

ADMINISTRATIVE PROCEDURES

AP 3600 Regulations for Auxiliary Organizations

1. Definitions

A. Board of Directors

The term, Board of Directors, as used herein means the governing board of an auxiliary organization.

B. Board of Trustees/Board

The term, Board of Trustees or Board, as used herein means the Board of Trustees of the Monterey Peninsula Community College District.

C. Board of Governors

The term, Board of Governors, as used herein means the Board of Governors of the California Community Colleges.

D. Superintendent/President

The term, Superintendent/President, as used herein means the Superintendent/President of the Monterey Peninsula Community College District.

E. District

The term, District, as used herein means the Monterey Peninsula Community College District.

2. Recognition And Establishment of Auxiliary Organizations

Recognition of the establishment of an auxiliary organization by the Board of Trustees pursuant to Education Code Section 72672 (c) and California Code of Regulations, Title 5, Sections 59255 and 59257 (a) shall require:

A. That a recommendation is submitted to the Board of Trustees by the Superintendent/President.

B. Prior to the recognition of an auxiliary organization, a public hearing on the recommendation will be held at a time, place, and in the manner determined by the Board of Trustees;

C. The approval of the establishment of the auxiliary organization by the Board of Trustees. Approval by the Board of Trustees shall include a designation of the recognized services, programs and functions and an identification of the number and category or categories of members of the Board of Directors of the auxiliary organization; and

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- D. The approval by the Board of Trustees of a written agreement between the District and the auxiliary organization under which one or more of the services, programs or functions described in Section 59259 are to be performed.

3. Recognized Services, Programs, and Functions

Auxiliary organizations may be recognized and established for the purpose of providing activities which are an integral part of the Monterey Peninsula Community College District educational programs. The services, programs, and functions which may be undertaken by auxiliary organizations and which have been determined by the Board of Trustees and the Board of Governors to be appropriate include:

- (a) Student association or organization activities;
- (b) Bookstores;
- (c) Food and campus services;
- (d) Student union programs;
- (e) Facilities and equipment, including parking;
- (f) Loans, scholarships, grants-in-aid;
- (g) Workshops, conferences, institutes and federal projects;
- (h) Alumni activities;
- (i) Supplementary health services;
- (j) Gifts, bequests, devises, endowments and trusts; and
- (k) Public relations programs.

No auxiliary organization shall be authorized by the Board of Trustees to engage in any other function unless the Board of Governors amends Section 59259 of Title 5, California Code of Regulations, by adding said function to the list of approved functions of auxiliary organizations.

In accordance with Education Code Section 72671 the services, programs, and functions may be performed by any auxiliary organization as part of a joint powers agreement.

4. Composition And Size Of Boards Of Directors

The Board of Directors of each auxiliary organization shall have the following composition:

- A. The Board of Directors of student associations or organizations shall consist primarily of students. The Superintendent/President or his/her representative shall attend and participate in meetings of the Board of Directors in order to advise on policy and to provide for the control and regulation required by Education Code Section 76060.

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- B. Any other District-approved auxiliary organization that is established pursuant to Education Code Section 72670 et. seq. shall have a Board of Directors appointed in accordance with the organization's Articles of Incorporation or Bylaws and consisting of voting membership from one or more of the following categories:
 - Board of Trustees of the District
 - Administration and staff
 - Faculty
 - Members of the community
 - Students

- C. Each auxiliary organization formed pursuant to Section 72670 et seq. of the Education Code shall have the benefit of the advice and counsel of at least one attorney admitted to practice in the State of California and at least one licensed certified public accountant; however, neither the attorney nor the public accountant need be a member of the Board of Directors.

- D. Each nonprofit corporation that existed prior to the effective date of these Regulations, and that is subsequently reorganized and established as an auxiliary organization under these Regulations, may continue to be governed by the Board of Directors existing at the time of recognition.

5. **Business Meetings**

The Board of Directors of each auxiliary organization shall conduct its business in public meetings in accordance with Section 54940 et. seq. of the Government Code, and shall, during each fiscal year, hold at least one business meeting each quarter.

6. **Salaries, Working Conditions and Benefits of Full-Time Employees**

- A. Except as otherwise provided in this Board Regulation, the Board of Directors of each auxiliary organization shall, pursuant to Education Code Section 72672, provide salaries, working conditions, and benefits for its full-time employees that are comparable to those provided District employees performing substantially similar services. For those full-time employees who perform services that are not substantially similar to the services performed by District employees, the salaries shall be comparable to the salaries prevailing in other educational institutions in the area or commercial operations of like nature in the area.

- B. The Board of Directors of each auxiliary organization may provide retirement benefits different from those provided comparable District employees and may withhold retirement benefits or permanent status benefits or both from temporary employees. For the purpose of this Regulation, a temporary employee is:

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- (1) An employee employed for a specific research project, workshop, institute or other special project funded by any grant, contract or gift; or
 - (2) An employee whose contract of employment is for a fixed term not exceeding three years.
- C. The Board of Directors of each auxiliary organization may withhold permanent status benefits from executive employees. For the purposes of this Regulation, an executive employee is any management employee with responsibility for the development and execution of the auxiliary organization's policies and includes, but is not limited to, general managers, managers, directors, and the like, as determined by the Board of Directors of each auxiliary organization.
- D. Should retirement benefits be provided, they may, but need not, be provided by the Public Employees' Retirement System. Any newly created auxiliary organization is exempted from the requirement of providing retirement benefits for a period not to exceed three years from the date on which the Board of Trustees recognizes the establishment of such auxiliary organization.

7. Expenditures and Fund Appropriation

The Board of Directors of an auxiliary organization shall approve all expenditure authorizations. Appropriations of funds for use outside of the normal business operations of the auxiliary organization shall be approved in accordance with Board of Trustee policy and further consistent implementing regulations adopted by the Board of Trustees.

8. Accounting and Reporting

- A. The Board of Directors of all auxiliary organizations, except those exempted in Section 72673 of the Education Code, shall:
- (1) Utilize a standard accounting and reporting system established by the Chancellor of the California Community Colleges in consultation with representatives of the Board of Governors.
 - (2) 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, capital replacements, contingencies and adequate provisions for new business requirements.

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- B. Each District auxiliary organization shall submit its programs and budgets for review at a time and in a manner specified by the Superintendent/President or designee.

- C. Should the Superintendent/President determine that any program or appropriation planned by an auxiliary organization is not consistent with District policy, the program or appropriation shall not be implemented. Further, should a program or appropriation which has received approval, upon review, be determined by the Superintendent/President, to be operating outside the acceptable policy of the Board of Governors or the District, then that program or appropriation shall be discontinued by direction of the Superintendent/President until further review is accomplished and an appropriate adjustment is made.

9. Funds

- A. All money collected by or on behalf of a student body auxiliary organization shall be deposited in trust by the chief business officer of the District. All such money shall be accounted for properly and, subject to the approval of the Superintendent/President or designee and the appropriate officer of said organization, be deposited or invested in any one or more ways specified in Sections 76063 and 76064 of the Education Code.

The chief business officer of the District shall be custodian of all unexpended funds and money collected by or on behalf of a student body auxiliary organization and shall provide the necessary accounting records and controls for such funds. These funds may be expended by the custodian only upon the submission of an appropriate claim schedule by officers of said organization.

- B. Trust funds shall be used specifically for the purpose designated in the instrument creating the trust.

- C. Funds of an auxiliary organization shall be used for purposes consistent with District policy where applicable, and shall not be used:
 - (1) To support or oppose any candidate for public office, whether partisan or not, or to support or oppose any issue before the voters of this state or any subdivision thereof or any city, municipality, or local governmental entity of any kind.

 - (2) To make personal loans for non-educationally related purposes, except that such loans be made when specifically authorized by a trust instrument under which the funds were received.

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- D. An indemnity bond shall be obtained by an auxiliary organization for its fiscal officer who is responsible for handling funds of the auxiliary organization.
- E. Grants, bequests, trusts, donations and gifts accepted by an auxiliary organization shall be maintained in accordance with policies and regulations established by the District.
- F. Funds derived by an auxiliary organization from indirect cost payments and which are not needed to provide adequate working capital, reserve funds for current operations, capital replacements, contingencies and adequate provisions for new business requirements shall be appropriated in a manner consistent with policies established by the District; uses of such funds shall be regularly reported to the Board of Trustees through the Superintendent/President.
- G. No funds or resources, other than funds or resources derived from gifts or bequests, shall be transferred by the District, to any of its auxiliary organizations for the purpose of either avoiding laws or regulations which constrain community college districts or providing the District with an unfair advantage with respect to the application of any state funding mechanism. Such state funding mechanisms include, but are not limited to, general apportionment funding, capital outlay funding, Extended Opportunity Programs and Services funding, and funding for programs and services for disabled students.

10. Authority and Responsibility of Auxiliary Organizations

- A. Auxiliary organizations shall not offer courses whether or not state funding is received.
- B. All services, programs, and activities that may be undertaken by an auxiliary organization shall be maintained for the general benefit of the educational program of the District. Upon Board of Trustee approval, an auxiliary organization may assume any of their services, programs and activities listed in Board Regulation 3 in order to provide the fiscal means and the management procedures that allow the District to carry on educationally-related activities.
- C. The Board of Trustees shall decide, after consulting with the donor, whether or not a donor's proposed gift to the District should be accepted by the District or referred to an auxiliary organization. Gifts to the District shall be accepted under the provisions of Education Code Section 72241 or 72303. Gifts to an auxiliary organization shall be accepted as authorized by the Regulations.
- D. The District shall maintain a list of all auxiliary organizations in good standing.

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- (1) All auxiliary organizations which, after periodic review in the manner specified by Board Regulation 11b and 11c, are found to be in compliance with applicable laws and regulations shall be included in this list.

- (2) When the Board of Trustees has reason to believe that a particular organization should be removed from this list, it shall give the Board of Directors of such organization reasonable notice that a conference will be held to determine whether grounds for removal do, in fact, exist, and representatives of said Board shall be entitled to be present at such conference and to be heard. Based upon such conference, the Board of Trustees shall decide whether a particular organization should be removed from the list. The Board of Trustees may remove such an auxiliary organization from said list, and may make such other provisions consistent with law as may be appropriate with respect to an auxiliary organization not included on said list. Such actions shall be reported to the Board of Trustees.

11. Recordkeeping

A. Records and Annual Audit

An auxiliary organization shall maintain adequate records and shall prepare an annual report showing its operations and financial status as may be required by the Board of Governors and the Superintendent/President.

B. Compliance Review by Superintendent/President

The Superintendent/President's designee shall inspect and review all auxiliary organization procedures and practices to determine compliance with:

- (1) Education Code Sections 72670 through 72682,
- (2) any written agreement with the District,
- (3) its Articles of Incorporation and Bylaws, and with
- (4) policies, rules, and regulations of the Board of Governors and the Board of Trustees.

Following this review, the designee shall make his/her recommendations to the Superintendent/President and the Board of Directors of the auxiliary organization regarding said procedures and practices. This review shall be done at the end of the first complete year after approval and at least every three years thereafter. The decision of the Superintendent/President shall be made after he/she has invited comments from the Board of Directors of the auxiliary organization. Reports and statements shall cover all activities of the organization.

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C. Audit

Each auxiliary organization shall have an annual fiscal audit of any and all funds. The audit shall be performed by a certified public accountant in accordance with procedures prescribed by the Board of Governors, as contained in the *California Community College Auxiliary Organization Accounting and Reporting System*. Copies of the annual audit report shall be submitted to the Board of Trustees and to the Board of Governors' Office within 30 days after it is received by the auxiliary organization. Thereafter, it shall be a public record, except as otherwise provided by law. Such audit may be conducted as part of a fiscal audit of the District itself.

Auxiliary organizations shall annually publish an audited statement of their financial condition which shall be disseminated as widely as feasible. Distribution of the published audited statement of its financial condition at a regularly scheduled meeting of the Board of Trustees shall be deemed compliance with this requirement. The audited statement shall be available to any person on request. A reasonable fee may be charged to cover the costs of providing a copy.

12. Written Agreement

A written agreement between the Monterey Peninsula Community College District and each auxiliary organization is required for the performance by such auxiliary organization of any of the services, programs and functions listed in Board Regulation 3. If any auxiliary organization performs more than a single service, program or function, then the written agreement may cover any number of the functions its performs or a separate agreement may cover each function performed.

The written agreement shall, among other things, provide for the following:

- (a) The services, programs, or functions the auxiliary organization is to manage, operate, or administer.
- (b) A statement of the reasons for administration of the functions by the auxiliary organization instead of by the District under usual District procedures.
- (c) The areas of authority and responsibility of the auxiliary organization and the District.
- (d) The facilities and services to be made available, if any, by the District to permit the auxiliary organization to perform services, programs or functions specified in the written agreement.

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- (e) The charge or rental to be paid to the District by the auxiliary organization for the facilities used or services provided in connection with the performance of its function. The charge or rental specified shall not require involved methods of computation, and should be identified in sufficient time before it is incurred so that the organization may determine to what extent it shall be liable therefore.
- (f) Full reimbursement to the District for services performed by the District or by District employees under the direction of or in support of the auxiliary organization. Student body auxiliary organizations may be exempt from reimbursing all or any portion of the costs for such services. Methods of proration where services are performed by District employees for the organization shall be simple and equitable.
- (g) A simple and equitable method of determining in advance to what extent the organization shall be liable for indirect costs relating to federally-sponsored programs.
- (h) The responsibility for maintenance and payment of operating expenses.
- (i) A statement that, with respect to expenditures for public relations or other purposes which would serve to augment District appropriations for operation of the District, the auxiliary organization may expend funds in such amount and for such purposes as are approved by the Board of Directors of the auxiliary organization.

The Board of Directors shall file with the Superintendent/President a statement of such policy on accumulation and use of public relation funds for all auxiliary organizations. The statement shall include the policy and procedure on solicitation of funds, source of funds, purpose for which funds will be used, expenditures, and procedures of control.

- (j) The disposition to be made of net earnings derived from facilities owned or leased by the auxiliary organization.
- (k) The disposition to be made of net assets and liabilities on dissolution of the auxiliary organization or cessation of operations under the agreement.
- (l) The covenant of the auxiliary organization to maintain its organization and to operate in accordance with Sections 72670 through 72682 of the Education Code and with the regulations commencing with Section 59250

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of Title 5 of the California Code of Regulations, as well as District Board policies.

13. Use of the District Name

Except for student body associations organized and operating under Education Code Section 76060 et seq., no organization may use the name of the Monterey Peninsula Community College District or otherwise represent a relationship with Monterey Peninsula Community College District unless it has been recognized and established as an auxiliary organization by the Board of Trustees and is in good standing with the District.

14. Administration of Implementing Regulations

The Board of Trustees or its designee shall provide, and may from time to time, revise rules and procedures for the administration of and in conformance with these Regulations.

15. Amendment

The Board of Trustees may from time to time, amend these implementing regulations subject to the approval of the Chancellor of the California Community Colleges.

References: Education Code Sections 72670 et seq.;
Government Code Sections 12580 et seq.;
Title 5 Sections 59250 et seq.

Board Adopted: October 24, 2000