

Compilation of Policies and Procedures for California State University Auxiliary Organizations

APPENDIX B

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Education Code Sections – Auxiliary Organizations

Education Code	89006	<p>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, the trustees, the California State University, or 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.</p>
	89300	<p>89300. A student body organization may be established at any state university under the supervision of the university officials for the purpose of providing essential activities closely related to, but not normally included as a part of, the regular instructional program of the university. The organization may also operate a campus store, a cafeteria, and other projects not inconsistent with the purposes of the university, and property of the university may be leased to the organization for those purposes. The trustees may fix fees for voluntary membership in the organization established at a state university. Notwithstanding any law to the contrary, if a student body organization is established at any state university, upon the favorable vote of two-thirds of the students voting in an election held for this purpose, in a manner that the trustees shall prescribe, and open to all regular students enrolled in the university, the trustees shall fix a membership fee which shall be required of all regular, limited, and special session students attending the university. No fees shall be charged to students registering solely in extension classes.</p> <p>The trustees may approve an increase or decrease in the student body fee only after the fee increase or decrease has been approved by a majority of students voting in a referendum established for that purpose.</p> <p>The required fee shall be subject to referendum at any time upon the presentation of a petition to the president of the university containing the signatures of 10 percent of the regularly enrolled students at the university. A successful referendum shall take effect with the beginning of the academic year following that in which the election was held.</p> <p>Payment of membership fees pursuant to this section shall be a prerequisite to enrollment in the university, except that if sufficient funds are available, any state university student, subject to the regulations of the trustees establishing standards in that regard, may agree to work off the amount of the fee at the prevailing rate of the university for student assistants. The trustees may adopt regulations setting standards for determining which students shall be eligible to work off the amount of the fee.</p> <p>The revenues raised pursuant to this section may, in addition to expenditures for other lawful purposes involved in the operations of the student body organization, 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.</p>
	89301	<p>89301. Notwithstanding any provision of law to the contrary, except as provided pursuant to Section 89707.5 with respect to nonresident students who are citizens and residents of a foreign country and who are not citizens of the United States, student body organization membership fees authorized under the provisions of Section 89300 shall be collected by the officials of the campus of the California State University, together with all tuition and material and service fees, at the time of registration, except where 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. Exception may also be made where changes are made during the change of program period which result in a higher fee category than paid at the time of registration. All unexpended funds and money collected on behalf of, or by, student body organizations, except funds and money collected from commercial services as provided in Section 89905, shall, with the approval of an appropriate officer of the student body organization, be deposited in trust by the chief fiscal officer of the campus. The money shall, subject to the approval of the trustees, be deposited or invested in any one or more of the following ways:</p> <p>(a) Deposits in trust accounts of the centralized State Treasury system pursuant to Sections 16305 to 16305.7, inclusive, of the Government Code or in the California State University Trust Fund or in a bank or banks whose accounts are insured by the Federal Deposit Insurance</p>

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		<p>Corporation.</p> <p>(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations, if the associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation and if any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by the insurance.</p> <p>(c) Purchase of any of the securities authorized for investment by Section 16430 of the Government Code or investment by the Treasurer in those securities.</p> <p>(d) Participation in funds which are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code and which are open exclusively to nonprofit colleges, universities, and independent schools.</p> <p>(e) Investment certificates or withdrawable shares in federal or state credit unions, if the credit unions are doing business in this state and have their accounts insured by the National Credit Union Administration and if any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by such insurance.</p> <p>All moneys received by a state university from any agency of the state or federal government for the payment of student body organizations membership fees of students attending the state university shall be deposited or invested as provided above.</p>
89302	89302.	<p>All money collected by a campus of the California State University on behalf of a student body organization under Sections 89046, 89047, 89300, 89301, and 89750, shall be available for such purposes of the student body organization as are approved by the trustees.</p> <p>The chief fiscal officer of each campus of the California State University shall be custodian of these moneys and provide the necessary accounting records and controls thereof. These funds may be expended by the custodian only upon the submission of an appropriate claim schedule by officers of the student body organization.</p> <p>The campus of the California State University shall be reimbursed by the student body organization an amount to cover the cost of the custodial and accounting services provided by the campus of the California State University in connection with these funds.</p> <p>Student body funds used for scholarships, grants-in-aid, stipends, loans, and similar expenditures shall conform to the regulations of the trustees. The funds shall be approved by the financial aids office before the funds are expended and shall be reflected on the student's record kept in that office. The student's financial aid record shall include all the funds received by the student.</p>
89303	89303.	<p>The trustees may provide for the construction of a building to serve as a student body center to be financed entirely or in part by fees required of students as authorized in Section 89304 pursuant to the provisions of the State University Revenue Bond Act of 1947.</p>
89304	89304.	<p>Upon the favorable vote of two-thirds of the students voting in an election held for the purpose at a state university, in the manner the trustees shall prescribe, and open to all regular students enrolled in the state university, the trustees are authorized to fix, in addition to any other student fee the trustees are authorized to fix, a building and operating fee not to exceed forty dollars (\$40) per student per academic year which shall be required of all students attending the state university. All unexpended funds and money collected by any state university under this section shall be available for financing, operating, and constructing a student body center, and until so used, shall, subject to the approval of the trustees, be deposited or invested in trust by the chief fiscal officer of that state university in any one or more of the following ways:</p> <p>(a) Deposits in trust accounts of the centralized Treasury system pursuant to Sections 16305 to 16305.7, inclusive, of the Government Code or in the California State University Trust Fund or in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.</p> <p>(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations, if the associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.</p> <p>(c) Purchase of any of the securities authorized for investment by Section 16430 of the</p>

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		<p>Government Code or investment by the Treasurer in those securities.</p> <p>(d) Participation in funds which are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code and which are open exclusively to nonprofit colleges, universities, and independent schools.</p> <p>(e) Investment certificates or withdrawable shares in federal or state credit unions, if the credit unions are doing business in this state and have their accounts insured by the National Credit Union Administration and if any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by that insurance.</p> <p>The chief fiscal officer of each state university shall be custodian of those moneys and provide the necessary accounting records and controls thereof.</p> <p>The state university shall be reimbursed from these funds in an amount to cover the cost of the custodial and accounting services provided by the state university in connection with these funds.</p> <p>These funds may be expended by the custodian only upon the submission of an appropriate claim schedule by an elected representative of the student body or his or her appointee.</p>
89900	89900.	<p>(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 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.</p> <p>(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.</p> <p>(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 that 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.</p>

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		<p>(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.</p> <p>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.</p>
89901	89901.	<p>As used in this article, the term "auxiliary organization" includes the following entities:</p> <p>(a) Any entity in which any official of the California State University participates as a director as part of his or her official position.</p> <p>(b) Any entity formed or operating pursuant to Article 1 (commencing with Section 89300) of Chapter 3.</p> <p>(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.</p> <p>(d) Any entity whose governing instrument provides in substance both of the following:</p> <p>(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.</p> <p>(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.</p> <p>(e) Any entity whose governing instrument provides in substance both of the following:</p> <p>(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.</p> <p>(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.</p> <p>(f) Any entity which, exclusive of the foregoing subdivisions of this section, is designated as an auxiliary organization by the trustees.</p>
89902	89902.	<p>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.</p> <p>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.</p>
89903	89903.	<p>(1) 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.</p> <p>(2) If, in any fiscal year, a majority of the funding of the auxiliary organization is received from student fees collected on a campus or systemwide, at least a majority of the board of directors of that auxiliary organization shall consist of California State University students with full voting privileges on that board. This paragraph shall only be applicable to effectuate a change in the membership of a board of directors of an auxiliary organization if the trustees determine that there is no legal or contractual barrier to changing the governing structure of that organization. In the event that the trustees determine that there is a legal or contractual barrier to changing the governing structure of an auxiliary organization, information relating to that determination shall be</p>

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		<p>reported, in a timely manner, to that auxiliary organization and any affected student body organization.</p> <p>(b) Each governing board shall, during each fiscal year, hold at least one business meeting 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.</p> <p>(c) 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. (Effective January 1, 2006)</p>
89904	89904.	<p>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.</p> <p>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:</p> <p>(a) Institute a standard systemwide accounting and reporting system for businesslike management of the operation of such auxiliary organizations.</p> <p>(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.</p> <p>(c) Institute procedures to assure that transactions of the auxiliary organizations are within the educational mission of the state colleges.</p> <p>(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.</p>
89904. 5	89904.5.	<p>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.</p>
89904. 6	89904.6.	<p>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.</p>
89905	89905.	<p>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 may be provided in a state university union, shall, when operated by an auxiliary organization, be self-supporting.</p> <p>Any surplus funds from commercial operations shall be used for such purposes as are consistent with regulations of the trustees.</p>
89905. 5	89905.5.	<p>(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.</p> <p>(b) No commercial service operated by an auxiliary organization on the California State University, Chico, campus or any aspect of the management of the commercial services shall be</p>

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		<p>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:</p> <p>(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.</p> <p>(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).</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>
89906	89906.	<p>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.</p>
89907	89907.	<p>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:</p> <p>(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</p> <p>(b) The contract or transaction is just and reasonable as to the auxiliary organization at the time it is authorized or approved.</p>
89908	89908.	<p>The provisions of Section 89907 shall not be applicable if the circumstances specified in any of the following subdivisions exist:</p> <p>(a) The contract or transaction is between an auxiliary organization and a member of the governing board of that auxiliary organization.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>

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89909	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	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.
89912	89912.	All bonds, notes, borrowings, or other evidences of indebtedness of an auxiliary organization and interest thereon or income therefrom are exempt from all taxation in the state other than estate and generation skipping transfer taxes. (sequence interrupted)
89920	89920.	Each governing board, or any subboard of the governing board, of an auxiliary organization shall conduct its business in public meetings. All governing board and subboard meetings shall be open and public, and all persons shall be permitted to attend any meeting of the governing board or subboard of an auxiliary organization, except as otherwise provided in this article.
89921	89921.	Each governing board and subboard 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 subboard 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	89922.	A special meeting may be called at any time by the presiding officer of a governing board or subboard, or by a majority of the members of the governing board or subboard, by delivering personally or by mail written notice to each member of the board or subboard, 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 subboard. 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 subboard 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	89923.	Any governing board or subboard 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 subboard, 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	89924.	No governing board or subboard shall take action on any issue until that issue has been publicly posted for at least one week.

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| | 89925 | 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 | 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 | 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 | 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. |