

2.12P

CREATION OF AUXILIARY ORGANIZATIONS

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Title 5, Sections: 59255, 59257, 59259

1. RECOGNITION AND ESTABLISHMENT OF AUXILIARY ORGANIZATIONS

Recognition of the establishment of an auxiliary organization by the Board of Trustees pursuant to Education Code Section 72670 et seq. and California Code of Regulations, Title 5 Sections 59255 and 59257 (a) shall require:

- a. A recommendation is submitted to the Board of Trustees by the Superintendent/President;
- b. Prior to the recognition of an auxiliary organization, a public hearing is to be held at a time, place and in the manner determined by the Board of Trustees;
- c. The approval of the establishment of the auxiliary organization by the Board of Trustees. Approval by the Board of Trustees shall include a designation of the recognized services, programs and functions and an identification of the number and category or categories of members of the Board of Directors of an auxiliary organization; and,
- d. The approval of a written agreement between the District and an auxiliary organization under which one or more of the services, programs or functions described in Section 59259 are to be performed.

2. RECOGNIZED SERVICES, PROGRAMS AND FUNCTIONS

An auxiliary organization may be recognized and established for the purpose of providing supportive services and specialized programs for the benefit of the Sonoma County Junior College District. The services, programs and functions which may be undertaken by an auxiliary organization and which have been determined by the Board of Trustees and the Board of Governors to be appropriate are:

Student Association or organization activities;
Bookstores;
Food and campus services;
Student union programs;
Facilities and equipment, including parking;
Loans, scholarships, grants-in-aid;
Workshops, conferences, institutes and federal projects;
Alumni activities;
Supplementary health services;
Gifts, bequests, devises endowments and trusts; and,
Public relations programs.

No auxiliary organization shall be authorized by the Board of Trustees to engage in any other function unless the Board of Governors amends Section 59259 of Title 5 by adding said function to the list of approved functions of an auxiliary organization; or unless said function is essential to satisfy the nonprofit corporation or tax laws of the State of California or the Federal tax laws.

In accordance with Education Code Section 72671 the services, programs and functions may be performed by an auxiliary organization as part of a joint powers agreement.

3. COMPOSITION OF BOARD OF DIRECTORS AND TERM OF OFFICE

The Board of Directors of each auxiliary organization shall have the following composition:

- a. The Board of Directors of student associations or organizations shall consist primarily of students. The Superintendent/President or his/her representative shall attend and participate in meetings of the Board of Directors in order to advise on policy and to provide for the control and regulation required by Education Code Section 76060.
- b. Any other District-approved auxiliary organization that is established pursuant to Education Code Section 72670 et. seq. shall have a Board of Directors appointed in accordance with the organization's articles of incorporation or bylaws and consisting of voting membership from one or more of the following categories:

Administration and staff;
Faculty;
Members of the community; and
Students.

- c. The size of the Board of Directors of an auxiliary organization shall be at least large enough to accommodate the one or more categories from which Board Members are selected.
- d. Each nonprofit corporation that existed prior to the original effective date of Policy 2.12 (11-13-90), and that is subsequently reorganized and established as an auxiliary organization under Policy 2.12, may continue to be governed by the Board of Directors existing at the time of recognition.
- e. Each auxiliary organization formed pursuant to Section 72670 et. seq. of the Education Code shall have the benefit of the advice and counsel of at least one attorney admitted to practice in the State of California and at least one licensed certified public accountant; however, neither the attorney nor the public accountant need be a member of the Board of Directors.

4. BUSINESS MEETINGS

The Board of Directors of an auxiliary organization shall conduct its business in public meetings in accordance with Section 54950 et. seq. of the Government Code, and shall, during each fiscal year, hold at least one business meeting each quarter.

5. SALARIES, WORKING CONDITIONS AND BENEFITS OF FULL-TIME EMPLOYEES

- a. Except as otherwise provided in these procedures, the Board of Directors of an auxiliary organization shall, pursuant to Education Code Section 72672, provide salaries, working conditions and benefits for its full-time employees that are comparable to those provided District employees performing substantially similar services. For those full-time employees who perform services that are not substantially similar to the services performed by District employees, the salaries established shall be comparable to the salaries prevailing in other educational institutions or commercial operations of like nature in the area.
- b. The Board of Directors of an auxiliary organization may provide retirement benefits different from those provided comparable District employees and may withhold retirement benefits or permanent status benefits or both from temporary employees. For the purposes of these procedures, a temporary employee is:
 1. An employee employed for a specific research project, workshop, institute or other special project funded by any grant, contract, or gift; or

2. An employee whose contract of employment is for a fixed term not exceeding three years.
- c. The Board of Directors of an auxiliary organization may withhold permanent status benefits from executive employees. For the purposes of this rule, an executive employee is any management employee with responsibility for the development and execution of the auxiliary organization's policies and includes, but is not limited to, general managers, managers, directors, and the like, as determined by the Board of Directors of an auxiliary organization.
- d. Should retirement benefits be provided, these may, but need not, be provided by the Public Employees' Retirement System. Any newly created auxiliary organization is exempted from the requirement of providing retirement benefits for a period not to exceed three years from the date on which the Board of Trustees recognizes the establishment of such auxiliary organization.

6. EXPENDITURES AND FUND APPROPRIATION

The Board of Directors of an auxiliary organization shall approve all expenditure authorizations. Appropriations of funds for use outside of the normal business operations of an auxiliary organization shall be approved in accordance with Board of Trustee policy and further consistent regulations adopted by the Superintendent/ President.

7. ACCOUNTING AND REPORTING

The Board of Directors of an auxiliary organization, except those exempted in Section 72673 of the Education Code, shall:

- a. Utilize a standard accounting and reporting system established by the Superintendent/President in consultation with representatives of the Board of Governors
- b. Implement financial standards that will assure the fiscal viability. Such standards shall include proper provision for professional management, adequate working capital, adequate reserve funds for current operations, capital replacements, contingencies and adequate provisions for new business requirements.
- c. Should the Superintendent/President determine that any program or appropriation planned by an auxiliary organization is not consistent with District policy, the program or appropriation shall not be implemented. Further, should a program or appropriation which has received approval, upon review be determined by the Superintendent/President to be operating outside the acceptable policy of the Board of Governors or the District, then that program or appropriation shall be discontinued by direction of the Superintendent/President until further review is accomplished and an adjustment is made.

8. FUNDS

- a. All money collected by or on behalf of a student organization shall be deposited in the trust account by the chief fiscal officer of the District. All such money shall be accounted for properly and, subject to the approval of the Superintendent/President or designee and the appropriate officer of said organization, be deposited or invested in any one or more of the ways specified in Sections 76063 and 76064 of the Education Code.

The chief fiscal officer of the District shall be custodian of all unexpended funds and money collected by or on behalf of a student organization and shall provide the necessary accounting records and control for such funds. These funds may be expended by the custodian only upon the submission of an appropriate signed claim by an approved officer(s) of said organization.

- b. Trust funds shall be used specifically for the purpose designated in the instrument creating the trust.
- c. Funds of an auxiliary organization shall be used for purposes consistent with District policy where applicable, and shall not be used:
 - 1. To support or oppose any candidate for public office, whether partisan or not.
 - 2. To make personal loans for non-educationally related purposes, except that such loans be made when specifically authorized by a trust instrument under which the funds were received.
- d. An indemnity bond shall be obtained by an auxiliary organization for its fiscal officer who is responsible for handling funds of the auxiliary organization.
- e. Grants, bequests, trusts, donations, and gifts accepted by an auxiliary organization shall be maintained in accordance with policies and regulations established by the District.
- f. Funds derived by an auxiliary organization from indirect cost payments and which are not needed to provide adequate working capital, reserve funds for current operations, capital replacements, contingencies and adequate provisions for new business requirements shall be established in a manner consistent with policies established by the District; uses of such funds shall be regularly reported to the Board of Trustees through the Superintendent/President.
- g. No funds or resources, other than funds or resources derived from gifts or bequests, shall be transferred by the District to any of its auxiliary organizations for the purpose of either avoiding laws or regulations which constrains community college districts or providing the District with an unfair advantage with respect to the application of any state funding mechanism. Such state funding mechanisms include, but are not limited to, general apportionment funding, capital outlay funding, funding for programs and services for handicapped students.

9. AUTHORITY AND RESPONSIBILITY OF AUXILIARY ORGANIZATIONS

- a. An auxiliary organization shall not offer courses of which state funding is received.
- b. All services, programs and activities that may be undertaken by an auxiliary organization shall be maintained for the general benefit of the educational program of the District. Upon Board of Trustees approval, an auxiliary organization may assume any of the services, programs and activities listed in Section 1.2 in order:
 - 1. To provide the fiscal means and the management procedures that allow the District to carry on educationally-related activities not normally funded by the State;
 - 2. To eliminate the undue difficulty that would otherwise arise under the usual governmental budgetary, purchasing, and other fiscal controls; or
 - 3. To provide fiscal procedures and management systems that allow effective coordination of the auxiliary activities with the District in accordance with sound business practices
- c. The Superintendent/President shall decide, after consulting with the donor, whether a donor's proposed gift to the District should be accepted by the District or referred to an auxiliary organization. Gifts to the District thereof shall be accepted under the provisions of Education Code Section 72241 or 72303. Gifts to an auxiliary organization shall be accepted as authorized by these procedures.

- d. An auxiliary organization may not enter into any contract or other business arrangement involving real property, either by lease or by purchase, without prior notification and consultation with the Superintendent/President and the approval of the Board of Trustees.
- e. Student loans, scholarships, stipends, and grants-in-aid shall only be given to currently admitted students and former students. In no case shall the scholarship, stipend, or grant-in-aid exceed the amount necessary to cover books, school fees, and living expense, except as provided under Section 1.8b. 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. All such financial assistance provided from student organization funds shall be approved by the campus financial aid office before such funds are expended, and shall not exceed the amounts to be provided under regulations of federal and state financial aid programs.

10. RECORD KEEPING

a. Records and Annual Audit

An auxiliary organization shall maintain adequate records and shall prepare an annual report showing its operations and financial status as may be required by the Board of Governors or District.

b. Compliance Review by Superintendent/President

For an auxiliary organization serving the District, the Superintendent/ President's designee shall inspect and review all auxiliary organization procedures and practices to determine compliance with Education Code Sections 72670 through 72682, policies, rules, and regulations of the Board of Governors and the District, any written agreements with the District and the auxiliary organization's articles of incorporation and bylaws, and make his/her recommendations to the Superintendent/President and the Board of Directors of the auxiliary organization. Reports and statements shall cover all activities of the organization. This inspection shall be done at the end of the first complete year after District approval and at least every three years thereafter.

c. Audit

An auxiliary organization shall have an annual fiscal audit of any and all funds. The audit shall be performed by a certified public accountant in accordance with procedures prescribed by the Board of Governors, as contained in the California Community College Auxiliary Organization Accounting and Reporting System. Copies of the annual audit report shall be submitted to the Board of Trustees and to the Board of Governors' Office within thirty (30) days after it is received by the auxiliary organization. Thereafter, it shall be a public record, except as otherwise provided by law. Such audit may be conducted as part of a fiscal audit of the District itself.

An auxiliary organization shall annually publish an audited statement of their financial condition which shall be disseminated as widely as feasible and be available to any person on request. A reasonable fee may be charged to cover the costs of providing a copy.

11. WRITTEN AGREEMENT

A written agreement between the Sonoma County Junior College District and each auxiliary organization is required for the performance by such auxiliary organization of any of the services, programs, and functions listed in Section 1.2. If any auxiliary organization performs more than a single service program, or function, then the written agreement may cover any number of functions it performs or a separate agreement may cover each function performed.

The written agreement shall, among other things, provide for the following

- a. The services, programs, or functions the auxiliary organization is to manage, operate, or administer.
- b. A statement of the reasons for administration of the functions by the auxiliary organization instead of by District under usual District procedures.
- c. The areas of authority and responsibility of the auxiliary organization and the District.
- d. The facilities and services to be made available by the District to permit the auxiliary organization to perform services, programs, or functions specified in the written agreement.
- e. The charge or rental to be paid to the District by the auxiliary organization for the facilities used or services provided in connection with the performance of its function. The charge or rental specified shall not require involved methods of computation, and should be identified in sufficient time before it is incurred so that the organization may determine to what extent it shall be liable therefore.
- f. Full reimbursement to the District for services performed by the District employees under the direction of or in support of the auxiliary organization. Student auxiliary organizations may be exempt from reimbursing all or any portion of the costs for such services. Methods of proration where services are performed by District employees for the organization shall be simple and equitable.
- g. A simple but equitable method of determining in advance to what extent the organization shall be liable for indirect costs relating to federally-sponsored programs.
- h. The responsibility for maintenance and payment of operating expenses.
- i. Proposed expenditures for public relations or other purposes which would serve to augment District appropriations for operation of the District. With respect to expenditures for public relations or other purposes which would serve to augment District appropriations for operation of the District, the auxiliary organization may expend funds in such amount and for such purposes as are approved by the Board of Directors of the auxiliary organization.
- j. The disposition to be made of net earnings derived from the operation of the auxiliary organization, including earnings derived from facilities owned or leased by the auxiliary organization, and provisions for reserves.
- k. The disposition to be made of net earnings, assets and liabilities on dissolution of the auxiliary organization or cessation of operations under the Agreement.
- l. The covenant of the auxiliary organization to maintain its organization and to operate in accordance with Sections 72670 et seq. of the Education Code and with the regulations contained in Chapter 5 (commencing with Section 59250) of Division 10, Part IV of Title 5 of the California Code of Regulations, as well as District Board Rules.

12. USE OF COLLEGE OR DISTRICT NAME

Except for student associations organized and operated under Education Code Section 76060 et. seq., Alumni Association, no organization may use the name of Sonoma County Junior College District or otherwise represent a relationship with the Sonoma County Junior College District unless it has been recognized and established as an auxiliary organization by the Board of Trustees and is in good standing with the District.

13. ADMINISTRATIVE AUTHORITY

The Superintendent/President or his/her designee shall provide, and may from time to time revise, practices in support of these procedures. Such practices shall be in conformance with Policy 2.12 and these procedures.

14. DEFINITIONS

a. Board of Directors

The term Board of Directors as used herein means the governing board of an auxiliary organization.

b. Board of Trustees

The term Board of Trustees as used herein means the Board of Trustees of the Sonoma County Junior College District.

c. Board of Governors

The term Board of Governors as used herein means the Board of Governors of the California Community Colleges.

d. Superintendent/President

The term Superintendent/President as used herein means President of Santa Rosa Junior College and Superintendent of the Sonoma County Junior College District.

e. District

The term District as used herein means the Sonoma County Junior College District.