university in competition with for-profit businesses, approval is also required from the Cornell/Community Coordination Committee (4C).

◆ **Note:** Use of the university's buildings and grounds for meetings and short-term special events is managed through the event planning process (see Related Resources).

◆ **Note:** See *University Policy 3.10, Recharge Entities, Ithaca Campus Units* if charging for internal usage of university resources, and *Fees for Internal User of Cornell Physical Space* for the short-term use of space.



## POLICY 4.19

### Personal and Private Activity Using University Property and Facilities

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#### PRINCIPLES, continued

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##### Criteria for Evaluating Requests for Private Activities Making Use of University Facilities

In considering requests for private activities making use of any university facility, administrators will apply the following factors:

1. The use must support the university mission of learning, discovery, patient care and engagement.
2. The use will not interfere with the priority availability of university facilities, equipment, or other resources for use by faculty, staff, or students.
3. The use will not jeopardize the tax-exempt status of any applicable university bonds, result in impermissible private benefit, or otherwise put the university's status as a 501(c)(3) entity at risk.
4. The potential loss of any applicable real property tax exemptions. If the use results in the loss of such exemptions, the sponsoring unit will assume the obligation to pay the taxes due.
5. Whether or not the use will result in competition with for-profit entities. In addition to community relations concerns arising from such competition, Uniform Guidance §200.313(c)(3) prohibits use of equipment acquired with a federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by federal statute for as long as the federal government retains an interest in the equipment.
6. The use will not result in conflicts of interests that cannot be managed appropriately.
7. The use will not pose unacceptable liability or reputational risks to the university.

◆ **Note:** University facilities owned by the State of New York (including most contract college buildings), are subject to additional considerations, which may include state approval of the proposed activity. These issues will be addressed through the procedures contained in this policy.

## POLICY 4.19

# Personal and Private Activity Using University Property and Facilities

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## PRINCIPLES, continued

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### **Tax Implications of Private Business Use**

As a corporation that is exempt from income tax under IRS Code Section 501(c)(3), Cornell must ensure that its resources are used in furtherance of its exempt research and educational purpose and must avoid activities that benefit private interests. Similarly, Cornell's facilities must be used for educational purposes in order to remain exempt from real property taxes under New York State law. Further, buildings that have been financed through unretired tax-exempt bonds – a category that includes the majority of university facilities -- are subject to strict limitations on the amount of allowable “private business use” activities (see Definitions).

Responsible management of private business use activities minimizes other potential risks, such as conflicts of interest; compromised intellectual property rights and commercialization opportunities; liability exposure; and harm to community relations.

◆ **Note:** Private business use issues related to sponsored research agreements are handled by the Office of Sponsored Programs (for WCM campuses, the SAD-WCM and the EVP-WCM).

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### Personal and Private Activity Using University Property and Facilities

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## PROCEDURES, ITHACA-BASED LOCATIONS AND CORNELL TECH

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### **Permitted Private Activities Making Use of Research Facilities**

At the discretion of the dean or other head of the unit that administers the facility, the following uses of a research facility are permitted:

1. The limited and temporary use, at full cost recovery or commercially comparable rates, of the specialized equipment and support space of established university research centers, facilities, or processing or pilot plants, where such use is available to public at standard rates, and where use is granted under the terms of a facility use agreement reviewed by University Counsel and the VPR (for WCM campuses, the SAD-WCM).

◆ **Note:** A unit wishing to be designated as a university research center should apply to the office of the VPR (for WCM campuses, the SAD-WCM).

◆ **Note:** Fees generated from the use of equipment purchased from a sponsored award are normally considered program income during the life of the underlying award (see *University Policy 3.8, Program Income from Sponsored Projects*).

2. Trainings and workshops open to the public and offered by a college's formal extension program where (1) use of specialized research equipment is necessary for that training; and (2) the training is conducted under the terms of a participation agreement reviewed by University Counsel and the VPR (for WCM campuses, the SAD-WCM).
3. Occupancy and use by approved client startup companies of established university incubator facilities, under standard agreements that have been previously reviewed by University Counsel and the VPR (for WCM campuses, the SAD-WCM).
4. Product testing under standard agreements that have been reviewed by University Counsel and the VPR (for WCM campuses, the SAD-WCM).

Uses of research facilities that do not fall within the above categories will be considered on a case-by-case basis by the VPR (for WCM campuses, the SAD-WCM). See below for more information.

### **Obtaining Approval for Other Private Activities Making Use of Research Facilities**

If a desired use of a research facility does not fall into one of the four categories listed in "Permitted Private Activities Making Use of Research Facilities," the VPR (for WCM campuses, the SAD-WCM), in consultation with University Counsel, the University Treasurer's Office, and the University Tax Office, may, upon request, authorize such use in accordance with the following procedures:

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#### PROCEDURES, continued

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1. Submit to the VPR (for WCM campuses, the SAD-WCM) a written request containing the following information:
  - A detailed description of the activity, including the facilities proposed for use (building name, State of New York or Cornell ownership, square footage, equipment, etc.), the duration of the use (including total days/hours), and the individuals or entities that will be conducting the activity.
  - Description of the involvement of Cornell employees/students.
  - Identification of how the equipment, if any, was funded (federal grant, New York State grant, etc.).
    - ◆ **Note:** the Cost and Capital Assets department (at WCM campuses, Cost Reimbursement) can assist in the identification of the funding of capital equipment and any limitations regarding its use.
  - Assessment of the availability of comparable facilities and/or equipment from other local or regional for-profit entities.
  - An explanation of how the use will directly benefit Cornell, including the connection to its mission.
  - Proposed fair market facility use fees, with supporting documentation. Rates must cover fully loaded costs for use of university equipment and facilities, including the indirect costs of such use, and any required training provided by university personnel. If not pre-determined, fees will be set after a petition is granted but before work begins.
    - ◆ **Note:** The Cost and Capital Assets department (at WCM campuses, Cost Reimbursement) can assist with rate development.
  - The proposed contract with the external entity.
  - A current copy of the external entity's certificate of insurance.
    - ◆ **Caution:** All details of the work relevant to the protection of individuals or the facility must be made available to and approved by the dean or other head of the unit that administers the facility, prior to final approval of the project.
  - The endorsement of the dean or other head of the unit that administers the facility.
2. The VPR (for WCM campuses, the SAD-WCM) will respond to the request and will indicate whether 4C and/or SUAC (for WCM campuses, the EVP-WCM) approval is required. Approved arrangements will be documented and conditioned upon the execution of an agreement with the external entity, approved by the VPR (for WCM campuses, the SAD-WCM) and University Counsel, which will protect the financial and legal interests of the university.

## POLICY 4.19

### Personal and Private Activity Using University Property and Facilities

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## PROCEDURES, continued

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◆ **Note:** To facilitate proper calculation of the institution's facilities and administrative cost rate, the portion of the facility used for external purposes must be coded as function 7.2, Other Agency, when the annual facilities inventory is performed.

#### Obtaining Approval for Private Activities Making Use of Non- Research Facilities

Private activities making use of non-research facilities require approval from the SUAC (for WCM campuses, the EVP-WCM), upon submission by the sponsoring unit of a Request for Allocation of Space. The dean/unit head will sign the Space Request and submit it to the SUAC (for WCM campuses, the EVP-WCM). Following SUAC (for WCM campuses, the EVP-WCM) approval, the sponsoring unit must pursue further consultation with University Counsel, the University Treasurer's Office, and the University Tax Office, in accordance with the following procedures:

1. Submit a Request for Allocation of Space to the relevant dean or other head of the unit that administers the facility, containing the following information:
  - A detailed description of the activity, including the facilities proposed for use (building name, square footage, equipment, etc.), the duration of the use (including total days/hours), and the individuals or entities that will be conducting the activity.
  - Description of the involvement of Cornell employees/students.
  - Assessment of the availability of comparable facilities and/or equipment from other local or regional for-profit entities.
  - An explanation of how the use will directly benefit Cornell, including the connection to its mission.
  - Proposed fair market facility use fees, with supporting documentation. Rates must cover fully loaded costs for use of university equipment and facilities, including the indirect costs of such use, and any required training provided by university personnel. If not pre-determined, fees will be set after a petition is granted but before work begins.
    - ◆ **Note:** The Cost and Capital Assets department (at WCM campuses, Cost Reimbursement) can assist with rate development.
  - The proposed contract with the external entity.
  - A current copy of the external entity's certificate of insurance.
    - ◆ **Caution:** All details of the work relevant to the protection of individuals or the facility must be made available to and approved by the dean or other head of the unit that administers the facility, prior to final approval of the project.

## POLICY 4.19

### Personal and Private Activity Using University Property and Facilities

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#### PROCEDURES, continued

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2. Upon endorsement, the dean/college officer will vet the proposal with University Counsel, the University Treasurer's Office, and the University Tax Office, and seek approval from 4C as necessary.
3. To facilitate proper calculation of the institution's facilities and administrative cost rate, the portion of the facility used for external purposes must be coded as function 7.2, Other Agency, when the annual facilities inventory is performed.

#### **Permitted Personal Use of Other University Property**

Where it is the accepted practice within a unit, de minimis use by employees, either during or after working hours, of standard office equipment, is permitted, unless such use shortens the life of the asset or accelerates its maintenance schedule; obstructs other university personnel who need the asset from performing their job duties; or results in uncompensated incremental costs. More than de minimis use of office equipment, or use of other university-owned or leased equipment, is subject to explicit prior supervisory approval. Supervisors should exercise such authority after reviewing the circumstances of such a request.

◆ **Note:** Some institutionally or departmentally licensed software prohibits use for non-university purposes. These terms must be observed.

#### **Faculty Consulting**

Faculty members who have external private consulting or research arrangements that involve personal financial gain, may make de minimis use of standard office equipment.

For use of research equipment, see Permitted Private Activities Making Use of Research Facilities and Obtaining Approval for Other Private Activities Making Use of Research Facilities.

#### **Use of Buildings and Grounds for Events**

Use of university buildings and grounds for meetings and short-term special events is managed through the university's event planning process (see Event Planning Guidelines in "Related Resources").

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