

CALIFORNIA EDUCATION CODE
CHAPTER 7 - AUXILIARY ORGANIZATIONS

89900. (a) A certified public accountant shall be selected by each auxiliary organization described in Section 89901. The Office of the Chancellor, in cooperation with the Department of Finance, shall develop and forward the applicable auditing and reporting procedures to each auxiliary organization for distribution to the selected certified public accountant. In accordance with procedures prescribed by the Chancellor, the certified public accountant shall annually audit any and all state university or college auxiliary funds. The auxiliary organizations shall contract for and receive the audit annually, and shall submit the audit to the trustees. Auxiliary organizations shall annually publish an audited statement of their financial condition, which statement shall be disseminated as widely as feasible and be available to any person on request. In the case of an auxiliary organization primarily serving a single campus of the California State University, publication in the campus student newspaper shall be deemed compliance with this requirement. In the case of an auxiliary organization serving the Trustees of the California State University, distribution of the published audited statement of its financial condition at a regularly scheduled meeting of the trustees shall be deemed compliance with this requirement.

(b) In the case of an auxiliary organization primarily serving a single campus of the California State University, the president of that state university shall be responsible for ascertaining that all expenditures are in accordance with policies of the trustees, the propriety of all expenditures, and the integrity of the financial reporting, made by auxiliary organizations.

(c) The operation of auxiliary organizations shall be conducted in conformity with regulations established by the trustees. The regulations shall include provisions requiring the governing board of each auxiliary organization to provide salaries, working conditions and benefits, for the full-time employees of each auxiliary organization which are comparable to those provided California State University employees performing similar services. However, the regulations may permit retirement benefits or permanent status benefits or both to be withheld from temporary and executive employees of each auxiliary organization. In addition, the regulations may exempt from the requirement of providing retirement benefits any auxiliary organization that is funded primarily by mandatory student fees collected by the trustees. For the purposes of this subdivision, a temporary employee is (a) an employee employed for a research project, workshop, institute, or other special project funded by any grant, contract or gift; or (b) an employee whose contract of employment is for a fixed term not exceeding three years. For the purposes of this subdivision, an executive employee is any management employee with responsibility for the development and execution of auxiliary organization policy and includes, but is not limited to, general managers, business managers, directors, and the like. For purposes of this subdivision, "full-time employee" means a person who is employed in a permanent position for 40 hours per week or for the required number of hours of a particular work shift, whichever is the lesser.

Persons employed on a temporary, intermittent, irregular time base, or on a limited term basis are not "full-time employees," unless those employees are engaged on a continuing 10-month or academic year basis and are employed for 40 hours per week or for the required number of hours of a particular work shift, whichever is the lesser.

For those full-time employees whose duties are not comparable to classes in California State University employment 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. This requirement shall apply to full-time employees of auxiliary organizations even if there are no California State University employees performing similar services.

(d) Retirement benefits may be provided by other than the Public Employees' Retirement System. A contract for participation in the Public Employees' Retirement System in accordance with the terms and conditions of the Public Employees' Retirement Law shall be deemed to satisfy fully the requirements of subdivision (c) with respect to retirement.

Notwithstanding anything in subdivision (c) to the contrary, the regulations established by the trustees, may exempt the governing board of any newly created auxiliary organization from the requirement of providing retirement benefits for a period not to exceed three years from the date that the auxiliary organization is established.

89901. As used in this article, the term "auxiliary organization" includes the following entities:

(a) Any entity in which any official of the California State University participates as a director as part of his or her official position.

(b) Any entity formed or operating pursuant to Article 1 (commencing with Section 89300) of Chapter 3.

(c) Any entity which operates a commercial service for the benefit of a campus of the California State University on a campus or other property of the California State University.

(d) Any entity whose governing instrument provides in substance both of the following:

(1) That its purpose is to promote or assist any campus of the California State University, or to receive gifts, property, and funds to be used for the benefit of such campus or any person or organization having an official relationship therewith.

(2) That any of its directors, Governors, or trustees are either appointed or nominated by, or subject to, the approval of an official of any campus of the California State University, or selected, ex officio, from the membership of the student body or the faculty or the administrative staff of campus.

(e) Any entity whose governing instrument provides in substance both of the following:

(1) That its purpose is to promote or assist the trustees of the California State University or to receive gifts, property, and funds to be used for the benefit of the trustees of the California State University or any person or organization having an official relationship therewith.

(2) That any of its directors, governors, or trustees are either appointed or nominated by, or subject to the approval of the trustees or an official of the California State University, or selected, ex officio, from the membership of the trustees or the administrative staff of the California State University.

(f) Any entity which, exclusive of the foregoing subdivisions of this section, is designated as an auxiliary organization by the trustees

89902. This article shall not apply to any student body organization not formed or operating pursuant to Article 1 (commencing with Section 89300) of Chapter 3 nor to any student or faculty society, social club, fraternity, or sorority, nor to any alumni association, whether officially recognized as a campus organization or not, unless it is described in Section 89901.

This section shall not be construed to alter or limit the powers of the trustees to establish rules and regulations governing organizations which maintain an official relationship with any campus of the California State University or which use the name or facilities of the campus.

89903. Each auxiliary organization formed pursuant to this article, shall have a board of directors composed, both as to size and categories of membership, in accordance with regulations established by the Trustees of the California State University.

Each governing board shall during each fiscal year, hold at least one business meeting each

quarter in accordance with Article 2 (commencing with Section 89920). The board shall have the benefit of the advice and counsel of at least one attorney admitted to practice law in this state and at least one licensed certified public accountant. Neither the attorney at law nor the certified public accountant need be members of the board.

No auxiliary organization shall accept any grant, contract, bequest, trust, or gift, unless it is so conditioned that it may be used only for purposes consistent with policies of the trustees.

89904. All expenditures and fund appropriations of auxiliary organizations described in Section 89903 shall be approved by the governing board of the auxiliary organization. Appropriations of funds for use outside of the normal business operations of the auxiliary organization shall be approved in accordance with trustee policy and regulations by an officer designated by the trustees.

The trustees in consultation with the Department of Finance and the governing boards of the various auxiliary organizations described in Section 89903, on or before the beginning of the 1970-1971 fiscal year, shall:

(a) Institute a standard system wide accounting and reporting system for businesslike management of the operation of such auxiliary organizations.

(b) Implement financial standards which will assure the fiscal viability of such various auxiliary organizations. Such standards shall include proper provision for professional management, adequate working capital, adequate reserve funds for current operations and capital replacements, and adequate provisions for new business requirements.

(c) Institute procedures to assure that transactions of the auxiliary organizations are within the educational mission of the state colleges.

(d) Develop policies for the appropriation of funds derived from indirect cost payments not required to implement subdivision (b). Uses of such funds shall be regularly reported to the trustees.

89904.5. The trustees shall, by July 1, 1983, develop and implement guidelines to ensure that auxiliary organizations classified as foundations for sponsored programs, workshops, and institutes maintain fiscal viability. These guidelines shall specify how reimbursement received by a foundation for indirect costs in connection with the performance of grants or contracts which exceeds the indirect costs actually incurred by the foundation for those grants or contracts shall be divided between the foundation and the campus of the California State University which the foundation serves, in a manner consistent with the educational mission of the university.

89904.6. The trustees shall, by July 1, 1983, develop and implement guidelines to ensure that auxiliary organizations classified as foundations for sponsored programs, workshops, and institutes, expend discretionary funds in a manner consistent with the educational mission of the university.

89905. Operations of commercial services on a campus of the California State University, such as a food service or bookstore, or any commercial services that maybe provided in a state university union, shall, when operated by an auxiliary organization be self-supporting.

Any surplus funds from commercial operations shall be used for such purposes as are consistent with regulations of the trustees.

89905.5 (a) No auxiliary organization operating a commercial service on the California State University, Chico, campus shall discontinue that commercial service without providing the campus with adequate notice of its intent to discontinue the service and the opportunity to continue the service through another means.

(b) No commercial service operated by a auxiliary organization on the California State University, Chico, campus or any aspect of the management of the commercial services shall be taken over by the Trustees of the California State University, the Chancellor of the California State University, the president of a campus of the California State University, or another auxiliary organization unless all of the following conditions are met:

(1) The entity seeking to assume all or part of the management of the commercial service has demonstrated that the commercial service has substantial programmatic or financial difficulties.

(2) The governing board of the auxiliary organization currently operating the commercial service has been provided adequate opportunity to respond to the concerns demonstrated pursuant to paragraph (1).

(3) The governing board of the entity seeking to assume all or part of the management of the commercial service has approved the assumption of the new programmatic or financial responsibility.

(4) The auxiliary organization currently operating the commercial service has been provided adequate compensation for any losses, including, but not limited to, property, inventory, services, or employees directly resulting from the assumption of all or part of the operation of the commercial service by the entity.

(c) If an entity assumes responsibility for commercial services pursuant to subdivision (b), the entity shall be established as an official California State University auxiliary organization operating separate from, but related to, the University of Service so as to protect the state from all possible liability associated with the operation of commercial services.

89906. 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.

89907. No contract or other transaction entered into by the governing board of an auxiliary organization is void under the provisions of Section 89906, nor shall any member of such board be disqualified or deemed guilty of misconduct in office under said provisions, if the circumstances specified in the following subdivisions exist:

(a) The fact of such financial interest is disclosed or known to the governing board and noted in the minutes, and the governing board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such financially interested member or members, and

(b) The contract or transaction is just and reasonable as to the auxiliary organization at the time it is authorized or approved.

89908. The provisions of Section 89907 shall not be applicable if the circumstances specified in any of the following subdivisions exist:

(a) The contract or transaction is between an auxiliary organization and a member of the governing board of that auxiliary organization.

(b) The contract or transaction is between an auxiliary organization and a partnership or unincorporated association of which any member of the governing board of that auxiliary organization is a partner or in which he is the 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 governing board of that auxiliary organization is the owner or holder, directly or indirectly, of 5 percent or more of the outstanding common stock.

(d) A member of the governing board of an auxiliary organization is interested in a contract or transaction within the meaning of Section 89906, and without first disclosing such interest to the governing 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.

89909. 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.

89911. Any obligation of an auxiliary organization, as defined by Section 89901 of the Education Code, which obligation is authorized by the Trustees of the California State University, is an obligation of the State of California. No lending or pledging of the credit of the State of California or the Trustees of the California State University is intended or accomplished by this section.

89920. Each governing board, or any sub-board of the governing board, of an auxiliary organization shall conduct its business in public meetings. All governing board and sub-board meetings shall be open and public, and all persons shall be permitted to attend any meeting of the governing board or sub-board of an auxiliary organization, except as otherwise provided in this article.

89921. Each governing board and sub-board shall annually establish, by resolution, bylaws, or whatever other rule is required for the conduct of business by that body, the time and locations for holding regular meetings. Each governing board and sub-board shall, at least one week prior to the date set for the meeting, give written notice of every regular meeting, and any special meeting which is called, at least one week prior to the date set for the meeting, 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.

89922. A special meeting may be called at any time by the Presiding officer of a governing board or sub-board, or by a majority of the member, of the governing board or sub-board, by delivering personally or by mail, written notice to each member of the board or sub-board, and to any medium or other party to be directly affected by a meeting, or any other person who has requested notice in writing. The call and notice of a special meeting shall be delivered at least 24 hours prior to any meeting and shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at these meetings by the governing board or sub-board. Written notice may be dispensed with as to any member who, at or prior to the time the meeting convenes, files with the clerk or the secretary of the governing board or sub-board a written waiver of notice. The waiver may be given by telegram. Written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

89923. Any governing board or sub-board may hold closed sessions to consider matters relating to litigation, collective bargaining, or the appointment, employment, evaluation of performance, or dismissal of an employee, or to hear complaints or charges brought against an employee by another person or employee, unless the employee requests a public hearing. For the purposes of this section, "employee" does not include any person elected or appointed to an office. A board or sub-board, upon a favorable majority vote of its members, may also hold a closed session to discuss investments where a public-discussion could have a negative impact on the auxiliary organization's financial situation. In this case, a final decision shall only be made during public sessions.

89924. No governing board or sub-board shall take action on any issue until that issue has been publicly posted for at least one week.

89925. Each auxiliary organization shall establish, by constitution, statute, bylaws, or resolution, provisions for elections of officers and board members. These provisions shall be designed to allow all those eligible to vote complete access to all information on issues and candidates. These provisions shall include, but not be limited to, provisions for sample ballots, numbers of days and hours for voting, polling locations, and notice of elections.

89926. Where the constitution or articles of incorporation of an associated students auxiliary organization provides for a judiciary or judicial council with powers separate from the governing board of the auxiliary organization, decisions rendered by the judiciary or judicial council shall be final.

89927. Each member of a governing board pursuant to this article who attends a meeting of the governing board where action is taken in violation of any provision of this article, with knowledge of the fact that the meeting is in violation of this article, is guilty of a misdemeanor.

89928. This article is applicable to the governing board of any statewide student organization which represents the students of the California State University and student body organizations of the campuses of the California State University.