

ACBO Fall 2016 Conference

Auxiliary Organizations Manual

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Training Objective

- Who is responsible for the manual
- Why was the manual updated
- Challenges in updating the manual
- What organizations does the manual apply to
- What is in the manual
- What is the difference between an auxiliary organization and an independent organization
- Hints and tips to help you determine what your organization is
- Why have a master agreement
- When will the manual be available

2

Responsibility

- Association of Chief Business Officials – Fiscal Standards & Accountability Committee
- College Finance and Facilities Planning Division of the State Chancellor's Office
- Advisory – Vicenti CPAs
- Legal Review - Liebert Cassidy & Whitmore
- Community College League of California

3

Auxiliary Manual - Objective

- A Guide to Establishing, Operating, Accounting and Reporting for California Community College Auxiliary Organizations
 - To be a comprehensive document
 - Incorporate various regulatory agencies and accounting standards
 - To address all the different types of auxiliary organizations - not just foundations

4

Auxiliary Manual - Challenges

- Old manual is dated 1983
 - Accounting standards have changed
- Which Edu. Code do auxiliaries follow?
 - §§ 72670 - 72682 before August 31, 1980
 - §§ 72670 - 72675 on or after August 31, 1980
- California Code & Regulations §59270
 - Establishes monitoring processes
- Reimbursement of salaries
- Treatment of independent foundation

5

What is an Auxiliary Organization?

- One of the more common auxiliary organizations is the college's foundation.
- Can also be established for:
 - associated student activities
 - other ancillary services of the district such as bookstore and food service activities.

6

Auxiliary Manual vs Budget and Accounting Manual

- Bookstore Fund
 - special purpose fund 31 or enterprise fund 51
 - established pursuant to Edu. Code § 81676.
- Cafeteria Fund
 - special purpose fund 32 or enterprise fund 52
 - established pursuant to CCR § 59013.
- Associated Students Trust Fund
 - fiduciary fund 71
 - established pursuant to Edu. Code § 76060 .
- Auxiliary Organizations are established pursuant to Edu. Code §§ 72670 et seq.

7

Chapter 1

- Chapter 1 Recognition and Establishment of Auxiliary Organizations
- Conditions for Establishment
 - Determining the Use of Education Codes Pre-August 31, 1980 or Post-August 30, 1980
 - Exemption Requirements – 501(c)(3) Organizations
 - Auxiliary Organizations vs. Independent Corporations

8

Chapters 2 & 3

Chapter 2 Recognized Services, Programs and Functions

- Fundraising
- Raffles and Drawings
- Donations
- Quid Pro Quo
- In-kind Donations

Chapter 3 Authority and Responsibility of Auxiliary Organizations

9

Chapters 4, 5, 6 & 7

Chapter 4 Composition and Conduct of the Board of Directors

Chapter 5 Bylaws

Chapter 6 Master Agreement between District and Auxiliary Organization

Chapter 7 Personnel

10

Chapter 8

Chapter 8 Accounting and Reporting for Auxiliary Organizations

- Investments and Endowment Funds
- Financial Reporting
- Basis of Accounting
- Component Unit
- College Trusts vs. Auxiliary (Agency) Accounts
- Form 990 Information Return

11

Chapters 9, 10, 11 & 12

Chapter 9 Records and Annual Report of Auxiliary Organizations

Chapter 10 Annual Audit and Audit Committee

Chapter 11 Insurance, License and Permits

Chapter 12 Use of Facilities

12

Chapters 13, 14, 15 & 16

Chapter 13 List of Auxiliary Organizations in Good Standing

Chapter 14 Limitation on Transfer of Funds to Auxiliary Organizations

Chapter 15 Compliance Review

Chapter 16 Revision of Rules and Procedures and Reports to the California Community Colleges Chancellor's Office

13

Appendix

- Appendix A: Sample Financial Statements
- Appendix B: Sample Master Agreement
- Appendix C: Resources for Auxiliary Organizations
- Appendix D: Education Codes (Pre-August 31, 1980)
- Appendix E: Education Codes (Post-August 30, 1980)

14

Appendix

- Appendix F: California Code of Regulations, Title 5, §§ 59250-59276
- Appendix G: Raffles Questions & Answers (Q&A)
- Appendix H: Auxiliary Organizations Promoting Bond Measure Voter Approval
- Appendix I: Sample Bylaws

15

Terminology: Independent

- There are two different usages of the terminology Independent
 - Independent – as in a component unit.
 - Independent – as in a not-for-profit entity incorporated under California Corporate Code (not California Education Code).

Independent Foundation vs. Auxiliary Foundation

- Community college foundations can be established under the corporate codes or the education codes of the state of California.
- Both types can be tax-exempt 501 (c)(3) organizations.
- The advantages of not being under the education codes are greater autonomy, fewer restrictions, and more flexibility.
- Some funding sources will only give to independent foundation.

Completely Independent

- An operating entity that remains completely independent (independent corporation) must pay for the use of facilities, services and personnel.
- No college funds or resources can be used without appropriate compensation to the college. If the college did assist an independent corporation with facilities, personnel or services without appropriate compensation it could conceivably be sued.
- Civil or criminal legal action could be instigated by taxpayers against the board of trustees of the district, or the college's administrators for "making a gift of public funds" to a totally independent corporation over which the trustees of the district have no control.

18

What is your organization?

- Pre-August 31, 1980 auxiliary organizations
 - operating as you did under the old Edu. Code
 - operating under a revised master agreement
- Post-August 30, 1980 auxiliary organization
- Independent corporation
 - operating self sustaining and paying for all facilities, services and personnel
 - operating under a master agreement which allows you to share district employees and facilities

19

Hints & Tips

- IRS Exempt Organizations Select Check
 - An online search tool that allows users to search for and select an exempt organization and check certain information about its federal tax status and filings.
- Guidestar
 - can obtain last three years of informational tax returns.
- Registry of Charitable Trusts
 - can obtain articles of incorporation, raffle registrations & registration status.

20

Articles of Incorporation

- Purpose
 - Both are organized under the Nonprofit Public Benefit Corporation Law for Charitable purposes.
- Regulation
 - Only an auxiliary organization has this section and there is a reference to Edu. Code or CCR.
- Dissolution
 - Auxiliary organization names the District
 - Independent organization typically does not name the District

21

Master Agreement

- If the independent corporation signs the master agreement offered by the district, the district can then use its personnel, facilities and services to assist the independent organization.
- Under the master agreement, the independent corporation is limited in purpose to those activities approved for auxiliary organizations in the CCR regulations and the cost of these services must be reimbursed as indicated in the master agreement.
- CCR regulations are generally broad enough to allow an auxiliary organization to function in the same manner as an independent corporation.

22

Provisions

- *CCR § 59257(j) list various provisions that must be specified in either the implementing regulations or master agreement*
 - *The function of the auxiliary*
 - *A statement of rationale and purpose of the auxiliary*
 - *The district facilities to be made available to the auxiliary*
 - *The charge or rent to be paid by the auxiliary*

23

Provisions (continued)

- *Full reimbursements by the auxiliary*
- *The liability of the auxiliary for indirect costs*
- *The responsibility for operating expenses*
- *Policies regarding public relations expenditures*
- *The disposition of auxiliary earnings*
- *The disposition of net asset on dissolution*

24

Why have a Master Agreement?

- To comply with CCR § 59257(j)
 - It's typically required as the implementing regulations are not specific enough to cover all the requirements.
- To avoid the appearance of the gift of public funds, the master agreement can
 - Establish that the provision of space and services are on an arm's length basis.
 - Identify benefits received by the college or district that equal or exceed the cost services performed by district employees in any given year.

25

Reimbursement of Salaries

- To assist auxiliary organization in carrying out its purposes, districts may provide administrative services (pay salaries & benefits) and working space for employees who perform administrative services.
 - CCR § 59257(j)(6) (Post 8-30-1980) addresses reimbursement to the district for services performed by district employees under the direction of the auxiliary organization
 - Make sure this is addressed in the master agreement.
- If you are an independent corporation or a pre 8-30-1980 auxiliary organization with a master agreement, you follow the monitoring requirements of CCR § 59257(j)(6).

26

Anticipated Release

- Soon!
 - ACBO Fiscal Standards & Accountability Committee is done with their piece
 - Needs to go through the CCCCO's publication processes (i.e. legal counsel)

27

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28