

BP 3600 ~~RULES FOR AUXILIARY ORGANIZATIONS~~ Auxiliary Organizations

References:

Education Code Sections 72670 et seq.; ~~76060, 76063, 76064, 72241, 72303~~
Title 5 Sections 59250 et seq.

The ~~Napa Valley Community College District will establish an~~ Board may recognize and approve auxiliary organization or organizations consistent with appropriate provisions established for the purpose of the Education Code and providing to the District any and all supportive services, specialized programs and functions identified in Title 5 ~~of the California Code of Regulations.~~

The superintendent/president shall establish the administrative ~~regulations~~ procedures necessary to fully comply with California law relating to auxiliary organizations, and to submit this policy and those procedures to the Chancellor for the California Community Colleges as required by law. At a minimum, the procedures shall address the subjects required by Title 5.

1.—Recognition and ~~Establishment of Auxiliary Organizations.~~

~~Recognition of the establishment of an auxiliary organization by the Board of Trustees~~ organizations shall include:

- ~~a.—A public hearing on the recommendation submitted to the Board of Trustees by the superintendent/president to~~ recognize or establish an auxiliary organization;
- ~~b.—A public hearing to be held at a time, place and in such manner as determined by the Board of Trustees; and~~
- ~~c.—Approval by the Board of Trustees, which 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~~ Board approval of the auxiliary organization; and
- ~~d.—The approval of a written agreement between the district~~ District and the auxiliary organization ~~under which one or more of~~ describing the services, programs, or functions ~~described in Section 59259 are~~ to be performed.

2.—Recognized Services, Programs and Functions.

~~An auxiliary organization may be recognized and established for the purpose of providing supportive services and specialized programs for the benefit of the Napa Valley Community College District. 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 are:~~

- ~~Commercial, Advocacy and other services related to the Viticulture and Winery Technology Program~~
- ~~Student Association or organization activities;~~
- ~~Bookstores;~~
- ~~Food and campus services;~~

- Associated Student Body programs;
- Facilities and equipment, including parking;
- Loans, scholarships, grants-in-aid;

- Workshops, conferences, institutes, and federal projects;
- Alumni activities;
- Supplementary health services;
- Gifts, bequests, devises, endowments, and trusts; and
- 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. All such written agreements shall comply fully with the requirements of Title 5 by adding said function to the list of approved functions of auxiliary organizations; or unless said function is essential to satisfy the non-profit corporation or tax laws of the State of California or the federal tax laws. Section 59257(j).~~

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

~~3.—Composition of Board of Directors.~~

The board of directors of each auxiliary organization shall have the following composition:

- ~~a.—The board of directors of student associations 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.~~
- ~~b.—Any other district approved auxiliary organization that is established pursuant to Section 72670, et seq., of the Education Code 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: administration, faculty, members of the community; and students.~~
- ~~c.—The size of the Board of Directors of an auxiliary organization shall be at least large enough to accommodate the one or more categories from which board members are selected.~~
- ~~d.—Each non-profit corporation that existed prior to the effective date of this policy, and that is subsequently reorganized and established as an auxiliary organization under this policy, may continue to be governed by the Board of Directors existing at the time of recognition.~~
- ~~e.—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 certified public accountant shall be a member of the Board of Directors.~~

~~4.—Business Meetings~~

~~The board of directors of an auxiliary organization auxiliary organization recognized by the Board 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.~~

~~5.—Salaries, Working Conditions, and Benefits of Full-time Employees~~

- ~~a.—Except as otherwise provided in this board rule, 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 established shall be comparable to the salaries prevailing in other educational institutions in the area of 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 rule, a temporary employee is:
 - ~~i.—an employee employed for a specific research project, workshop, auxiliary organization, continued institute, or other special project funded by any grant, contract, or gift; or~~
 - ~~ii.—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 rule, 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 manager, managers, directors, and the like, as determined by the Board of Directors of each 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 providing retirement benefits for a period not to exceed one year from the date on which the Board of Trustees recognizes the establishment of the auxiliary organization.~~

~~6.—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 the Board of Trustees Policy and further consistent regulations accordance with the administrative procedures adopted by the superintendent/president.~~

~~7.—Accounting and Reporting~~

~~The Boards of Directors of pursuant to this policy. Notwithstanding anything contained in the administrative procedures, any auxiliary organization, except those exempted in Section 72673 of the recognized by the Board shall comply with Education Code, shall;~~

- ~~a.—Utilize a standard accounting and reporting system established by the superintendent/ president in consultation with representatives of the Board of Governors;~~
- ~~b. Implement financial standards which that will assure fiscal viability. 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. regarding:~~

~~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 that 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 adjustment is made.~~

~~8.—Funds~~

~~a.—All money collected by or on behalf of a student organization recognized as an auxiliary organization under this policy shall be deposited in the trust account by the chief fiscal 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 of the ways specified in Section 76063 and 76064 of the Education Code.~~

~~The chief fiscal 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 scheduled 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:~~

~~i.—To support or oppose any candidate for public office, whether partisan or not.~~

~~ii.—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.~~

~~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.~~

- ~~• the composition of a board of directors and the way in which it conducts its meetings;~~
- ~~• conducting an annual audit;~~
- ~~• employing its work force;~~
- ~~• expending and appropriating its funds, and keeping its records.~~

~~f. No funds or resources, other than funds or resources derived from gifts or bequests, shall be transferred by the ~~district~~District to any of its auxiliary organizations for the purpose of either avoiding laws or regulations ~~which~~that constrain community college districts or providing the ~~district~~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 handicappeddisabled students.

9.—~~Authority and Responsibility of Auxiliary Organizations~~

- a.—~~Auxiliary organizations shall not offer courses or programs for which 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 programs of the district. Upon approval by the Board of Trustees, an auxiliary organization may assume any of the services, programs, and activities listed in Section 2 in order:~~
 - i.—~~to provide the fiscal means and the management procedures that allow the district to carry on educationally related activities not normally funded by the state;~~
 - ii.—~~to eliminate the undue difficulty that would otherwise arise under the usual governmental budgetary, purchasing, and other fiscal controls; or~~
 - iii.—~~to provide fiscal procedures and management systems that allow effective coordination of the auxiliary activities with the district in accordance with sound business practices.~~
- c.—~~The superintendent/president shall decide, after consulting with the donor, whether 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 these rules.~~
- d.—~~An auxiliary organization may not enter into contract or other business arrangement involving real property either by lease involving payments of more than \$25,000 per annum and duration terms of more than one year, or by purchase without prior notification and consultation with the Board of Trustees.~~
- e.—~~Student loans, scholarships, stipends, and grants in aid shall only be given to currently admitted students. In no case shall the scholarship, stipend, or grant in aid exceed the amount necessary to cover books, school fees, and living expense, except as provided in a trust under Rule VIII B. A record of such financial assistance shall be forwarded on a timely basis to the campus financial aid office and shall be documented on student financial aid recipient records kept in that office. All such financial assistance provided from student body organization funds shall be approved by the campus financial aids office before such funds are expended, and shall not exceed amounts to be provided under regulations of federal and state financial aid programs.~~
- f.—~~The district shall maintain a list of all auxiliary organizations in good standing.~~
 - i.—~~All auxiliary organizations which, after periodic review in the manner specified by board rules are found to be in compliance with applicable laws and regulations, shall be included in this list.~~
 - ii.—~~When the president has reason to believe that a particular organization should be removed from this list, he or she 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 president shall decide whether a particular organization should be removed from the list. The president 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 the list. Such actions shall be reported to the Board of Trustees who may conduct a de novo hearing and confirm or reverse the decision of the president.

~~10. Record Keeping~~

- ~~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 or district.~~
- ~~b. Review by President. For an auxiliary organization serving the district, the president shall inspect and review all auxiliary organization procedures and practices to determine compliance with policies, rules, and regulations of the Board of Governors and the district and make his/her recommendations to the board of directors of the auxiliary organization regarding said procedures and practices. This shall be done at the end of the first complete year after approval and at least every three years thereafter. The decision of the 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.~~
- ~~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 procedure 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 thirty days after it is received by the auxiliary organization. Thereafter it shall be a public record, except as otherwise provided by law. Such audits 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 and be available to any person on request. A reasonable fee may be charged to cover the costs of providing a copy.~~

~~11. Written Agreement.~~

~~A written agreement between the Napa Valley 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 section 2. If any auxiliary organization performs more than a single service, program, or function, then the written agreement may cover any number of the functions it 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 or college under usual district procedures~~

- ~~e.—the areas of authority and responsibility of the auxiliary organization and the district or college~~
- ~~d.—the facilities and services to be made available by the district to permit the auxiliary organization to perform the services, programs, or functions specified in the written agreement~~
- ~~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 prorating costs for services performed by district employees for the organization shall be simple and equitable.~~
- ~~g.—a simple but 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.—the proposed expenditures for public relations or other purposes which would serve to augment district appropriations for operation of the district. 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 president a statement of such policy on accumulation and use of public relations funds for all auxiliary organizations. The statement shall include the policy and procedure on solicitation of funds, source of funds, amounts, and purpose for which the fund will be used, allowable expenditures, and procedures of control.~~
- ~~j.—the disposition to be made of net earnings derived from the operation of the auxiliary organization, including earnings derived from facilities owned or leased by the auxiliary organization, and provisions for reserves~~
- ~~k.—the disposition to be made of net assets and liabilities on dissolution of the auxiliary organization or cessation of the operations under the agreement~~
- ~~l.—the covenant of the auxiliary organization to maintain its organization and to operate in accordance with Sections 72670 et seq. of the Education Code and with the regulations contained in Chapter 5 (commencing with Section 59250) of Division 10, Part IV of Title 5 of the California Code of Regulations, as well as District Board Rules.~~

~~12.—Use of College or District Name:~~

~~Except for student associations organized and operating under Education Section 76060, et seq., no organization may use the name Napa Valley Community College District or otherwise represent a relationship with the Napa Valley 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.~~

~~13. See Administrative Authority Procedure [#].~~

~~The superintendent/president or his/her designee shall provide and may from time to time revise rules and procedures for the administration of this policy.~~

~~14. 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~~

~~The term Board of Trustees as used herein means the Board of Trustees of the Napa Valley 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 President of Napa Valley College and Superintendent of the Napa Valley Community College District.~~

Adopted 2/9/84

Revised 2/8/2007

Revised and renumbered 10/10/13