

60.01.01 Association with Affiliated Organizations

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Regulation Statement

Relationships between members and affiliated organizations must be managed in accordance with federal and state law and System Policy *60.01, Relationships with Affiliated Organizations*. Improper relationships with affiliated organizations may result in violations of state and federal law, and create conflicts of interest with the system and inappropriate use of system resources.

Reason for Regulation

This regulation provides authority and guidance to members of The Texas A&M University System (system) that engage in relationships with affiliated organizations.

Procedures and Responsibilities

1. GENERAL

Section 2255.001 of the Texas Government Code guides each member in establishing an association with an affiliated organization. For the purposes of this regulation, an affiliated organization is a legally recognized, nonprofit private organization with the primary purpose of supporting a member and may be classified as either an independent affiliated fund-raising organization, a shared services affiliated fund-raising organization or an affiliated support organization. An affiliated organization must obtain prior written permission from the member chief executive officer (CEO) or designee to use the name, logos, trademarks, seals, service marks or other identifying marks of the member as stated in System Policy *09.02, Use of System Names and Indicia*, and this authorization may be granted only through the affiliation agreement between the organization and the member or, if required by the affiliation agreement, through a separate license agreement with the member.

2. AFFILIATION AGREEMENTS

A member's relationship with an affiliated fund-raising organization must be documented in an affiliation agreement that has been reviewed for form and legal sufficiency by the Office of General Counsel (OGC) prior to the agreement's execution. Any renewal or amendment

to the affiliation agreement or any separate agreement between the member and the affiliated fund-raising organization must also be reviewed by OGC before execution. The term of an affiliation agreement may not exceed five years, including any renewals, but the member and the affiliated fund-raising organization may enter into successive affiliation agreements provided that the form of each agreement is approved by OGC. 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.

3. INDEPENDENT AFFILIATED FUND-RAISING ORGANIZATIONS

An independent affiliated fund-raising organization should remain independent in both fact and appearance from 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 clearly indicate that the organization is an independent affiliated fund-raising organization and must include provisions that adequately address the following minimum requirements:

- (a) funds raised by the organization must be administered and invested by the organization for the benefit of the member;
- (b) adoption of an investment policy that is consistent with the Uniform Prudent Management of Institutional Funds Act (UPMIFA), Chapter 163, Texas Property Code, unless the organization invests funds raised by the organization through the system or through another organization that is affiliated with a member and the other organization has an investment policy satisfying this requirement;
- (c) adoption of an appropriate ethics and conflicts of interest policy applicable to the organization's directors and employees;
- (d) the organization may not share employees with the member or use property of the member except through negotiated reimbursement;
- (e) terms governing any fees charged by the organization directly to the member or charged by the organization against gifts to the member or organization, including development fees, management fees and any other fees;
- (f) The affiliated member must have the right to appoint at least one ex-officio, non-voting member of the board or other governing body of the organization;
- (g) a protocol through which the member and, in appropriate cases, the system through the member, will have reasonable access to the organization's information as necessary to ensure compliance with law or system requirements;
- (h) reporting and auditing requirements that comply with Section 6 of this regulation;
- (i) any other agreements between the organization and the member must be incorporated as exhibits to the affiliation agreement;

- (j) in accordance with Section 1 of this regulation, the organization's specific authorization to use the member's name, logo, trademarks, seals, service marks or other identifying marks or whether a separate license agreement is required to grant such authorization;
- (k) 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; and
- (l) provisions ensuring that the organization complies with any additional system requirements, such as those provided by System Policy 60.03, *Approval of Fees for Affiliated Fund-Raising Organizations*.

4. 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 limitation of the arrangement is that member resources 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 clearly indicate that the organization is a shared services affiliated fund-raising organization and must include provisions that adequately address the following minimum requirements:

- (a) the member must be appointed as the fiscal agent for the organization, which includes the administration and investment of funds;
- (b) the organization must adopt an appropriate ethics and conflicts of interest policy applicable to the organization's directors and employees;
- (c) the member 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);
- (d) 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 with the member and the employee's duties as a member of the board or other governing body;
- (e) 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 as directed by the affiliated organization;
- (f) 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 (CFO) or designee;

- (g) the member and the system must have reasonable access to the organization's information as deemed necessary by the member or the system to determine the member or organization's compliance with law or system requirements;
- (h) the system Internal Audit Department must have reasonable access to the organization's financial information as requested by the system board of regents Audit Committee chair, the chancellor, or member CEO;
- (i) terms governing any fees charged by the organization directly to the member or charged by the organization against gifts to the member or organization, including development fees, management fees, and any other fees;
- (j) the organization must comply with the reporting and auditing requirements of Section 6 of this regulation;
- (k) any other agreements between the organization and the member must be incorporated as exhibits to the affiliation agreement;
- (l) in accordance with Section 1 of this regulation, the organization's specific authorization to use the member's name, logo, trademarks, seals, service marks or other identifying marks or whether a separate license agreement is required to grant such authorization;
- (m) 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; and
- (n) the organization must comply with any additional system requirements, such as those provided by System Policy *60.03*.

5. AFFILIATED SUPPORT ORGANIZATIONS

- 5.1 An affiliated support organization is a private donor or organization designed to support the mission of a member.
- 5.2 Each member must comply with the following which govern the conduct of the member and its employees in a relationship with an affiliated support organization:
 - (a) The affiliated organization may not use member employees except as negotiated in a written agreement with the member;
 - (b) The affiliated organization may not use member property except as negotiated in a written agreement with the member. The written agreement must also address, in accordance with Section 1 of this regulation, the organization's specific

authorization, if any, to use the member's name, logo, trademarks, seals, service marks or other identifying marks;

- (c) The affiliated organization may not provide direct monetary enrichment to a member employee (salary or benefits); and
- (d) No member of management or other employee who has a direct role in the management of the member may serve on the organization's board except as an ex-officio, non-voting member appointed by the CEO. The organization's board shall be responsible for the administration and investment of funds received by the organization for the benefit of the member.

6. FINANCIAL STATEMENTS, REPORTING AND AUDITS

6.1 Financial Statements and Audits.

- 6.1.1 Independent Fund-Raising Organization. An independent affiliated fund-raising organization is solely responsible for its own federal, state and local reports. The organization shall annually provide to the member CFO within 30 days following completion of the audit a copy of the organization's annual financial statements, audited by an independent certified public accountant, including the management letter, if there are any material weaknesses and/or significant deficiencies cited in the letter by the auditors.

If a member has outsourced an internal member operation to the organization, the organization's annual audit must also examine the organization's operations and practices, including a review of controls over cash receipts, disbursements, and security of information systems. The member CFO will provide a copy of the annual financial report (AFR) to the chief auditor and the system CFO. An exception to audit requirements may be made by the system CFO for organizations with assets less than \$100,000 and where the cost of the audit represents a hardship for the organization. If an exception to the audit requirement is granted as provided by this subsection, the organization shall annually certify as to the segregation of duties and appropriate controls over cash receipts, disbursements and security of information systems.

A protocol will be established between the 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 a member is also subject to system audit as to appropriate use. An independent fund-raising organization will be subject to federal and state audit as required by federal or state law or governmental regulation.

- 6.1.2 Performance Ratios. An independent affiliated fund-raising organization shall also annually provide to the member CFO, and the member CFO shall forward to the system chief auditor and system CFO, the following performance ratios for the organization for that year along with relevant data to support the ratios:

- (a) Administrative ratio = General and administrative costs/Total expenses
- (b) Funding cost ratio = Fund-raising expenses/Contributions

- (c) Support ratio = Funds back to the member/Total expenses
- (d) Other performance measures required by the affiliation agreement

6.1.3 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 30 days following the date when completed. The member CFO will provide a copy of the AFR to the system chief auditor and the system CFO. As the fiscal agent for the organization, the member is responsible for all fiscal and accounting reports. A shared services fund-raising organization is subject to federal and state audit as required by federal or state law or governmental regulation, and may be subject to audit by the system.

6.2 Reports. An affiliated fund-raising organization shall provide, in the format and manner agreed by the organization and the member, an annual report to the member regarding the organization's activities, investment and fund-raising results, and finances. The member shall provide a copy of the report to the chancellor and/or the system board of regents.

Related Statutes, Policies, or Requirements

[Tex. Gov't Code § 2255.001](#)

[System Policy 09.02, Use of System Names and Indicia](#)

[System Policy 60.03, Approval of Fees for Affiliated Fund-Raising Organizations](#)

[System Policy 60.01, Relationships with Affiliated Organizations](#)

The August 2012 version of this system regulation supersedes:
System Regulation 60.01.02, *Association with Affiliated Support Organizations*

Definitions

Affiliated fund-raising organization – An entity whose primary mission is to provide financial support to the member through activities such as raising and/or managing funds for the benefit of the member. An affiliated fund-raising organization is a separate legal entity from the member. Examples of affiliated fund-raising organizations include development foundations, alumni associations and booster clubs.

Member Rule Requirements

A rule is not required to supplement this regulation.

Contact Office

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