

**CSU AUXILIARY ORGANIZATIONS
SOUND BUSINESS PRACTICES GUIDELINES**

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CSU AUXILIARY ORGANIZATIONS SOUND BUSINESS PRACTICES GUIDELINES

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Purpose and Objective

Title 5 §42401 and §42402 requires that CSU auxiliary organizations operate in conformity with the policies of the CSU Board of Trustees and the campus. One of the objectives of an auxiliary organization is to provide fiscal procedures and management systems designed to protect its assets and interests in accordance with sound business practices along with those of the campus. These guidelines are designed to assist CSU auxiliary organizations in achieving this end.

Sound Business Practices

Sound business practices¹ are a set of protocol, standards, instructions, regimen, of practices that in the judgment of management contribute to achieving a targeted level of control or quality. They are not mandates as to specificity of implementation, but animate underlying control objectives and principles.

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¹ California Code of Regulations § 42401 states that auxiliary organization activities are essential to the educational program of a campus, including service functions, and are an integral part of the campus program and are to provide fiscal procedures and management systems that allow effective coordination of the auxiliary activities with the campus in accordance with sound business practices. Authority cited: Sections 66600, 66606, 89030 and 89900, Education Code. Reference: Sections 89300 and 89900, Education Code.

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1.0 CASH AND CASH EQUIVALENTS

Internal Control Objectives:

Safeguard and properly account for the receipt, holding and disbursement of cash.

Examples of Sound Business Practices:

- (a) Signature Authority. Adopt and annually review governing board policy that identifies signature authority and provides for the receipt and disbursement of cash.
- (b) Segregation of Duties. Establish a written internal controls system that ensures cash receipt and disbursements are conducted with appropriate segregation of duties.
- (c) Control over the Receipt of Cash. Receive cash in a consistent manner utilizing systems that ensure integrity of existing internal controls, with annual management review.
- (d) Control over the Disbursement of Cash. Disburse cash in a consistent manner utilizing systems that ensure integrity of existing internal controls, with annual management review.
- (e) Control over Petty Cash and Change Funds. Establish a written system that ensures the proper use and documentation of petty cash and change funds, specifies dollar limits, and includes periodic, independent cash counts.
- (f) Revenue Reconciliation and Review. Reconcile revenue received and/or recorded in secondary systems to revenue recorded in the general ledger.
- (g) Bank Reconciliation and Reviews. Reconcile bank accounts on a timely basis with independent management review.

2.0 INVESTMENTS

Internal Control Objectives:

Protect and properly account for investments and investment income in accordance with source restrictions and other requirements.

Examples of Sound Business Practices:

- (a) Investment Policy. Adopt a written governing board approved investment policy that describes the investment objectives and limitations, and provides for practices to be used to meet the organization's business and fiduciary responsibilities.
- (b) Segregation of Duties. Establish a written internal controls system that ensures investment and income decisions and record keeping are conducted and reviewed by more than one person.
- (c) Recording Investment Income. Establish a written record-keeping system that ensures all investment income has been received and recorded in compliance with any source restrictions and other external or internal requirements.
- (d) Safekeeping Physical Assets. Provide a secure location for securities held by bonded or bonded-authorized persons or institutions.
- (e) Reconciliation and Reviews. Reconcile investment positions and investment income on a frequent basis with independent management reviews.

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3.0 DONATIONS, PROGRAM SERVICE FEES, OTHER INCOME

Internal Control Objectives:

Properly record and account for donations, program service fees and other income in accordance with external and internal requirements.

Examples of Sound Business Practices:

- (a) Governing Board Policies. Adopt written governing board policy that describes allowable income-generation activities, including the solicitation and acceptance of gifts, and setting of program service fees or for other services.
- (b) Budgeting Sources of Income. Establish a written budgeting system that includes reasonable income estimates, the comparison of results, and analyzes significant differences.
- (c) Recording Donations. Establish a written record-keeping system that enables gifts to be properly received, recorded, and acknowledged in accordance with donor restrictions and other requirements.
See ICSUAM § 15401.00 Fundraising–Matching Gifts
- (d) Invoicing Sponsors. Establish a written system to properly record, invoice, and collect for costs to be reimbursed by third parties.
- (e) Allocating Reimbursable Costs. Establish written cost allocation processes that ensure reimbursable costs are properly allocated and billed.
See ICSUAM § 15701.00 Fundraising Events

4.0 RECEIVABLES AND PLEDGES

Internal Control Objectives:

Properly record and promptly collect receivables.

Examples of Sound Business Practices:

- (a) Segregation of Duties. Establish a written controls system that ensures billing, cash collection, customer inquiries, and subsidiary ledger reconciliations are conducted separately and with due regard for the receivable duties.
- (b) Recording Pledges. Record unconditional promises, such as donor pledges, at fair value and have verifiable documentation. FSAB Codification 958-31/GASB 33
- (c) Accounting for Receivables. Establish a written system to record receivables in a timely manner with proper documentation as to terms and conditions.
- (d) Collecting on Receivables. Establish a written system to invoice customers promptly, in a consistent manner, while exercising due diligence in the follow-up and collection of past due accounts.
- (e) Receivable Aging Reports and Write-offs. Establish a written system that provides for receivable aging reports with review by management and ensures proper approval and documentation of accounts receivable write-offs.
- (f) Reconciliation and Review. Reconcile subsidiary receivables ledgers to the general ledger on a timely basis and conduct an independent review by management.

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5.0 PROCUREMENT AND ACCOUNTS PAYABLE

Internal Control Objectives:

Perform procurement activities in a consistent manner in accordance with external and internal requirements.

Examples of Sound Business Practices:

- (a) Segregation of Duties. Establish a written control system that requires purchase orders and service contracts to be prepared separately from receiving and shipping, payables and disbursements, and that identifies prohibited transactions, such as with governing board members.
- (b) Purchase and Service Contracts. Establish a written system that provides for purchases and service contracts to be made within governing board policies, source restrictions, funds availability, and other applicable requirements.
- (c) Procurement Cards. Establish a written system that provides for card issuance approval, spending limits, usage controls, and a monthly review, reconciliation and approval process.
- (d) Purchasing in an Accurate and Consistent Manner. Establish a written system that ensures purchases and service contracts coding, classification, recording, and competitive bidding requirements are applied in a consistent manner.
- (e) Receiving Materials in an Accurate and Consistent Manner. Establish a written system that ensures materials are received in a consistent manner, and that they are properly inspected, recorded, and reported to the purchasing agent or equivalent.
- (f) Paying Vendors in an Accurate and Consistent Manner. Establish a written system that ensures accurate and timely payment of vendors after the determination of the receipt of goods or services or under the terms of the transaction.

6.0 PERSONNEL/PAYROLL

Internal Control Objectives:

Conduct personnel/payroll operations accurately and in compliance with external and internal requirements of an employer.

Examples of Sound Business Practices:

- (a) Segregation of Duties. Establish a written controls system that ensures payroll preparation is segregated from the general ledger function and other personnel/payroll functions such as hiring authorization, timekeeping, and distribution of checks.
- (b) Maintaining Accurate Personnel/Payroll Records. Establish a written system that ensures proper authorization, approval, documentation, and processing of new hires, terminations, changes in employment, salary and wage rates, and payroll deductions.
- (c) Payroll Preparation and Record-Keeping. Establish a written system that ensures accurate and timely collection of payroll information such as timecards, effort reporting, attendance records, and funding sources.
- (d) Distribution of Pay. Establish a written controls system that ensures proper payment of employees through direct deposit or by check, based upon submitted documentation.
- (e) Safekeeping Personnel/Payroll Records. Restrict access to personnel/payroll records in accordance with federal and state requirements.
- (f) Meeting Regulatory Requirements and Other Employer Responsibilities. Establish a written

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system that enables proper collection and timely remittance of payroll taxes and other withholdings for retirement and insurance programs, as well as all federal and state reporting requirements.

7.0 PROPERTY AND EQUIPMENT

Internal Control Objectives:

Properly account for and protect physical assets.

Examples of Sound Business Practices:

- (a) Segregation of Duties. Establish a written controls system that ensures employees maintaining fixed asset records are independent of those who maintain physical control inventory of property and equipment.
- (b) Compliance with Sponsor Requirements. Establish a written system that ensures compliance of terms and conditions sponsors may have specified regarding the use of property and equipment.
- (c) Recording Property and Equipment Acquisitions. Establish a written system that ensures proper recording of property and equipment when received and for labeling of equipment.
- (d) Property and Equipment Disposals. Establish a written system that ensures the proper approval, documentation, and recording of property and equipment disposals.
- (e) Conducting Physical Inventories. Establish a written system that ensures physical inspection of property and equipment on a service life schedule.
- (f) Reconciliation and Review. Reconcile physical inventories to the general ledger on a timely basis with review by management.

8.0 COMMERCIAL INVENTORY MANAGEMENT

Internal Control Objectives:

Properly account for and protect retail merchandise and commodity inventories.

Examples of Sound Business Practices:

- (a) Segregation of Duties. Establish a written controls system that ensures inventory acquisition, payment, sales, and accounting functions are conducted with appropriate segregation of duties.
- (b) Commodity Goods. Establish a written system that provides for proper accountability of food costs with monitoring and control of inventory waste, spoilage, and shortages.
- (c) Retail Goods. Establish a written system that provides for proper accountability of cost of goods sold with monitoring and control of damaged and defective goods and inventory shrinkage.
- (d) Inventory Control. Establish a written system that ensures materials are received, recorded, transferred, and stored in a controlled and secure manner.
- (e) Physical Inventories. Establish a written system that ensures an annual physical count of retail goods.

9.0 DEBT AND OTHER LIABILITIES

Internal Control Objectives: Properly record debt and other liabilities in compliance with restrictive covenants and other requirements.

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Examples of Sound Business Practices:

- (a) Governing Board Policy. Adopt a written governing board policy consistent with the CSU's debt issuance policies describing when debt may be incurred. The policy should be adjusted as needed as the CSU debt policies change.
- (b) Segregation of Duties. Establish a written controls system that ensures detailed accounting records, physical custodianship of debt instruments, and general ledger records are appropriately segregated.
- (c) Recording and Maintaining Accurate Records. Establish a written system that properly records all liabilities and their terms and conditions.
- (d) Complying with Restrictive Covenants. Establish a written compliance verification system that periodically reviews and analyzes restrictive covenants.
- (e) Trust Funds. Establish a written system that ensures agency or trust funds are controlled and administered in accordance with related agreements and CSU AUXILIARY ORGANIZATIONS COMPLIANCE MANUAL where appropriate. ICSUAM § 13680
- (f) Reconciliation and Review. Reconcile detailed liability records to the general ledger on a timely basis with review by management.

10.0 RESERVES AND NET ASSETS

Internal Control Objectives: Maintain reserves and net assets that will assure the financial viability of the organization, as well as comply with the legal obligations of donors and other third parties.

Examples of Sound Business Practices:

- (a) Governing Board Policies. Adopt written governing board policies that describe appropriate reserve requirements and provide for compliance with donor and other third party legal obligations.
- (b) Record-Keeping and Reporting. Establish a written system of record keeping and reporting that properly segregates and accounts, and complies with the legal obligations related to other third parties.
- (c) Maintain Financial Viability. Implement financial standards, which will assure fiscal viability, including proper provision for professional management, adequate working capital, adequate reserve funds for current operations and capital replacements, and adequate provisions for new business requirements.

11.0 INFORMATION TECHNOLOGY

Internal Control Objectives:

Manage and protect the confidentiality, integrity and availability of information assets.

Examples of Sound Business Practices:

- (a) Information Security Program. Establish and implement an information security program (in coordination with the campus) that contains administrative, technical and physical safeguards designed to protect information assets.
- (b) Information Security Risk Management. Establish and implement a risk management process that identifies, assesses, and monitors risks to information assets containing level 1

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and level 2 data as defined in the CSU Data Classification Standard (See ICSUAM § 8065).

Identified risks to these information assets must be actively managed by data owners and/or appropriate administrators in order to prioritize resources and remediation efforts.

- (c) Information Technology Security. Establish written policies and practices to protect the confidentiality, integrity, and availability of information technology assets and protected data from threats.
- (d) Change Controls. Establish written policies and practices to manage changes to information technology assets.
- (e) Access Controls. Establish written policies and practices for granting access to information assets; separating duties of individuals who have access to information assets; conducting reviews of access rights to information assets; and modifying user access rights to information assets.
- (f) Data Entry Controls. Establish written policies and practices that define processing controls, specifically: transaction edit checks, integrity of data files, reconciliation requirements, and error logs.
- (g) Output Controls. Establish written policies and practices that define output controls, specifically: verification of accuracy, authorized access to data, and proper description of report information and its sources.
- (h) Physical Security. Establish written policies and practices that identify physical areas that must be protected from unauthorized physical access. Such areas would include data centers and other locations where information assets are stored.
- (i) Business Continuity and Disaster Recovery. Establish written policies and practices that define maintenance and potential restoration of operations through and after both minor and catastrophic disruptions. Campuses and auxiliaries must ensure that their information assets can, in the case of a catastrophic event, continue to operate and be appropriately accessible to users.

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COMPLIANCE GUIDE

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Purpose and Objective of Guide

The intent of the Compliance Guide for CSU Auxiliary Organizations is to summarize/cite legal and regulatory requirements and applicable policy in CSU Executive Orders (EO) or within the Integrated CSU Administrative Manual (ICSUAM.) It is advisory and only includes an overview of statutes, regulation, and systemwide policy. Brief descriptions of the many laws and policies applicable to CSU Auxiliary Organizations are included. The Guide does not establish CSU Policy and does not substitute a full consideration of underlying law or policy.

Legal and Regulatory Hierarchy

State and Federal Level

- Statutes
- Regulations

University Level

- Board of Trustees Code of Regulations (Title 5, Division 5)
- Executive Orders (Chancellor's Policies)
- Integrated California State University Administrative Manual (ICSUAM)
- Compliance Guides

Application of State Law and CSU Policy to Auxiliary Organizations

State Law and CSU Policy generally are not applicable to CSU Auxiliary Organizations unless such is specifically cited or otherwise referenced within associated law or policy.

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1. REQUIREMENTS TO BE A CSU AUXILIARY ORGANIZATION

1.1 STATUTORY REQUIREMENTS. All CSU auxiliary organizations are governed by Cal. Ed. Code § 89900 et seq. Student body auxiliary organizations are also governed by Cal. Ed. Code § 89300 et seq.

In addition to the above, CSU auxiliary organizations incorporated in California must abide by other applicable laws and regulations, including but not limited to, Cal. Corp. Code § 5000 et seq., Cal. Gov. Code § 12580 et. seq. and California and federal tax law and regulations.

1.2 STATUTORY CRITERIA TO BE A CSU AUXILIARY ORGANIZATION. Cal. Ed. Code § 89901 lists the following characteristics in order to be qualified to be a CSU auxiliary organization:

- (a) An entity in which a CSU official participates as a director as part of his/her official position;
- (b) An entity formed or operating pursuant to Cal. Ed. Code § 89300 et seq. (student body organization);
- (c) An entity that operates a commercial service on a CSU campus or other CSU property for the benefit of a campus;
- (d) An entity (campus auxiliary) whose governing instrument provides in substance both of the following:
 - (1) That its purpose is to promote or assist a CSU campus, or to receive gifts, property and funds to be used for the benefit of such campus or person or organization having an official relationship therewith; and
 - (2) That any of its directors are appointed or nominated by, or subject to the approval of the CSU Board of Trustees (trustees) or CSU official, or selected, ex officio, from the membership of the trustees or CSU administrative staff.
- (e) An entity (CSU system auxiliary organization) whose governing instrument provides in substance both of the following:
 - (1) That its purpose is to promote or assist the trustees, or to receive gifts, property, and funds to be used for the benefit of the trustees or any person or organization having an official relationship therewith; and
 - (2) That any of its directors are appointed or nominated by, or subject to the approval of the trustees or CSU official, or selected, ex officio, from the membership of the trustees or CSU administrative staff.
- (f) An entity which, exclusive of the foregoing subdivisions, is designated as an auxiliary organization by the trustees.

1.3 EXCLUDED ENTITIES. The following campus organizations are excluded from becoming CSU auxiliary organizations by Cal. Ed. Code § 89902:

- (a) Alumni associations (See policy governing alumni associations at Title 5 California Code of Regulations (CCR) §§ 42397 et seq.);
- (b) Student clubs;
- (c) Societies;
- (d) Sororities and fraternities;
- (e) Social clubs;

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(f) Similar student groups not operating commercial facilities.

1.4 CSU AUTHORITY OVER NON-AUXILIARY AFFILIATED ENTITIES. CSU may establish rules and regulations governing non-auxiliary affiliated organizations that maintain an official relationship with a CSU campus or use the name or facilities of the campus. Cal. Ed. Code § 89902

Alumni Associations recognized by the university (Title 5 Cal. Code of Regulations (CCR) §§ 42397 et seq) may represent an official relationship to a CSU campus and use the campus facilities provided they adhere to CSU and campus policy.

Student clubs, societies, sororities, fraternities and similar affiliated student groups not operating any commercial activity may represent an official relationship to a CSU campus and use the campus facilities provided they adhere to CSU and campus policy. 5 CCR § 42400

1.5 REGULATORY COMPLIANCE REQUIRED. Most auxiliary organizations are chartered as nonprofit public benefit corporations, and are under the oversight of the Attorney General. Cal. Corp. Code § 5110 et seq., and Cal. Gov. Code § 12580 et seq. In addition to the requirement that an auxiliary organization have one or more of the characteristics (See 1.2 above) listed in Cal. Ed. Code § 89901 and not be excluded by Cal. Ed. Code § 89902, Cal. Ed. Code § 89900(c) requires that auxiliary organization operations be conducted in conformity with regulations established by the trustees. 5 CCR §§ 42400-42667 Executive Order (E.O.) 1059

1.6 TITLE 5 REGULATIONS. The trustees have adopted regulations governing auxiliary organizations in 5 CCR §§ 42400 et seq. The trustees through the chancellor have also issued policy applicable to auxiliary organizations through executive orders and the ICSUAM.

1.7 DEFINITION OF AUXILIARY ORGANIZATION. An auxiliary organization is defined as a non-profit entity, which is included on the chancellor's list of auxiliary organizations in good standing; organized and operated in accordance with Cal. Ed. Code § 89900 et seq.; and operated in conformity with CSU and campus policy. 5 CCR §§ 42400; 42402; E.O. 698

1.8 GOOD STANDING LIST. The chancellor prepares and keeps current a list of auxiliary organizations in good standing. In order to be on the list, auxiliary organizations must operate in compliance with CSU rules, regulations and policy. 5 CCR § 42406; E.O. 698; See also section 5 of this Compliance guide.

1.9 USE OF NAME. Only an auxiliary organization that operates in accordance with CSU rules, regulations and policy and maintains its place on the chancellor's list of auxiliary organization in good standing may use the name of the CSU or campus in its title. Use of CSU and campus names must also comply with Cal. Ed. Code § 89005.5. E.O. 698

1.10 SYSTEM AUXILIARY ORGANIZATIONS. CSU system auxiliary organizations may exist if

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they:

- (a) Are established pursuant to statutory requirements;
- (b) Are included on the chancellor's list of auxiliary organizations in good standing;
- (c) Are engaged in activities essential and integral to the CSU mission and purpose;
- (d) Are responsible to the chancellor; and
- (e) Operate in conformity with CSU and chancellor policy.

5 CCR § 42665

A CSU system auxiliary organization is required to follow regulations and policies applicable to campus auxiliary organizations. In applying the regulations, where the term "president" or "campus" is used, "Chancellor" and "California State University system" shall be substituted. 5 CCR § 42666(a)

Regulations applying to student body organizations do not apply to CSU system auxiliary organizations nor does the governing board composition requirement. 5 CCR § 42666(b)-(c)

2. PURPOSE AND OBJECTIVES OF AUXILIARY ORGANIZATIONS

2.1 ESSENTIAL ACTIVITY. Auxiliary organization activities are essential to the education program of a campus and are an integral part of a campus program and shall be so operated. 5 CCR §§ 42401 and 42665

2.2 BENEFIT CSU OR CAMPUS. Auxiliary organizations are organized and operated solely for the benefit of the CSU or one of its campuses and shall not operate outside the regulation and oversight of the CSU and the campus. E.O. 1059

2.3 SEPARATE STATUS. The separate legal status of auxiliary organizations (26 USC § 501(c)(3)) enables strategies that are important to the educational mission and provides capabilities essential to a comprehensive university. E.O. 1059

Auxiliary organizations exist because the state recognized the need for certain activities at CSU campuses, but determined that these activities would be best performed by one or more legally separate entities. Auxiliary organizations exist, in part, "[t]o provide effective operation and to eliminate the undue difficulty which would otherwise arise under the usual governmental budgetary, purchasing, and other fiscal controls." 5 CCR § 42401(c) Examples of these activities include: (a) investing in equities; (b) buying, selling and holding real property without legislative action; and (c) engaging in state wide education bond campaigns.

2.4 OBJECTIVES. The objectives of CSU auxiliary organizations are to provide:

- (a) Student self-government (student body auxiliary organizations);
- (b) The fiscal means and the management procedures that allow the campus to carry on activities providing those related instructional and service aids not normally furnished by the state budget;
- (c) Effective operation and to eliminate the undue difficulty which would otherwise arise

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under the usual governmental budgetary, purchasing, and other fiscal controls; and
(d) Fiscal procedures and management systems that allow effective coordination of auxiliary activities with the campus in accordance with sound business practices.

5 CCR § 42401

3. CSU AUTHORITY AND RESPONSIBILITY

3.1 CSU AUTHORITY. The California Education Code provides the trustees with overall responsibility to administer the activities of the CSU. The trustees through Title 5 California Code of Regulations, trustee standing orders and resolutions have delegated certain authority to the chancellor and specific authority to campus presidents. The trustees have vested authority in the chancellor to establish and implement auxiliary organization policies and procedures consistent with and pursuant to the policies of the trustees. The chancellor, through executive orders, has delegated specific authority to campus presidents.

3.2 CAMPUS PRESIDENT RESPONSIBILITY. Campus presidents are responsible for:

- (a) The propriety of expenditures and the integrity of financial reporting made by campus auxiliary organizations;
- (b) Exercising prudent judgment in the utilization of campus auxiliary organizations;
- (c) Ensuring the fiscal viability of campus auxiliary organizations;
- (d) Ascertaining that campus auxiliary organizations' operations and expenditures comply with CSU and campus policy;
- (e) Requiring campus auxiliary organizations to submit programs and budgets for review at a time and in a manner determined by the campus president;
- (f) Reviewing campus auxiliary organizations' programs and budgets;
- (g) Requiring discontinuance of activities not in conformity with CSU and campus policy; and;
- (h) Ensuring that costs incurred by CSU for services, products, and facilities provided to auxiliary organizations are properly and consistently recovered.

Cal. Ed. Code §§ 89756 and 89900(b); 5 CCR § 42402; trustee standing orders; EOs 698, 1000 and 1059

3.3 CAMPUS CHIEF FINANCIAL OFFICER RESPONSIBILITY. Campus chief financial officers are the primary responsible campus official to assure administrative compliance by and fiscal oversight of campus auxiliary organizations. The campus chief financial officer or designee shall annually approve and implement a cost allocation plan.

EOs 1000 and 1059; See also ICSUAM § 11000 et seq

4. FUNCTIONS OF AUXILIARY ORGANIZATIONS

For an auxiliary organization to engage in a specific function, the function must be an integral part of the educational mission of the campus and the CSU and be conducted in conformity with CSU and campus policy. 5 CCR § 42500

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Based on the primary functions they perform, auxiliary organizations may be classified in one or more of the following general categories:

- (a) student body organizations;
- (b) campus support service organizations;
- (c) foundations for sponsored projects, workshops and institutes; and
- (d) instructionally related activity organizations.

E.O. 698

4.1 LIST OF FUNCTIONS. The trustees have determined that the following functions are appropriate for auxiliary organizations to perform:

- (a) Student body organization programs;
 - (b) Bookstore, food services, and campus services;
 - (c) Housing;
 - (d) Student union programs;
 - (e) Supplementary health services;
 - (f) Loans, scholarships, grants-in-aids, stipends, and related financial assistance;
 - (g) externally funded projects including research, workshops, conferences and institutes;
 - (h) Instructionally-related programs, and activities, including agriculture, athletics, radio and television stations, newspapers, films, transportation, printing, and other instructionally related programs and activities;
 - (i) Alumni programs;
 - (j) Gifts, bequests, devices, endowments, trusts and similar funds;
 - (k) Public relations, fundraising, fund management, and similar development programs;
- and
- (l) Acquisition, development, sale, and transfer of real and personal property including financing transactions related to these activities.

4.2 PROHIBITED ACTIONS. Auxiliary organizations may not do the following:

- (a) Hold state general funds, except in limited and approved circumstances that are appropriated to the CSU through the annual legislative process. E.O. 1059; ICSUAM § 13680
 - (b) Hold tuition fee revenue. E.O. 1059; ICSUAM § 13680
 - (c) Hold permitted mandatory student fees required for registration. E.O. 1059; ICSUAM § 13680
 - (d) Own or sponsor an instructional program awarding credit or continuing education units. E.O. 794
- See also 5 CCR §§ 42403 and 42659 restrictions on use of student body organization funds, discussed in section **15.8** of this Compliance guide.

4.3 RESPONSIBILITY FOR ASSIGNED FUNCTION. When the auxiliary organization accepts responsibility for a function, it also assumes the associated legal obligations and liabilities, fiscal liabilities and fiduciary responsibilities. E.O. 1059

4.4 STUDENT BODY ORGANIZATION FUNCTIONS. The trustees have determined that student body organizations may expend funds received from mandatory student fees to

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engage only in certain functions. Cal. Ed. Code § 89300 et seq.; see section **15.8** of this Compliance guide

4.5 WRITTEN AGREEMENT. Auxiliary organizations shall not perform any of the functions listed unless the function has been specifically assigned in the written operating agreement. A written agreement between the CSU and each auxiliary organization is required to perform any of the above functions, except for student body organization activities. However, if the student body organization is involved in other authorized functions, a written agreement is required. The agreement may cover more than one function or the parties may enter into separate agreements for each function. Authority for agreements between the auxiliary organization and a student for projects involving agricultural, vocational or other instructional activities (if any) is to be incorporated in the written agreement.
5 CCR § 42501; E.O. 1059

4.5.1 Contents of Operating Agreement. The written agreement shall, among other things, specify the following:

- (a) The function(s) which the organization is to manage, operate or administer;
- (b) The necessity for administration of the functions by the auxiliary organization instead of by the campus under usual state procedures;
- (c) Service by any state officer or employee shall not be incompatible, inconsistent, or in conflict with his or her duties as a state officer or employee;
- (d) The facilities to be made available to permit the auxiliary organization to perform the functions specified in the written agreement;
- (e) The charge or rental to be paid for the facilities used in connection with the performance of its function. The charge or rental specified does not require involved methods of computation, and should be identified in sufficient time before its incurrence so that the organization may determine to what extent it shall be liable therefore;
- (f) Full reimbursement to the CSU for services performed by state employees under the direction of the organization. Methods of proration where services are performed by state employees for the organization can be simple and shall be equitable;
- (g) An equitable method of determining in advance to what extent the organization shall be liable for indirect costs;
- (h) The responsibility for maintenance and payment of operating expenses;
- (i) Proposed expenditures for public relations or other purposes which would serve to augment state appropriations for operation of the campus. The statement will include the policy and procedure on solicitation of funds, source of funds, amounts, and purpose for which the funds will be used, allowable expenditures, and procedures of control;
- (j) The disposition to be made of net earnings derived from the operation of facilities owned or leased by the auxiliary organization and provisions for reserves;
- (k) The disposition to be made of net assets on dissolution of the auxiliary organization or cessation of the operations under the agreement;

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(l) The covenant of the auxiliary organization to maintain its organization and to operate in accordance with the regulations contained in 5 CCR § 42400 et seq. and trustee resolutions;

(m) The operations of auxiliary organizations shall be integrated with campus operations and so supervised as to comply with objectives stated in 5 CCR § 42401. 5 CCR § 42402

4.5.2 Term of Agreement. Each written agreement will be valid for a specified length of time, and each auxiliary organization must take measures to ensure that new agreements will become effective no later than the expiration of the one it replaces.

4.5.3 Insurance and Indemnity Requirements. The chancellor has issued policies that require auxiliary organizations to have certain levels of insurance and to have a hold harmless provision in their written agreement with the university. E.O. 1069 and Risk Management Tech Letter 2012-02, which may be accessed at http://www.calstate.edu/risk_management/rm/documents/RM2012-02.pdf

4.5.4 Section Not Used

4.5.5 Regular Review. At least every five years, the campus shall review auxiliary organizations to ensure that written operating agreements are current and that auxiliary organizations activities are in compliance with those agreements. Confirmation that this review has been conducted will consist of either an updated operating agreement, or a letter from the campus president to the CSU executive vice chancellor/chief financial officer certifying that the review has been conducted. As part of these periodic reviews, the campus president should examine the need for each auxiliary and look at the efficiency of the auxiliary operations and administration. E.O. 1059

5. ORGANIZATIONAL REQUIREMENTS

5.1 BASIC STRUCTURE. Auxiliary organizations must be established for purposes that benefit the university. They may be incorporated organizations having articles of incorporation and bylaws, or they may be entities having adopted a constitution. They must be 26 USC § 501(c)(3) nonprofit entities, although they may conduct activities that generate unrelated business income as long as they maintain their nonprofit status. 5 CCR §§ 42401, 42500, 42600; E.O. 1059

5.2 CRITERIA TO ESTABLISH A CSU AUXILIARY ORGANIZATION.

5.2.1 Request. No new campus auxiliary organization shall be established unless the campus president submits a written request and recommendation accompanied by a justification and such request is approved by the chancellor. The request must include:

(a) Organization documents, such as draft articles of incorporation and bylaws for incorporated organizations or a draft constitution and bylaws for

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unincorporated organizations;

(b) Materials that reflect the nature of the organization and relationship with the campus; and

(c) Justification of the need for an additional entity to accomplish the objectives.
5 CCR § 42407

5.2.2 Approval. The chancellor's office will evaluate the request. Approval results in placement of the auxiliary organization on the chancellor's list of CSU auxiliary organizations that have good standing status. The current list may be accessed at http://auxiliary.calstate.edu/wp-content/uploads/Auxiliary_List.pdf

5.3 TRANSFER OF EXISTING AUXILIARY ASSETS. Subject to the provisions of Cal. Corp. Code § 5142 (actions for breach of charitable trust), an incorporated auxiliary organization may sell, lease, convey, exchange, transfer or otherwise dispose of all or substantially all of its assets when the principal terms are:

(a) Approved by the auxiliary organization governing board; and

(b) Unless the transaction is in the usual and regular course of its activities, approved by the members, if any, and by any other person whose approval is required by the articles of incorporation, either before or after approval by the board and before or after the transaction.

(c) Subject to the provisions of Cal. Corp. Code § 5142, such sale, lease, conveyance, exchange, transfer or other disposition may be made upon such terms and conditions and for such consideration as the board may deem in the best interests of the corporation. Cal. Corp. Code § 5911 (a)

(d) Except for a transaction subject to Cal. Corp. Code § 5914 or 5920, an incorporated auxiliary organization must give written notice to the California Attorney General twenty days before it sells, leases, conveys, exchanges, transfers or otherwise disposes of all or substantially all of its assets unless the transaction is in the usual and regular course of its activities or unless the Attorney General has given the corporation a written waiver of Cal. Corp. § 5913 as to the proposed transaction. Cal. Corp. Code § 5913

(e) The entity to which a CSU auxiliary organization transfers all or substantially all of its assets upon dissolution must be an entity approved by the president of the campus and by the chancellor. 5 CCR § 42600

5.7 PROBATION, SUSPENSION OR REMOVAL PROCEDURES. The chancellor has established the following procedures that must be followed prior to placing an auxiliary organization on probation, suspending or removing an auxiliary organization from the good standing list. E.O. 698; 5 CCR § 42406

5.7.1 Probation, Suspension and Removal of Good Standing Status. An auxiliary organization that does not meet one or more of the basic criteria may be placed on probation, suspended or removed from the good standing list. The chancellor may make such provisions consistent with law in accord with procedures she/he establishes with respect to further cooperation and agreements between any campus and an auxiliary organization not in good standing. 5 CCR § 42406

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5.7.2 Fact Finding Conference. The chancellor or designee, after consultation with the campus president, shall conduct a fact-finding conference to determine if there are grounds for probation, suspension, or removal from the good standing list. 5 CCR § 42406

5.7.3 Notice. The chancellor or designee will give the campus president and the auxiliary organization's governing board reasonable notice of the conference, and the president and governing board (or their representatives) are entitled to be present and be heard. 5 CCR § 42406

6. DISSOLUTION REQUIREMENTS

Each auxiliary organization is required to have a dissolution clause in either its articles of incorporation or constitution. The clause must specify that upon dissolution of the organization, net assets, other than trust funds, shall be distributed to a successor approved by the president of the campus and by the chancellor. The chancellor will establish procedures for the dissolution of an auxiliary organization. 5 CCR §42600(b)

7. GOVERNING BOARDS

7.1 COMPOSITION. All proposed or existing auxiliary organizations, other than student body organizations, desiring to establish or to make a substantial change in the governing board's composition shall ensure that the resulting membership consists of the following:

- (a) Administration and staff (one representative from either area);
- (b) Faculty;
- (c) Non campus personnel;
- (d) Students.

Cal. Ed. Code § 89903; 5 CCR § 42602; Cal Corp. Code § 5047

CSU policy provides that a campus's officially recognized student body organization be responsible for nominating potential student members of auxiliary organization governing boards to the campus president. AA 2011-05

Composition of the governing board of directors prescribed above does not apply to system-wide auxiliary organizations. 5 CCR § 42666

7.2 SECTION NOT USED

7.3 STUDENT BODY ORGANIZATION GOVERNING BOARDS. Student body organization governing boards have special membership requirements. Cal. Ed Code § 89903; 5 CCR §42602; see section **15.3** of this Compliance Guide

7.4 CONDUCT OF GOVERNING BOARDS.

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7.4.1 Conflict of Interest. The legislature has established restrictions on certain contracts and transactions involving auxiliary organization governing board members that could result in, or be perceived as, a conflict of interest.

7.4.2 Financial Interest Prohibited. “No member of the governing board of an auxiliary organization shall be financially interested in any contract or other transaction entered into by the board of which he is a member, and any contract or transaction entered into in violation of this section is void.” Cal. Ed Code § 89906

7.4.3 Exceptions and Prohibited Financial Interests. Under the circumstances listed in Cal. Ed. Code §89907, an auxiliary organization governing board may approve or ratify a contract or transaction otherwise prohibited by Cal. Ed. Code § 89906. However, the board may not approve or ratify such prohibited contracts or transactions if:

- (a) The contract or transaction is between an auxiliary organization and a member of the governing board;
 - (b) The contract or transaction is between an auxiliary organization and a partnership or unincorporated association of which a board member is a partner or owner or holder, directly or indirectly, of a proprietorship interest;
 - (c) The contract or transaction is between an auxiliary organization and a corporation in which any member of the board is the owner or holder, directly or indirectly, of 5 percent or more of the outstanding common stock;
 - (d) A member of the board is interested in a contract or transaction within the meaning of Cal. Ed. Code § 89906, and without first disclosing such interest to the board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.
- Cal. Ed. Code §§ 89907-89908

7.4.4 Use of Nonpublic Information by Board Members. “It is unlawful for any person to utilize any information, not a matter of public record, which is received by him by reason of his membership on the governing board of an auxiliary organization, for personal pecuniary gain, regardless of whether he is or is not a member of the governing board at the time such gain is realized.” Cal. Ed Code § 89909

7.4.5 Use of Nonpublic Information for Personal Gain by Employees or Contractors.

“It is unlawful for any person to utilize any information, not a matter of public record, that is received by that person by reason of his or her employment by, or contractual relationship with ... an auxiliary organization of the California State University, for personal pecuniary gain, not contemplated by the terms of the employment or contract, regardless of whether the person is or is not so employed or under contract at the time the gain is realized.” Cal. Ed. Code § 89006

7.4.6 Self-dealing; Loans and Guarantees. An auxiliary organization incorporated as a California nonprofit public benefit corporation must also comply with the

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California Corporations Code prohibitions on self-dealing transactions in which a member of its governing board has a material financial interest (Cal. Corp. Code § 5233) and prohibitions on loans of money or property to, and guarantees of obligations of, its board members or officers (Cal. Corp. Code § 5236).

7.5 BOARD MEETING REQUIREMENT. Auxiliary organization governing boards and any subboards shall conduct business in public meetings. Cal. Ed. Code § 89920

Student body auxiliary organizations shall comply with the Gloria Romero Open Meetings Act of 2000. Cal. Ed. Code §§ 89305 et seq.

7.5.1 Meetings Practices. Each governing board shall, during each fiscal year, hold at least one business meeting in accordance with Cal. Ed. Code § 89920 et seq. These requirements include provisions for public access to meetings, notice for regular meetings and special meetings, posting action items, and access to information on issues and candidates for auxiliary organization office. Each governing board and subboard shall, at least one week prior to the date set for the meeting, give written notice to any individual or medium that has filed a written request for notice. Any request for notice filed pursuant to this section shall be valid for one year from the date on which it is filed unless a renewal request is filed. Cal. Ed Code §§ 89903(b); 89920-89928

7.5.2 AGENDA ITEMS. Each auxiliary organization shall develop agenda items that are necessary for the proper conduct and oversight of the operation of the organization. The chief executive or the chief financial officer shall identify specific topics and have them placed on the agenda. Such agenda items should be drafted so as to satisfy the legal requirements for public notice (Cal. Ed. Code §§ 89920-28).

7.6 LEGAL AND FINANCIAL COUNSEL. Each auxiliary organization is required to have the advice and counsel of an attorney admitted to practice law in the State of California and a licensed certified public accountant. These individuals are to be formally appointed by the auxiliary organization's governing board and are to be available on an on-call basis to respond to concerns of the management or governing board. Neither the attorney at law nor the certified public accountant need be members of the board. Cal. Ed Code §§ 89900(a); 89903(b)

7.6.1 Regular Legal Counsel Briefings. It is desirable to have regular briefings of the governing board by an attorney with knowledge of the law applicable to auxiliary organizations, including without limitation Cal. Ed. Code §§ 89300 et seq. and 89900 et seq., 5 CCR §§42400 et seq., and Cal. Corp. Code §§ 5000 et seq., governing nonprofit corporations, to clarify and update legal responsibilities and provide legal advice in operating the auxiliary organization as a separate yet integral part of the campus community. Such briefings are especially helpful as governing board members change. Each year the auxiliary organization's governing board should consider the need for a briefing from its legal counsel.

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8. PUBLIC ACCESS TO AUXILIARY RECORDS

The McKee Transparency Act, Cal. Ed. Code § 89913 et seq., provides that records maintained by a CSU auxiliary organization shall be available to the public to inspect or copy except as provided by the Act. Cal. Ed. Code § 89914(a).

8.1 RECORDS SUBJECT TO THE ACT. The records subject to disclosure include “any identifiable writing containing information relating to the conduct of the auxiliary organization that is prepared, owned, used, or retained by an auxiliary organization.” Cal. Ed. Code § 89914(a)

8.2 DEFINITION OF IDENTIFIABLE WRITING. “Identifiable writing” means “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.” Cal. Ed. Code § 89913.5(b)

8.3 RECORDS EXEMPT FROM DISCLOSURE BY MCKEE ACT. There are exemptions from disclosure in the McKee Act at Cal. Ed. Code § 89916 (a), which are subject to the exceptions set forth in Cal. Ed. Code § 89916(b). Those exemptions include:

8.3.1 Donor Identity. Information that would disclose the identity of a donor, prospective donor or volunteer. Cal. Ed. Code § 89916(a)(1)

8.3.2 Donor Information. Personal financial information, estate planning information and gift planning information of a donor, prospective donor or volunteer. Cal. Ed. Code § 89916(a)(2)

8.3.3 Trust and Annuity Information. Personal information related to a donor’s private trusts or a donor’s private annuities administered by an auxiliary organization. Cal. Ed. Code § 89916(a)(3)

8.3.4 Fundraising Information. Information related to fundraising plans, fundraising research, and solicitation strategies. Cal. Ed. Code § 89916(a)(4)

8.3.5 Identity of Students and Alumni. The identity of students and alumni to the extent that this information is already protected under state and federal statutes applicable to CSU. This exemption does not apply to auxiliary organization employees or to a student who participates in a legislative body of a student body organization. Cal. Ed. Code § 89916(a)(5)

8.4 EXCEPTIONS TO ABOVE MCKEE ACT EXEMPTIONS. The above exemptions in Cal. Ed. Code § 89916(a)(1)-(5), do **not** exempt from disclosure records that contain information regarding the following:

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8.4.1 Donation Amount and Date. Cal. Ed. Code § 89916(b)(1)

8.4.2 Donor Designated Use of or Purpose of Donation. Cal. Ed. Code § 89916(b)(2)

8.4.3 Donor Imposed Restrictions on use of Donation. Cal. Ed. Code § 89916(b)(3)

8.4.4 Quid Pro Quo Arrangement. The identity of a donor who, in any fiscal year makes a gift in a quid pro quo arrangement (i.e. getting something of value in return for giving something of value), where either the value of the benefit received is in excess of \$2500 (adjusted to reflect changes in the consumer price index) or the benefit is illegal. Cal. Ed. Code § 89916(b)(4)

8.4.5 Self-dealing Transaction. Records pertaining to self-dealing transactions that would otherwise be exempt from disclosure under Cal. Ed. Code § 89916(a) must be disclosed. Self-dealing transactions include loans of money or property or material financial interests of or between auxiliary organization officers or directors and an auxiliary organization, as set forth in Cal. Corp. Code §§ 5233 and 5236. Cal. Ed. Code § 89916(b)(5)

8.4.6 Non-Competitively Bid Contract. Records pertaining to the identity of such donor or volunteer that would otherwise be exempt from disclosure under Cal. Ed. Code § 89916(a)(1) shall be disclosed where the volunteer or donor is awarded, within five years of the date of the service or gift, a non-competitive bid contract from the CSU/campus or the auxiliary organization. Cal. Ed. Code § 89916(b)(6)

8.5 TRADE SECRETS. Trade secrets, as defined in Cal. Civ. Code § 3426.1, are exempt from disclosure. Trade secrets means “information, including a formula, pattern, compilation, program, device, method, technique, or process, that does both of the following:

(a) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use.

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Cal. Ed. Code § 89916.5

8.6 OTHER EXEMPTIONS. The McKee Act incorporates exemptions from disclosure that are in the California Public Records Act (Cal. Govt. Code §§ 6254-6255). Cal. Ed. Code § 89915.5

Some of those exemptions are set forth below:

8.6.1 Drafts and Notes. Preliminary drafts, notes, or memoranda not retained in the ordinary course of business, when the public interest in withholding clearly outweighs the public interest in disclosure. Cal. Govt. Code § 6254(a)

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8.6.2 Pending Litigation. Records pertaining to pending litigation to which the auxiliary organization is a party until the litigation has been finally adjudicated or otherwise dismissed. Cal. Govt. Code § 6254(b)

8.6.3 Personnel, Medical, or Similar records. Personnel, medical, or similar records, the disclosure of which would constitute an unwarranted invasion of personal privacy. Cal. Govt. Code § 6254(c)

8.6.4 Real Estate Appraisals. Real estate appraisals or engineering or feasibility estimates and evaluations made for or by the auxiliary organization relative to the acquisition of property, or to prospective supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. Cal. Govt. Code § 6254(h)

8.6.5 Records Exempted by Other Laws. Records exempted or prohibited from disclosure by federal or state law, including the law of privilege. Cal. Govt. Code § 6254(k)

8.6.6 Security Records. Records that assess vulnerability to terrorist attack or other criminal acts intended to disrupt operations. Cal. Govt. Code § 6254(aa)

8.6.7 Balancing Test; Deliberative Process. Any record where the public interest served by not disclosing clearly outweighs the public interest served by disclosure. Cal. Govt. Code § 6255 and Cal. Ed. Code § 89914.5(c)

8.7 RESPONSE TO A MCKEE ACT REQUEST. An auxiliary organization must respond to a McKee Act request within ten calendar days after receipt. The response may, but does not have to, include the actual records. Cal. Ed. Code § 89914.5(a)

8.8 PROVIDING THE RECORDS; COPY COST. Public records are generally open to inspection at all times during the auxiliary organization's normal business hours. There is no charge for inspecting records. A charge may be imposed for the "direct" cost of copying the records. This includes the expense of the duplicating equipment, supplies, and the cost of the staff operating the equipment. It does **not** include the cost of locating, retrieving, or inspecting records. Records are not required to be copied or provided until appropriate costs have been paid by the requester. Cal. Ed. Code § 89914

8.11 ELECTRONIC RECORDS. If an auxiliary organization holds identifiable, non-exempt responsive records in an electronic format, the organization shall make such records available in the electronic format in which it holds the information. If a request seeks records in a specific format, e.g., hard or electronic format, they must be produced in that format, so long as they were created in that format originally. Cal. Ed. Code § 89915(a)

8.12 REMEDY FOR VIOLATIONS OF THE MCKEE ACT. A person who has been denied access to a public record under the McKee Act may file a lawsuit to enforce his/her right to inspect or

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receive a copy of the record. If the court finds that refusal to disclose the record was unjustified, the court may enter an order requiring its disclosure. The court may also order the auxiliary organization to pay reasonable attorneys' fees and court costs. If the court finds the refusal to disclose was justified, the auxiliary organization may recover its attorneys' fees only where it can demonstrate that the request was clearly frivolous. Cal. Ed. Code §§ 89917; 89917.5

8.13 CONFIDENTIALITY. Any provision in a contract entered into after January 1, 2012 (the effective date of the McKee Act) between an auxiliary organization and another party that would prevent the disclosure of information required to be disclosed under the McKee Act is void and unenforceable, and such a provision shall not justify a failure to comply with the Act. Ed. Code § 89918.5

9. CAMPUS FACILITIES, CONSTRUCTION AND VEHICLES

9.1 CSU PROPERTY AND FACILITIES LEASES.

9.1.1 Lease Required. If an auxiliary organization uses CSU land, buildings or facilities for the ongoing performance of authorized functions or services, the arrangement must be established through a lease or other form of written agreement between the auxiliary organization and CSU. The provisions for the lease of campus facilities may be combined with the written operating agreement to perform functions or may be in a separate lease agreement. The chancellor's office maintains model agreements and leases containing only basic required sections which, if used, should be augmented by specific conditions of the particular situation. Cal. Ed. Code § 89046; 5 CCR §§ 42502(d)(e) and 42601; E.O. 669

The following leases of CSU property require review and approval by the office of the chancellor prior to execution:

- (a) Leases where the trustees' commitment or the property leased is to be used to support the issuance of bonds, certificates of participation or notes, or where there is a transfer of interest by installment sale or other form of security;
- (b) Leases with a term or dollar value subject to E.O. 669;
- (c) Leases that permit the development of real property of the CSU pursuant to trustee policy on public/private or public/public development. E.O. 669

9.1.2 Student Body Organization Lease. Student body organizations, including those that perform student government functions, are required to have a lease to use campus facilities. The lease for student government organizations shall be subject to policies established by the campus. Lease amounts for student body organizations may be set at the discretion of the campus. Cal. Ed. Code § 89046

9.1.3 Sponsored Projects. Use of CSU and campus facilities for sponsored projects work shall be reflected in a written lease or licensing agreement; however, specific project needs shall be arranged on a special basis as a matter of resources and needs between the campus and the auxiliary organization. Use of space for sponsored projects may require reimbursement to CSU. E.O. 1000

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9.2 LICENSE FOR SPECIAL USE OF CAMPUS FACILITIES. The one time or special use of CSU and campus facilities such as auditoriums, stadiums, amphitheatres, gymnasium facilities, classrooms, conference rooms, labs, etc. are subject to policies and regulations requiring that CSU or the campus be reimbursed for incremental costs incurred as a result of the activity. Such uses shall also be subject to policies established at each campus. Cal. Ed. Code § 89046; 5 CCR §§ 42502; 42601

9.3 CONSTRUCTION ON CSU PROPERTY.

9.3.1 Sole and Direct Control of Trustees. Any construction “project” (defined in Cal. Pub. Cont. Code § 10701) located on CSU property, which is performed pursuant to a contract entered into or awarded by an auxiliary organization, and funded in whole or in part by public funds, is deemed to be under the sole and direct control of the trustees. Cal. Pub. Cont. Code § 10704; Cal. Ed. Code § 89911

Projects deemed to be under the direct control of the trustees are subject to all the requirements of the CSU contract law (Cal. Pub. Cont. Code §§ 10700 et seq.) and CSU and campus policy. All projects funded or administered by auxiliary organizations shall be coordinated with the campus executive facility officer. Cal. Ed. Code § 89911

9.3.2 Master Plan. All construction on a campus is subject to campus physical master plan requirements and, if classified as a non-state funded capital outlay project, must be approved in the trustees’ non state capital program. Contact your campus executive facility officer to coordinate project requirements with the office of capital planning, design and construction at the chancellor’s office. (ICSUAM § 9000 et seq.)

9.3.3 Major Capital Projects. Major capital outlay construction projects that involve the use of CSU land or facilities must have prior approval by the campus president and be approved in the trustees’ non state capital program. (ICSUAM § 9000 et seq.)

9.3.4 Minor Capital Projects. Minor capital outlay projects, which include refurbishing and remodeling projects on CSU land or facilities shall be coordinated with, and approved by, the campus president or designee. (ICSUAM § 9000 et seq.)

9.3.5 Student Fee Funded Projects. For construction projects funded from the university’s student union fee, funding may be provided through revenues coming through the trustee’s system-wide revenue bond program administered through the office of financing and treasury at the chancellor’s office. At the auxiliary organization’s discretion, smaller cash funded projects may be paid for by the auxiliary organization holding the student union operating agreement. Regardless of source, the campus and auxiliary organization must coordinate all such bond funded projects with financing and

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treasury, which handles budget, programmatic and capital outlay implications of the trustees' bond programs. 5 CCR § 42500(c)

9.3.6 Auxiliary Construction Contract General Terms and Conditions. CSU contract general conditions for use by auxiliary organizations shall be used when entering into contracts for auxiliary organization construction projects located on CSU property and funded in whole or in part by public funds. The most recent standard general conditions, maintained by the capital planning design and construction unit of the chancellor's office, may be accessed at <http://www.calstate.edu/CPDC/CM/CGC.shtml>.

See ICSUAM § 9701.09

9.3.7 Agreement for CSU Services. If CSU staff is to inspect, superintend, or administer an auxiliary organization construction project, the auxiliary organization shall enter into a written agreement with CSU detailing the services to be performed by CSU and the amount to be paid by the auxiliary organization for such services prior to commencement of the project. See ICSUAM § 9701.09

9.3.8 Ground Lease with CSU. A ground lease of CSU property from CSU to an auxiliary organization shall include CSU's right to review, audit and authorize other governmental agencies to review and audit all books and records of the partnering auxiliary organization and tenants/subtenants with respect to any and all rents and any financial obligations received by the auxiliary organization associated with the ground lease. CSU ground leases with an auxiliary organization and construction contracts for development on CSU property shall also include the same insurance, surety bond requirements and indemnification provisions that are in CSU construction contract general conditions for use by auxiliary organizations.

9.4 CONSTRUCTION ON AUXILIARY PROPERTY.

9.4.1 Development Projects. All auxiliary organization development projects on auxiliary organization property shall comply with requirements in E.O. 747 and ICSUAM § 9015.

9.4.2 Mandatory Provisions. Construction contracts for development on auxiliary organization property shall include the same insurance, surety bond requirements and indemnification provisions that are in CSU construction contract general conditions for use by auxiliary organizations.

9.5 SUSTAINABILITY.

9.5.1 Sustainable Practices. In recognition of auxiliary organizations' contribution to CSU's overall environmental footprint, auxiliary organizations shall pursue sustainable practices in the planning, design, construction and operation of facilities. Each auxiliary will support campus goals to reduce energy consumption and energy use intensity, water use, and waste generation.

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9.5.2 Energy Efficiency. CSU has established a policy to construct facilities which exceed the minimum requirements set forth in the California Building Code, Title 24, Part 6 Energy Standards. Auxiliary construction projects shall meet the CSU standards for energy efficiency as delineated in the latest technical memos and bulletins issued by the capital planning, design and construction unit in the chancellor's office.

9.6 MAINTENANCE/CAPITAL RENEWAL. Auxiliary organizations shall assess and address the maintenance and capital renewal needs of auxiliary organization facilities and may coordinate with campus facilities departments to participate in campus facilities renewal models and benchmarking.

9.7 USE OF STATE VEHICLES. Cal. Ed. Code § 89008 authorizes the promulgation of rules governing CSU leased or owned vehicles. Current CSU Use of University and Private Vehicle Guidelines issued by the office of risk management in the chancellor's office, provides that auxiliary personnel may not use state vehicles, either directly or by loan or lease. See http://www.calstate.edu/risk_management/documents/VehicleGuideBook_July2012.pdf

10. FISCAL POLICY

10.1 FISCAL POLICY. The Education Code requires the trustees to implement certain fiscally-related policies applicable to all auxiliary organizations requiring:

10.1.1 Financial Standards. Financial standards to assure the fiscal viability of auxiliary organizations, including professional management, adequate working capital, reserves for capital replacement, and provision for new business requirements;

10.1.2 Indirect Costs. Policies for the appropriation of funds derived from indirect cost payments.
Cal. Ed. Code § 89904; 5 CCR § 42401; E.O. 1059

10.2 BASIS FOR FINANCIAL STANDARDS AND FISCAL VIABILITY POLICY. The trustees have developed financial standards governing auxiliary organizations required by Cal. Ed. Code § 89904-89905 (not including § 89905.5). 5 CCR § 42401(d); E.O. 1059
All CSU auxiliary organizations are required to conform to trustee and campus policies.
Cal. Ed. Code § 89900(c)

The following trustee policy shall be implemented by the campus president and the auxiliary organization governing board:

10.2.1 Financial Standards; Annual Review. Annually each auxiliary organization governing board shall conduct a review of the fiscal viability of the auxiliary organization, including:

- (a) A review of management functions to ensure adequate professional management. Cal. Ed. Code § 89904(a)-(b)

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(b) An evaluation of the need for reserves in the following areas:

- (1) Working capital;
- (2) Current operations;
- (3) Capital replacement;
- (4) Planned future operations (including future new business requirements which have been recognized by the campus and the auxiliary organization as appropriate and within the educational mission of the campus) Cal. Ed.

Code § 89904(b); 5 CCR § 42401(d); E.O. 1059

(c) The auxiliary organization shall establish or revise reserves and their funding level in accordance with the above evaluations.

(d) The auxiliary organization shall submit an annual report, including a plan to build and maintain appropriate reserves, to the campus president for review. The campus president's review should be documented. Such report may be a part of the annual budget submission. Cal. Ed. Code § 89904(a)

10.2.2 Indirect Costs. Indirect costs are costs that are not readily identifiable as a direct expense of a particular externally sponsored research, training, or educational project. Indirect cost rates are established in accordance with United States office of management and budget (OMB) Circular A-21; however, indirect cost reimbursements are recovered through the application of the allowable indirect cost rate per project agreement. (5CCR § 42500)

10.2.3 Use of Indirect Costs. Indirect cost reimbursements received by auxiliary organizations responsible for administering sponsored programs shall be used for the following purposes:

- (a) Expenses incurred in support of the organization's externally funded projects 5CCR § 42500(a)(7). They include, but are not limited to, expenditures for general management and administration, facilities management and administration, project cost sharing and support, and may be used and pledged as a source of repayment for bond debt service.
- (b) Specific reserves established for the support of externally funded projects, including, but not limited to, reserves of the categories above (see section **10.2.1(b)-(c)** of this Compliance guide) which relate specifically to externally funded projects, as well as others unique to externally funded project operations, such as reserves for disallowances or project development.

10.2.4 Use of Indirect Costs; Division of Indirect Cost Reimbursements. Indirect cost reimbursements (pooled on an annual basis) that are not used to fund the annual activities and reserve requirements (referenced in section **10.2.3** above) shall be allocated between the auxiliary organization and the campus.

Allowable and allocable indirect costs shall be allocated and recovered according to a cost allocation plan that utilizes a documented and consistent methodology including identification of indirect costs and a basis for allocation (referenced in section **11.3** below). The campus chief financial officer, or designee, shall annually approve and

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implement the cost allocation plan. E.O. 1000

Such division shall not occur if the governing board of the auxiliary organization determines that the division would adversely affect the fiscal viability of the organization. In such an instance, the annual report (referenced in section **10.2.1(d)** above) shall include a plan to provide for a division of unused indirect cost revenue between the auxiliary organization and the campus in future years.

Funds retained by the auxiliary organization may be expended in support of all authorized auxiliary organization functions (5 CCR § 42500) in accordance with the financial standards referenced in section **10.2.1** above.
Cal. Ed. Code § 89904(d)

See detailed CSU policy in ICSUAM § 3552.01 Cost Allocation/Reimbursement Plans for the CSU Operating Fund Policy

10.3 PUBLIC RELATIONS POLICY. Each auxiliary organization shall maintain a policy on the accumulation and expenditure of funds for public relations if such funds are obtained and used by the auxiliary organization to augment state appropriation for operation of the campus. The campus president is required to keep a current statement of these policies on file in the office of the chancellor. Certain aspects of the required policy are to be integrated with expenditure documentation requirements. Campuses should send updates to these policies to the CSU office of contract services and procurement where the files will be maintained.

Campus auxiliary organizations that do not have expenditures for public relations, should file a statement indicating this fact with the CSU office of contract services and procurement. See section **4.5.1** of this Compliance guide. 5 CCR § 42502(i)

10.4 AUXILIARY ORGANIZATION INVESTMENT POLICY.

10.4.1 Auxiliary Investment Policy. Auxiliary organizations should develop an investment policy that is comprehensive and explicit. The characteristics of an investment policy should define and include objectives, applicable risks, allocation guidelines and rationales, rebalancing provisions, benchmarks and indexes. An investment policy should be logically consistent in that the individual components of the policy must work together and not contradict each other. See suggested contents of a strong investment policy for CSU auxiliary organizations at http://www.calstate.edu/investment_policy/. See also the California Uniform Prudent Management of Institutional Funds Act Cal. Prob. Code §§ 18501 et seq., and Cal. Corp. § 5240.

The policy may maintain and conduct investment programs involving a wide range of investment types. These include such forms as certificates of deposit, debt instruments, equity securities, real estate or other forms of investment which benefit the investment programs of the organization and the educational mission of the university.

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Auxiliary organization funds may be invested through a campus in CSU programs for investing state funds, provided there is proper documentation and accounting of the funds in compliance with CSU policy. EOs 1000 and 1059

10.4.2 Student Body Organization Funds and Funds Held in Trust by University. For student body organization funds held by the university pursuant to the “custodianship” requirements, or for other auxiliary organization funds held in trust by the university, the CSU Investment Policy applies

(<http://www.calstate.edu/FT/PgmPol/AuxBOTRes/RFIN019703.shtml>)

5 CCR § 42403; Cal. Ed. Code §§ 89301 and 89724; E.O. 1059

There are specific limitations on investment of student body organization funds. See section **15.7** of this Compliance Guide; Cal. Ed. Code § 89301; Cal. Govt. Code § 16430

10.5 RESTRICTED FUNDS.

10.5.1 Accounts. It is acceptable for restricted and unrestricted funds to be held in the same bank account, as long as clear and distinct accounting for the funds is performed. Funds restricted by trust agreements should not be drawn upon for purposes inconsistent with the restrictions on those funds. 5 CCR § 42403

10.5.2 Trust Accounts Subject to Probate Code. Certain trusts are subject to provisions of the California Probate Code. Auxiliary organizations that have funds subject to this code should be familiar with its provisions and establish procedures that will assure compliance with its provisions. See also 5 CCR § 42403; Probate Code

10.6 CAMPUS PROGRAM ACCOUNTS.

10.6.1 Campus Activities and Programs. Campus activities and programs consist of functions, proceedings, projects, services, and tasks important to the academic and campus life experience offered to students and staff. The campus, with the approval of the chancellor or designee, may assign certain functions to campus auxiliary organizations. A written agreement is required. Cal. Ed. Code § 89900; 5 CCR § 42042; ICSUAM § 13680; E.O. 1059; see also section **4.5** of this Compliance guide

10.6.2 Determination of Responsibility for a Campus Activity or Program.

Responsibility for a campus activity or program should be clearly established, and related funds appropriately placed and controlled. The following should be considered and documented when determining the appropriate placement of a campus activity or program and associated funds:

- (a) The campus president or designee shall assess whether the campus or one of its auxiliary organizations should be responsible for an activity or program and the acceptance of the associated risks and rewards;

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- (b) The campus president or designee shall determine and identify and document the entity to be responsible for the activity or program (i.e. campus or auxiliary);
- (c) The campus chief financial officer or designee shall identify and document the legal obligations, fiscal liabilities, and fiduciary responsibilities associated with a campus activity or program and assess options for managing the associated risks;
- (d) The campus president or designee shall approve any assignment of responsibility for a campus activity or program to an auxiliary organization. Delegation of this authority must be documented and implemented consistent with campus policy.

10.6.3 Auxiliary Organization Acceptance of Responsibility. When an auxiliary organization accepts responsibility for an activity or program, it also assumes all associated legal obligations and liabilities, fiscal liabilities, and fiduciary responsibilities, including:

- (a) Authority and discretion to contract for services or materials required by the activity;
 - (b) Responsibility for business losses;
 - (c) Legal liability as an owner or principal entity;
 - (d) Fiduciary obligations associated with the activity;
 - (e) Responsibility for establishment of operating and administrative policies;
 - (f) Primary control or discretion over the expenditure of funds.
- ICSUAM §13680; E.O. 1059

10.7 SECTION NOT USED

10.8 INSURANCE.

10.8.1 Indemnity Bonds. An auxiliary organizations is required by 5 CCR § 42403(d) to have an indemnity bond for all officers and employees handling funds of the auxiliary organizations. The intent of the requirement is to provide a bond to cover potential losses for possible types of employee dishonesty for those employees handling funds. Therefore, various types of employee dishonesty bonds or fidelity bonds, including commercial blanket and blanket position bonds meet the intent of the Title 5 requirement.

10.8.2 Insurance Coverage. An auxiliary organization shall:

- (a) Establish an amount of coverage that will cover the potential for loss and the expenses relating to specific determination of the loss amount (audit fees can be a significant expense in connection with such a loss) and is consistent with the CSU insurance requirements):
See www.calstate.edu/risk_management/rm/documents/RM2012-01.pdf and section 4.5.3 of this Compliance Guide
- (b) Determine which employees should be covered.
- (c) Have a policy for periodic review of the coverage by the governing board.

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10.9 RECORDS. Auxiliary organizations are required to maintain adequate records and prepare periodic reports as required by the trustees showing its operations, and financial status. 5 CCR § 42404(a)

Each auxiliary organization shall adopt a records retention policy. Since auxiliary organizations have a special relationship with the CSU, their records retention policy should generally parallel policies applicable to the CSU, which may be accessed at <http://www.calstate.edu/recordsretention/>. E.O. 1031

All records of an auxiliary organization are to be open and available to the trustees and the California department of finance for audits. 5 CCR § 42404(b)

10.10 INFORMATION SECURITY. An auxiliary organization is responsible for protecting the confidentiality, integrity and availability of information assets. Unauthorized modification, deletion, or disclosure of information assets can compromise the mission of the auxiliary organization, the CSU, violate individual privacy rights, and possibly constitute a criminal act. An auxiliary organization that uses campus information assets must operate those assets in conformity with the CSU information security policy. ICSUAM § 8000

10.11 SOUND BUSINESS PRACTICE GUIDELINES 5 CCR § 42401(d) requires that an auxiliary organization provide fiscal procedures and management systems that allow effective coordination of auxiliary organization activities with the campus in accordance with sound business practices.

11. EXPENDITURE OF AUXILIARY ORGANIZATION FUNDS

11.1 GENERAL USE AND LIMITATIONS.

11.1.1 Approval of Expenditures. All expenditures and fund appropriations shall be approved by the governing board of the auxiliary organization. Cal. Ed. Code § 89904. This is generally done through a budget approval process with a delegation to operating officer(s) to implement the approved budget plan.

(a) Expenditures outside of Normal Business. Expenditures outside of the normal business operations of the auxiliary organization shall be approved in accordance with trustee policy and regulations by an officer of the trustees.
Cal. Ed. Code § 89904

(b) Delegation. Campus officials with documented delegation of fiscal authority, who may or may not be officers of the auxiliary organization, may request or approve the receipt or disbursement of funds held by a campus auxiliary organization, except revenues listed in E.O. 1059, III. D. The chief operating officer of the auxiliary organization, or designee, shall establish documented corporate delegations of fiscal authority and ensure that receipts and disbursements comply with the auxiliary organization fiscal policies and internal controls, and with the written agreement with CSU. The auxiliary organization shall retain any legal obligations and liabilities, fiscal liabilities, and fiduciary responsibilities associated

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with transactions initiated or approved by such campus employees with delegated authority. E.O. 1059

11.1.2 Expenditures Consistent with CSU Mission and Policy. Auxiliary organizations exist primarily to serve the educational mission of the CSU. Each auxiliary organization may expend funds consistent with those functions that the organization has been authorized to perform in its agreement with the CSU. Expenditures must also be consistent with campus policy. 5 CCR § 42501; see section **4** of this Compliance Guide

Approved uses of student body organization funds are listed in 5 CCR § 42659. See also Cal. Ed. Code § 89300, last paragraph, and section **15.8** of this Compliance Guide

11.2 POLICY ON EXPENDITURES OF FUNDS. Cal. Ed. Code § 89904 requires the trustees to implement policies concerning expenditure of auxiliary organization funds. The CSU policy on expenditures of funds for CSU auxiliary organizations follows:

11.2.1 Basis for Expenditures. An auxiliary organization has as a primary objective the goal of aiding and supplementing the instructional and service activities of the CSU. An auxiliary organization may assist the CSU and its campuses by expanding on the range of activities or by increasing the funding for ongoing CSU programs. It may expend its funds in this assistance role subject to the following conditions:

- (a) Expenditures must further the CSU educational mission and comply with trustee and campus policy;
- (b) Expenditures must comply with applicable law and CSU and campus policies. Cal. Ed. Code § 89900(b)-(c); 5 CCR § 42400. Accordingly, an auxiliary organization shall not expend funds for goods or services on behalf of a campus, and arrange to be reimbursed by the campus, if circumvention of law or CSU policy or procedure (e.g. competitive bidding requirements) would occur.

11.2.2 Documentation of Expenditures.

- (a) Routine Documentation. Each auxiliary organization shall maintain documentation for expenditures consistent with sound business practice, and in keeping with applicable documentation standards required by federal, state and local governments. Documentation procedures should be adequate to allow an efficient annual fiscal audit by a certified public accountant.
- (b) Special Documentation. Each auxiliary organization shall also provide special documentation to assure expenditures are made consistent with the constraints attached to certain sources of funds.

11.3 COST ALLOCATION; REIMBURSEMENT TO CSU. CSU policy requires each campus president to ensure that costs incurred by the CSU operating fund for services, products, and facilities provided to an auxiliary organization are properly and consistently recovered with cash or documented exchange of value. Allowable direct costs incurred by the CSU operating fund shall be recovered based on actual costs incurred. Allowable and allocable indirect costs shall be recovered according to a cost allocation/reimbursement plan that utilizes a documented

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methodology for identification of indirect costs and a basis for allocation.

Allocation/reimbursement of joint use costs to the CSU operating fund from an auxiliary organization is independent of those indirect costs (i.e. facilities and administrative costs) that may be recovered from external grants and contracts. The chief financial officer, or designee, shall annually approve and ensure implementation of a documented cost allocation/reimbursement plan.

See detailed CSU policy in ICSUAM § 3552.01

11.4 POLITICAL ACTIVITY.

11.4.1 Title 5 Restrictions. 5 CCR § 42403(c)(1) and Federal tax exempt status under 26 USC § 501(c)(3), prohibits auxiliary organizations from expending funds:

- (a) To support or oppose any candidate for public office, whether partisan or not;
- (b) To support or oppose any issue before the voters of this state or any subdivision thereof or any city, municipality, or local governmental entity of any kind except as may be permitted by Cal. Ed. Code § 89300 (authorizing student fees to be used to support governmental affairs representative);
- (c) The above prohibitions do not apply to expressions published in the student press; or support of a position taken by the trustees on an issue, which the trustees determine will significantly affect the CSU or any campus. Cal. Rev & Tax Code §§ 23701d; 23704.5

11.4.2 Tax Exemption Limitations. Federal tax law limits the amount of lobbying activity and prohibits political activity by organizations in order to be exempt from federal taxation under 26 USC § 501(c)(3). That provision provides for the exemption from federal tax for entities organized and operated exclusively for charitable or educational purposes when:

- (a) “no substantial part of the activities of which [organization] is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and
- (b) Which [organization] does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”

Note that additional criteria apply for qualification for exempt status under 26 USC § 501(c)(3).

See also Cal. Rev. & Tax Code §§ 23701d; 23704.5

11.5 FINANCIAL AID AND LOANS.

11.5.1 Current Students. Expenditures for student loans, scholarships, stipends, awards and grants-in-aid are to be made only to “...currently admitted students. A record of such financial assistance shall be forwarded on a timely basis to the campus financial aid office and shall be documented on student financial aid recipient records kept in that office.” Disbursement of any such financial aid funds must have the

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approval of the campus financial aid office and must be in accordance with campus financial aid program requirements. 5 CCR § 42500(d)

11.5.2 Personal Loans for Non-Educational Purpose. Auxiliary organizations may not expend trust funds to "...make personal loans for non-educationally related purposes, except that such loans may be made when specifically authorized by a trust instrument under which the funds were received." 5 CCR § 42403(c)(2); See also Cal. Probate Code

11.5.3 Loans to Directors or Officers. Auxiliary organizations incorporated under the California Nonprofit Public Benefit Corporation Law are prohibited by law from making any loan of money or property to or guarantee the obligation of any director or officer except as otherwise provided in Cal. Corp. Code § 5236. See section **7.4** of this Compliance Guide.

11.6 TRAVEL and HOSPITALITY.

11.6.1 Travel Reimbursement. Auxiliary organizations which provide reimbursement for travel expenses must adopt and maintain a written policy for such reimbursements. Since auxiliary organizations have a special relationship with CSU, their travel reimbursement policies should be comparable to policies applicable to CSU. ICSUAM § 3601.01

11.6.2 External Requirements. Auxiliary organizations' travel policies must comply with the requirements of the United States internal revenue service and in the case of auxiliaries administering sponsored grants and contracts, must comply with the requirements of program sponsors.

11.6.3 Student Travel. Student body organizations are required to comply with Cal. Ed. Code § 89310 and CSU policy on student travel and hospitality. See E.O. 1041 and ICSUAM § 3601.00 Hospitality, Payment or Reimbursement of Expenses

11.6.4 Hospitality Reimbursement. Auxiliary organizations which provide reimbursement for hospitality expenses must adopt and maintain a written policy for such reimbursements.
ICSUAM § 1301.00

11.7 BUDGET DEVELOPMENT. Each auxiliary organization governing board must approve the amounts and purpose for expending auxiliary organization funds. This includes amounts for auxiliary operations as well as amounts and purpose of expenditures to augment state appropriations such as expenditures for public relations activities. Governing boards can accomplish this requirement by reviewing and approving an annual budget before the start of each fiscal year. Necessary changes to the budget may be made by the governing board as the fiscal year progresses. Cal. Ed. Code § 89904; 5 CCR § 42502(i).

11.7.1 President's Budget Review and Authority. For the campus president to exercise his or her responsibility over the entire campus program, each auxiliary

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organization is required to submit its annual budgets and programs for review and approval at a time and in a manner specified by the president. In reviewing the budget, the president may instruct the auxiliary not to implement a specific program or expenditure if it is determined not to be consistent with CSU or campus policy. 5 CCR § 42402

11.7.2 Discontinuance of Program or Expenditure. If in the course of a budget year, should a program or appropriation which had earlier received approval be determined by the president to not comply with CSU or campus policy, then the program or appropriation must be discontinued by the president's direction until further review is accomplished and appropriate adjustment made. 5 CCR § 42402

11.7.3 Change. If an auxiliary organization desires to make a significant change (as defined by the campus president) to a budget during the year, the change must be submitted to the campus president for review and approval.

11.7.4 Delegation. The budget review function for auxiliary organization budgets may be delegated to a CSU employee by the campus president.

11.7.5 Student Body Organizations. There are special procedures for the budget approval of student body organizations. E.O. 369; See section **15.9** of this Compliance Guide

11.8 LABOR ABUSE BY LICENSEES. The chancellor has issued a policy opposing any acts or omissions by a licensee that would constitute labor abuse in the manufacturing process including assembly and packaging of a CSU licensed product. The policy applies to the CSU and its auxiliary organizations and requires the use of best efforts to ensure that licensees adhere to non-abusive labor practices including the provision for safe and healthful working conditions. E.O. 718

12. FINANCING ACTIVITIES

12.1 CSU SYSTEM-WIDE REVENUE BOND PROGRAM. 5 CCR § 42500(c) permits auxiliary organizations to engage in financing activities as needed to fulfill their mission consistent with the educational mission of the campus and pursuant to procedures issued by the trustees.

The trustees have established the CSU Policy for Financing Activities that include policy for auxiliary organizations. RFIN 03-02-02. This policy establishes that capital outlay projects of auxiliary organizations shall be financed through the CSU system-wide revenue bond program. E.O. 994

12.2 REAL PROPERTY DEVELOPMENT PROJECTS. Long term contractual relationships that use or develop CSU and auxiliary organization real property and involve third-party development, shall comply with the requirements of E.O. 747 and ICSUAM § 9015.

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13. AUDIT

13.1 EXTERNAL FINANCIAL AUDITS.

13.1.1 Selection of Audit Firm. Each auxiliary organization shall have an annual financial audit performed by a certified public accountant selected by the governing board. When completed, the audit shall be furnished to the CSU accounting office in the office of the chancellor. In hiring external audit firms, the auxiliary organization shall enlist firms that possess industry-specific proficiencies in order to ensure that audits are performed professionally and by qualified accounting firms. See ICSUAM § 13175.00 Auxiliary Organization External Auditor Firms Qualifications; See also Cal. Ed. Code § 89900(a) and 5 CCR § 42408

13.1.2 CSU Audit Procedures. The annual financial audits shall be performed in accordance with standard system-wide procedures prescribed by the office of the chancellor in consultation with the California department of finance. The chancellor will distribute the standard system-wide procedures on a timely basis. Cal. Ed. Code § 89900(a); 5 CCR § 42408

Currently the procedures are distributed under the authority of the CSU executive vice chancellor and chief financial officer in the CSU GAAP Reporting Manual, Chapter 8 - Auxiliary Organizations, Attachment A Inclusion of Auxiliary Organizations and Other Entities in the CSU Financial Statements, and attached Coded Memorandum FS 03-03 Financial Reporting Requirements for Auxiliary Organizations. See <http://www.calstate.edu/sfsr/GAAP/Manual2012/index.shtml>; See also ICSUAM §13175

13.2 EVIDENCE OF UNAUTHORIZED ACTS. The engaged auditing firm should be instructed to immediately report any evidence of material fraud, misuse of funds, or other unauthorized acts found during the audit process. Any of these instances should be reported to the chief executive officer and the governing board of the auxiliary organization, and the campus president as soon as practicable. See section **13.5.1** of this Compliance Guide.

13.3 DISTRIBUTION OF FINANCIAL STATEMENTS. Each auxiliary organization, in order to disseminate as widely as feasible the audited financial statements, shall publish the audited financial statements and should indicate the on-campus location where copies of the audited financial statements may be obtained or reviewed. 5 CCR § 42408(c)

13.4 INTERNAL AUDITS. CSU policy requires an internal compliance/internal control review of auxiliary organizations be performed by the CSU university auditor.
E.O. 698

13.5 REPORTING SUSPECTED UNAUTHORIZED ACTS.

13.5.1 Notice to Auxiliary Board and Campus President. If any university or auxiliary

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organization employee has reason to suspect actual or suspected fraud, defalcation, theft, or other irregularities involving auxiliary organization assets, the information should be reported to the auxiliary organization's chief executive officer and governing board, and the campus president. A campus administrator designated by the president should assess the seriousness or sensitivity of the suspected infraction and determine if the office of the chancellor should be advised. Campuses may contact the CSU office of financing and treasury to discuss such issues.

13.5.2 Notice to State Auditor. Notice shall be given to the California office of state audits and evaluations (in the department of finance) and the California bureau of state audits of all cases of actual or suspected fraud, defalcation, theft, or other irregularities involving state assets. Even though auxiliary organization assets are not state assets, it is CSU procedure to make an assessment of such problems and file a report as appropriate. See <http://www.calstate.edu/Audit/FraudReporting.shtml>.

14. PERSONNEL ADMINISTRATION

14.1 POLICY RESPONSIBILITY.

14.1.1 Governing Board. The governing board of each auxiliary organization has primary responsibility for developing and implementing personnel policies and practices relating to employee relations. This responsibility occurs within a framework of laws and CSU policy. 5 CCR § 42405

14.1.2 Campus President. Under the law and CSU policy, a campus president has responsibility to assure that each auxiliary organization's governing board has established personnel policies which are in compliance with state law (specific to the CSU) and CSU policy. Cal. Ed. Code § 89900

14.1.3 Requirements. Each governing board is required to:

- (a) Develop specific job descriptions and standards for all full-time employees by function, not by title;
- (b) Define "similarity" as it pertains to employees performing duties comparable to those in campus positions;
- (c) Specify what positions fall under the category of executive and managerial personnel;
- (d) As part of maintaining a legal status separate from the state, the governing board has the authority to set and maintain proper employer-employee relations. At the same time, the campus administration as part of its supervision over student body organizations under Cal. Ed. Code §89300 and its responsibility to ensure compliance with CSU policy by all auxiliary organizations, must seek to effect curative actions by the auxiliary when there is a breach of law, CSU or campus policy. Cal. Ed. Code §§ 89300; 89900; 5 CCR § 42405

14.2 SALARIES, WORKING CONDITIONS, AND BENEFITS.

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14.2.1 Comparability. The Education Code and CSU policy requires that auxiliary organizations provide full-time employees with salaries, working conditions and benefits comparable to those provided to CSU employees performing similar services. These regulations also provide exceptions for executive employees, nonpermanent (temporary) employees, and student body organization employees. The parameters of each employee's employment status must be examined to determine what comparability provisions apply. Cal. Ed. Code §§ 89900; 89300; 5 CCR § 42405

Although individual benefits provided by an auxiliary organization need not be identical to those provided by CSU, if the total package of employee benefits, exclusive of retirement and permanent status benefits is substantially similar to CSU employment in the same class, the requirement of “comparability” would be satisfied. A contract for participation in the California Public Employees Retirement System in accordance with the terms and conditions of the public employees' retirement law shall be deemed to satisfy the requirements for comparability with respect to retirement benefits. Cal. Gov't Code § 20000 et seq

14.2.2 Employment of Like Nature. For those full-time employees who perform services that are not substantially similar to the services performed by campus employees, the salaries established shall be at least equal to the salaries prevailing in other educational institutions in the area or commercial operations of like nature. 5 CCR § 42405

14.2.3 Exemption from Retirement Benefit Requirement. Title 5 permits the office of the chancellor to exempt the governing board of a newly created auxiliary organization from the requirement of providing retirement benefits for a period not to exceed three years from the date the chancellor approves the establishment of the auxiliary organization. 5 CCR § 42405

14.3 LABOR RELATIONS. The California Higher Education Employer-Employee Relations Act does not apply to auxiliary organization employees. Thus, auxiliary organization employees are not included in the bargaining units for CSU. Cal. Govt. Code § 3560 et seq.

14.4 NONDISCRIMINATION AND AFFIRMATIVE ACTION.

14.4.1 CSU Nondiscrimination Policy and Guidelines. CSU policy on discrimination and guidelines for nondiscrimination and affirmative action in employment is set forth in E.O. 1088 AND 1089.

14.4.2 Auxiliary Organization Policy and Procedures. Each auxiliary organization must adopt its own nondiscrimination policy and guidelines for nondiscrimination and affirmative action in employment. Each auxiliary organization governing board has the flexibility to tailor the detail and complexity of its procedures in accordance with its needs. However, these procedures must be consistent with CSU policy and guidelines set forth in E.O. 883.

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15. STUDENT BODY ORGANIZATIONS

15.1 STATUTES AND POLICY. Student body organizations are subject to CSU policy and law relating to all CSU auxiliary organizations. However, student body organizations differ in a significant way as their activities are funded in large part by mandatory student fees that, although collected, maintained and distributed by the campus, are dedicated for expenditure by the student body organization for those student body organization purposes approved by the legislature and trustees. Cal. Ed. Code § 89302

Due to this funding arrangement and other concerns, the Education Code contains provisions that apply solely to student body auxiliary organizations. Cal. Ed. Code §§ 89300 et seq.

15.2 MEETINGS. Student Body Organizations are subject to the Gloria Romero Open Meetings Act of 2000 (Cal. Ed. Code §§ 89305-89307.4). Cal. Ed. Code Title 3, Division 8, Article 2 (§§ 89920 et seq.) regarding meetings does not apply to student body organizations formed under Cal. Ed. Code § 89300 or to the governing board of a statewide student organization that represents students of CSU. See Cal. Ed. Code § 89928

15.3 OPERATIONS. A student body organization may be established for the purpose of providing essential activities closely related to, but not normally included as part of the regular instructional program of a campus of the CSU. A primary objective of a student body organization is to provide for campus student self-government; however, the student body organization may operate other auxiliary organization functions such as bookstores, food services, and other campus services. A student body organization "...may be established at any state university under the supervision of the university officials...." Cal. Ed. Code § 89300; 5 CCR § 42401(a)

15.4 ORGANIZATION. Student body organization governing boards "...shall consist primarily of students...." However, each student body organization shall have "...a representative of the campus president to advise on policy and to provide liaison between student governing board and the president of the campus." 5 CCR § 42602(a)

15.5 STUDENT BODY ORGANIZATION FEES.

15.5.1 Establishment. Student body organization fees are established in accordance with Cal. Ed. Code §§ 89300-89301; 5 CCR § 41401 et seq. and CSU policy (See E.O. 1054). After two thirds of the students vote to establish a student body organization, the initial fee is set by the chancellor. Once established, the campus president under current delegation may adjust the fee level only after the approval of the adjustment in a referendum by a majority vote of the students.

Cal. Ed. Code §89711(SB 960) provides that a CSU campus-based mandatory fee established by vote of the majority of the student body voting on a fee (not specifically authorized by statute) shall not be reallocated without an affirmative vote of a majority

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of the members of either the student body, or a campus fee advisory committee established under CSU policy, voting on the fee reallocation. Such fee may be reallocated without such a vote if the vote that established the fee authorized an alternative or automatic reallocation mechanism for that fee.

15.5.2 Consultation. The campus president is responsible for assuring that appropriate and meaningful consultation occurs prior to adjusting any campus-based fee and before requesting that the chancellor establish a new category II or category III fee as provided in E.O. 1054.

15.5.3 Referendum. The student body organization fee is subject to referendum at any time upon the submission to the campus president of a petition containing the signatures of ten percent of the enrolled students. If the referendum passes by a two thirds vote, it shall take effect at the beginning of the academic year following that in which the election was held. Cal. Ed. Code § 89300; 5 CCR § 41410; E.O. 1054

15.5.4 Collection. All student body organization membership fees are to be collected at the time of registration by campus officials unless the student chooses to work off the amount of the fee. There may be exceptions to this requirement when a student loan or grant from a recognized training program or student aid program has been delayed and there is reasonable proof that the funds will be forthcoming; or, when changes are made during the campus change-of-program period which result in a higher fee category than paid at the time of registration. Cal. Ed. Code §§ 89300-89301; 5 CCR §§ 41409-41409.5

15.5.5 Deposit and Investment. Fees so collected shall be deposited with the campus's chief fiscal officer or designee. Once received for deposit and investment, mandatory student body organization fees may be invested only as provided in Cal. Ed. Code §89301. 5 CCR §§ 41409; 42403

15.6 ADMINISTRATION OF STUDENT BODY ORGANIZATION FUNDS. The chief fiscal officer of a campus is required to be the custodian of revenues derived from mandatory fees, and to provide accounting records and controls on a reimbursed basis. Cal. Ed. Code §89301; 5 CCR § 42403

15.7 SECTION NOT USED

15.8 INVESTMENT OF STUDENT BODY ORGANIZATION FUNDS.

15.8.1 Student body organization funds may be deposited or invested only in certain institutions or investment mediums. They may be deposited or invested in:

- (a) Qualified banks;
- (b) Qualified savings and loan associations;
- (c) The centralized state treasury system;
- (d) Other means and methods specified in Cal Ed Code § 89301

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15.8.2 Since revenues derived from mandatory student fees possess the characteristics of state funds, they may be deposited in the state pooled money investment program. See Cal. Govt. Code § 16430 and Cal. Ed. Code § 89301

15.9 USE OF FUNDS. “The principle underlying the expenditure of student body organization funds collected through mandatory fees is that such expenditures shall be made in programs that reflect the broadest variety of student interests and that are open to all students who wish to participate. Student body organization funds, obtained from mandatory fees may be expended for the following programs:

- (a) Programs of cultural and education enrichment and community service;
- (b) Recreational and social activities;
- (c) Support of student unions;
- (d) Scholarships, stipends, and grants-in-aid for only currently admitted students in accordance with provisions of 5 CCR § 42500 (d);
- (e) Tutorial programs;
- (f) Athletic programs, both intramural and intercollegiate;
- (g) Student publications;
- (h) Assistance to recognized student organizations;
- (i) Student travel insurance;
- (j) Administration of student fee program;
- (k) Student government-scholarship stipends, grants-in-aid, and reimbursements to student officers for service to student government. Before such scholarship stipends, grants-in aid, and reimbursements are established by a student body association, the principle of establishing such payments shall be approved by a student referendum;
- (l) Student employment to provide payment for services in connection with the general administration of student fee;
- (m) Augmentation of counseling services, including draft information, to be performed by the campus. Such counseling may also include counseling on legal matters to the extent of helping the student to determine whether he should retain legal counsel, and of referring him to legal counsel through a bar association, legal aid foundation or similar body;
- (n) Transportation services;
- (o) Child care centers for children of students and employees of the campus;
- (p) Augmentation of campus health services.”

Cal. Ed. Code §§ 89300 and 89302; 5 CCR § 42659

15.9.1 Additional Purposes. In addition to the above listed purposes, Cal. Ed Code § 89300 provides: “...in addition to expenditures for other lawful purposes involved in the operations of the student body organization, [these revenues may] be expended to provide for the support of governmental affairs representatives who may be attending upon the State Legislature or upon offices and agencies in the executive branch of the state government.”

15.9.2 Current Students. The programs authorized by the trustees include

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expenditures for scholarships, stipends, grants-in-aid for only currently admitted students. If student body organization funds are used for these purposes, there are special requirements to facilitate coordination with the campus financial aid office. See section **11.6** of this Compliance Guide. 5 CCR § 42500(d)

15.9.3 General Regulations. In addition to the above specific expenditure regulations relating to student body organizations, there are general expenditure regulations, which pertain to all auxiliary organizations (see section **11** of this Compliance Guide.)

15.10 BUDGET PROCEDURES. Student body organization budgets are subject to the requirement that all auxiliary organizations have their budgets and programs reviewed and approved by the campus president. However, special procedures for preparation, review, appeal, and approval have been implemented for student body organizations in E.O. 369. 5 CCR § 42402

16. SPONSORED PROGRAMS

CSU policy governing solicitation, acceptance and administration of awards from external sponsors for the conduct of research and scholarly activity and other sponsored activities is located in Executive Orders and ICSUAM §§ 11000 et seq.

17. BANKING SERVICES

17.1 DEFINITION. Service operations are on-going commercial type operations which are revenue producing, but are not themselves educational in nature. Examples include bookstores (student stores); bike shops; food services; duplicating services; and leasing facilities to a bank to provide banking service.

17.2 SELF-SUPPORTING. Service or commercial operations are required to be self-supporting. Traditionally, this has been interpreted to mean that surplus funds from one commercial operation are not to be used to fund the operations of another commercial operation.
Cal. Ed. Code § 89905

17.3 BANKING SERVICES. The trustees have authorized campuses to arrange with a bank to provide banking services on campuses under certain conditions. RFIN 9-73-19 and RFIN 9-73-20

17.3.1 Assess Need. The campus president may request permission of the chancellor after assessing the adequacy of banking facilities available in the general area of the university if the president determines that there is a need for such services.

17.3.2 Facilities. Adequate non-state funded facilities should be available to house the banking services. State funded and constructed facilities should not be utilized for banks, even if they have been declared temporarily in excess of the needs of the

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university. This should not preclude, however, temporarily leasing available facilities for banking purposes while non-state funded facilities are constructed.

17.3.3 Access. Banking services provided on campus should be available for all students, staff and organizations of the university community.

17.3.4 Approval. The interested bank must apply for and receive the necessary approval of the appropriate bank regulatory authority.

17.3.5 Agreement with Campus. The campus desiring banking services on campus must be agreeable to accept the specific bank receiving approval of the appropriate regulatory authority if that bank will agree to operating terms established by the campus.