

SYSTEM REGULATION

60.01.01 Association with Affiliated Fund Raising Organizations

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Supplements System Policy 60.01

1. GENERAL

Section 2255.001 of the Texas Government Code guides each member of The Texas A&M University System in establishing an association with an affiliated fund raising organization. For the purposes of this Regulation, an affiliated fund raising organization is a legally recognized, nonprofit private organization with the primary purpose of financially supporting a System member, and may be classified as either an independent affiliated fund raising organization or a shared services affiliated fund raising organization. Examples of affiliated fund raising organizations are development foundations, alumni associations, and booster clubs.

2. INDEPENDENT AFFILIATED FUND RAISING ORGANIZATIONS

An independent affiliated fund raising organization has an arm's length relationship with the member. The organization is self-supporting, acts independently, and is governed by its own charter, articles, by-laws, regulations or other organizational documents. The affiliation agreement between a member and an independent affiliated fund raising organization must include the following provisions:

- (a) funds raised by the organization must be administered and invested by the organization for the benefit of the member;
- (b) the organization may not share employees with the member or use property of the member except through negotiated reimbursement;
- (c) an employee of the member may not serve on the board or other governing body of the organization. The Chief Executive Officer (CEO) of the affiliated member must, however, have the right to appoint at least one member employee to serve as an ex-officio member of the board or other governing body of the organization; and
- (d) a member employee may not receive any type of monetary enrichment from the organization, such as salary or benefits, other than through the member, but may receive travel reimbursement in accordance with the member's travel guidelines or as set forth in the affiliation agreement.

3. SHARED SERVICES AFFILIATED FUND RAISING ORGANIZATIONS

Unlike an independent fund raising organization, a shared services affiliated fund raising organization relies on the direct support of a member, including member employees and services such as accounting, reporting, and purchasing. One premise for the arrangement is that member funds may not be used to raise funds that are outside the control of the State of Texas and the member. The terms of support given to the member, which include the identity of the departments, scholarships, programs and activities supported by the organization, and the use of member employees or property, must be included in the affiliation agreement. In addition, the affiliation agreement must include the following provisions:

- (a) the member must be appointed as the fiscal agent for the organization, which includes the administration and investment of funds;
- (b) the member CEO must have the right to appoint at least one ex-officio, non-voting member to the board or other governing body of the organization (the ex-officio, non-voting member may be an employee with a direct role in the member's fund raising effort);
- (c) a member employee, other than an employee with a direct role in the member's fund raising effort, may serve as a member of the board or other governing body of the organization as long as no conflict of interest exists between the employee's job responsibilities and the employee's duties as a member of the board or other governing body;
- (d) all funds raised must be deposited into a member-controlled agency fund account and must be used according to the donor's restrictions. All funds conveyed to the member by the affiliated organization must be deposited into a restricted fund account subject to the uses specified by the donor;
- (e) each expenditure of the affiliated organization must be documented and disbursed through the member's restricted account (not an agency fund account); provided that the following expenditures may be disbursed from an agency fund account: (1) expenditures directly related to the organization's operation made pursuant to written policies adopted by the board or other governing body of the organization, and (2) if approved by the board or other governing body of the organization, expenditures that cannot be made by the member because of a state law limitation or restriction. All expenditures from an agency fund account are subject to review by the member Chief Financial Officer, or designee; and
- (f) any monetary enrichment of a member employee must be through a restricted member account (not an agency fund account) in accordance with the member's procedures, and travel reimbursements must follow the member's travel guidelines unless otherwise specified in the affiliation agreement or restricted by the account.

4. FINANCIAL STATEMENTS AND AUDITS

4.1 Independent Fund Raising Organization. An independent affiliated fund raising organization is solely responsible for its own local, state, and federal reports. A copy of the organization's annual financial statements, audited by an independent certified public accountant, must be provided to the member CFO within thirty (30) days following completion of the audit. The member CFO will provide a copy of the annual financial report (AFR) to the Chief Auditor and System Office of Budgets and Accounting. A protocol will be established between an A&M System member and each independent fund raising organization to ensure that all necessary information is provided to satisfy audits by the System. Any direct funding provided to an independent fund raising organization by an A&M System member is also subject to System audit as to appropriate use. An independent fund raising organization will be subject to state and federal audit as required by federal or state law or governmental regulation..

4.2 Shared Services Fund Raising Organization. A shared services fund raising organization shall have financial statements prepared annually, which need not be audited by an independent certified public accountant unless required in writing by the member's CEO. A copy of the annual financial statements, audited if required, shall be provided to the member CFO within thirty (30) days following the date when completed. The member CFO will provide a copy of the AFR to the Chief Auditor and System Office of Budgets and Accounting. As the fiscal agent for the organization, the member is responsible for all fiscal and accounting reports. A shared services fund raising organization will be subject to state and federal audit as required by federal or state law or governmental regulation, as well as, may be subject to audit by the System.

5. AFFILIATION AGREEMENTS

Every affiliation with a fund raising organization must be documented in an affiliation agreement. The term of an affiliation agreement may not exceed five (5) years, but the member and the affiliated fund raising organization may enter into successive affiliation agreements; provided that the form of each agreement must be approved by the System Office of General Counsel (OGC). Any amendment to the affiliation agreement or any separate agreement between the member and the affiliated organization must also be reviewed by the OGC before execution. No provision of the affiliation agreement may conflict with any statute or System policy or regulation, and any provision found to be in conflict shall be null and void.

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