

Chapter 3 - General Institution

AP 3600 Auxiliary Organizations

References:

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

Definitions

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

Board of Trustees: The term Board of Trustees as used herein means the Board of Trustees of the College.

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

Chief Executive Officer: The term Chief Executive Officer (CEO) as used herein means the President of the College or designee.

College: The term College as used herein means Mt. San Antonio College.

Associated Students: The terms Associated Students, Associated Student Organization, Student Association, Student Organization, or AS as used herein means an organization formed by any group of students from the College in accordance with the provisions of Education Code Section 76060. All clubs and organizations recognized by an Associated Student Body or Organization shall be included in any auxiliary organization established by the Student Body or Organization.

Recognition and Establishment of Auxiliary Organizations

The College President/CEO shall submit a recommendation to the Board of Trustees to establish an auxiliary organization when the organization will serve the College. The recommendation includes, but is not limited to, the following:

- the purpose(s) for which the auxiliary organization is to be established;
- whether the proposed auxiliary organization will primarily serve the College;
- the functions which the auxiliary organization is intended to perform;
- the proposed bylaws and articles of incorporation for the auxiliary organization, including the size and composition of the Board of Directors, and
- the proposed written agreement between the auxiliary organization and the College, as required in Title 5 Section 59259.

The process of recognition shall be as follows:

- when the College President/CEO receives a request to establish an auxiliary organization, the College President/CEO shall submit a recommendation concerning the establishment of said organization to the Board of Trustees within three months;
- the Board of Trustees shall hold a public hearing on each recommendation concerning the establishment of an auxiliary organization; and
- at a subsequent scheduled meeting after the public hearing, the Board of Trustees shall announce its decision concerning the establishment of the organization, and, if approved, authorize the functions it may perform, identify the number and category or categories of the Board of Directors and approve contractual arrangements.

At such time as the College recognizes an auxiliary organization, it shall submit to the Chancellor's Office of the California Community Colleges any written agreements with the auxiliary organization, as well as the articles of incorporation, bylaws, or other governing instruments.

Recognized Services, Programs, and Functions

The Auxiliary shall provide the following campus services to the College:

- bookstore operation and management;
- food services to include meals, fast food, and vending;
- administration of the Athletic Services Program;
- administration and supervision of the fiscal operations for the Associated Students and Mt. SAC student clubs/organizations;
- administration, in coordination with the College's Financial Aid Office, of a \$20,000 loan fund to provide emergency loans to students to assist them with their enrollment fees and other costs related to registration;
- supervision of financial aid disbursements, collections, scholarships, and loans. The College reimburses Auxiliary Services for a Bookkeeper I salary and fringe benefits;
- collection and disbursement of funds for the Mt. San Antonio College Relays at the direction of the College;
- administration and supervision of the fiscal operations of the Bursar Office for the College. The College will reimburse Auxiliary Services for Bursar Office salaries and fringe benefits, hourly as needed help, office supplies, and equipment;
- administration and supervision of the processing of requests for refunds at the Bursar Office with a processing charge on each refund check that is retained by the Auxiliary;

- administration and supervision of the fiscal operations of the Photo I.D. Office, located at the Bursar Office. The College will reimburse Auxiliary Services for the Photo I.D. Office salaries and fringe benefits, hourly as needed help, office equipment, and supplies; and
- administration of gifts, bequests, devises, endowments, and trusts for the College.

The College President/CEO shall decide, after consulting with the donor, whether a donor's proposed gift to the College should be accepted by the College or referred to an auxiliary organization. Gifts to the College thereof 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 procedures.

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 the cost of books, College fees, and living expenses, except as provided under trust funds used specifically for the purpose designated in the instrument creating the trust. A record of such financial assistance shall be forwarded on a timely basis to the College's Financial Aid Office and shall be documented on student financial aid recipient records kept in that office. All such financial assistance provided from student organization funds shall be approved by the College's Financial Aid Office before such funds are expended and shall not exceed amounts to be provided under regulations of federal and State financial aid 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 by adding said function to the list of approved functions of auxiliary organizations. This section shall not be construed to prohibit an auxiliary organization from taking actions essential to satisfy the non-profit corporation or tax laws of the State of California or the federal tax laws.

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.

Authority and Responsibility of Auxiliary Organizations

Participation in workshops, conferences, or institutes offered by auxiliary organizations shall not be included in reports to the state for the purpose of receiving apportionment funding.

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 College. Upon Board of Trustees approval, an auxiliary organization may assume any of the services, programs, and activities listed in these procedures in order:

- to provide the fiscal means and the management procedures that allow the College to carry on educational related activities not normally funded by State apportionment;
- to eliminate the undue difficulty that would otherwise arise under the usual governmental budgetary, purchasing and other fiscal controls except as expressly prohibited by the Education Code or Title 5 or the College's procedures; or
- to provide financial procedures and management systems that allow effective coordination of the auxiliary activities with the College in accordance with sound business practices.

Composition of Boards of Directors

The Board of Directors of the Auxiliary Services organization shall be appointed in accordance with the organization's articles of incorporation or bylaws and shall be comprised initially of the positions listed below:

- Chief Fiscal Officer, Chair;
- Associated Students' President; and
- two members appointed by the Chief Fiscal Officer for one-year terms and selected from one or more of the following categories:
 - administration;
 - classified staff;
 - faculty;
 - students; and
 - members of the community.

The size of the Board of Directors of the Auxiliary Services organization shall be at least large enough to accommodate the one or more categories from which board members are selected.

The Board of Directors shall have the advice and counsel of at least one attorney admitted to practice in California and at least one certified public accountant. Upon being notified of the certified public accountant selected by an auxiliary organization, the College shall forward the applicable auditing and reporting procedures to the selected certified public accountant.

Conduct of the Board of Directors

No member of the Board of Directors of the Auxiliary Services organization shall be financially interested in any contract or other transaction entered into by the Board of which he/she is a member. Any contract or transaction entered into in violation of this section is void.

No contract or other transaction entered into by the Board of Directors of the Auxiliary Services organization is void under the provisions of Education Code Section 72677; nor shall any member of the Board of Directors be disqualified or deemed guilty of misconduct in office under such provisions, if pursuant to Education Code Section 72678 both of the following conditions are met:

- the fact of such financial interest is disclosed or known to the Board of Directors and noted in the minutes, and the Board of Directors thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such financially interested member or members; and
- the contract or transaction is just and reasonable as to the Auxiliary Services organization at the time it is authorized or approved.

It is unlawful for any person to utilize any information, not a matter of public record, which is received by the person by reason of his/her membership on the Board of Directors of an auxiliary organization, for personal pecuniary gain, regardless of whether he or she is or is not a member of the Board at the time such gain is realized.

Bylaws

The bylaws of an auxiliary organization shall include, but not be limited to, specifying:

- the number of members of the Board of Directors, the categories from which members shall be selected, and the method by which they shall be selected;
- the size of the Board of Directors;
- that at least one public business meeting will be held each quarter;
- the time table for the preparation and adoption of its program and annual budget and the submission of both for review to the College President/CEO;
- that an attorney admitted to practice in California and a licensed certified public accountant shall be selected to provide advice and counsel to the Board of Directors. Each shall have experience appropriate to the responsibility and shall have no financial interest in any contract or other transaction entered into by the Board which he/she serves. Neither the attorney nor the certified public accountant needs to be a member of the Board of Directors;
- the procedures for approving expenditures; and
- the procedures for accepting gifts, donations, bequests, trusts and specially funded grants, and other income.

Master Agreement between the College and the Auxiliary Services Organization

In the recognition and establishment of the Auxiliary Services organization, there shall be a written agreement between the College and Auxiliary Services which sets forth the purposes of the auxiliary organization as permitted under this Regulation and Title 5 Section 59259.

Should the Auxiliary Services organization provide more than one service, program, or function, such service, program, or function may be authorized in one of more written contracts with the College. Such services, programs, and functions thereby performed by the Auxiliary Services organization may also be part of a joint powers agreement in accordance with Education Code Section 72671 and Government Code Sections 6500 et seq.

The Auxiliary Services organization shall provide only those services, programs, or functions authorized by a written agreement. No other service, program, or function shall be permitted or performed unless a written agreement between the College and the Auxiliary Services organization is amended to provide otherwise.

The agreement shall include, but is not limited to, the following provisions:

- the services, programs, or functions the Auxiliary Services organization is to manage, operate, or administer;

- a statement of the reasons for administration of the functions by the Auxiliary Services organization instead of by the College under usual College procedures;
- the areas of authority and responsibility of the Auxiliary Services organization and the College;
- the facilities and services to be made available by the College to permit the Auxiliary Services organization to perform the services, programs, or functions specified in the written agreement;
- the charge or rental to be paid to the College by the Auxiliary Services organization for the facilities used or services provided in connection with the performance of its function. (The charge or rental specified shall be identified in sufficient time before it is incurred so that the organization may determine to what extent it is liable.);
- full reimbursement to the College for services performed by College employees in support of the Auxiliary Services 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 College employees for the organization shall be as mutually determined);
- a mutually agreed upon method of determining in advance to what extent the organization shall be liable for indirect costs relating to specially funded programs (including federally sponsored programs);
- the responsibility for maintenance and payment of operating expenses;
- Maintenance: The Auxiliary agrees to keep and maintain College facilities in a clean and orderly condition and shall, at its own expense and at reasonably frequent intervals and in a lawful manner, dispose of all waste generated from its use of College facilities;
- Repairs: The Auxiliary agrees to keep College facilities in good repair;
- Operating Expenses: The Auxiliary shall be responsible for all operating expenses associated with the use of College facilities;
- proposed expenditures for public relations or other purposes which would serve to augment College appropriations for operation of the College. (With respect to these expenditures, the Auxiliary may expend funds in such amount and for such purposes as are approved by the Board of Directors of the organization. The Board of Directors shall file with the College President/CEO a statement of such policy on accumulation and use of public relations funds. The statement shall include the policy and procedure on solicitation of funds, source of funds, amounts, and purpose for which the funds will be used, allowable expenditures, and procedures of control.);
- the disposition to be made of net earnings derived from the operation of the Auxiliary, including earnings derived from facilities owned or leased by the organization and provisions for reserves;

- the disposition to be made of net assets and liabilities on dissolution of the Auxiliary Services organization or cessation of the operations under the agreement;
- the covenant of the Auxiliary to maintain its organization and to operate in accordance with Sections 72670 through 72682 of the Education Code and with the regulations contained in Title 5 Section 59250 et seq. as well as College Board Policies;
- the understanding that the Auxiliary shall obtain the services and counsel of an attorney admitted to practice in California whenever the need arises; and
- the understanding that the Auxiliary shall not enter into any 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 College President/CEO.

Personnel

The Auxiliary shall develop general regulations to govern its operations, including policies and regulations concerning the salaries, working conditions, and benefits of its employees.

The aforesaid regulations shall not conflict with the implementing policies adopted by the Board of Trustees or with these procedures.

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

Regular College employees may be employed by the Auxiliary Services organization. College employees must resign or request a personal leave of absence from the College in order to accept employment with the Auxiliary. College officers and employees who are required by the College's Conflict of Interest Code (AP 2712) to file disclosure of financial information are responsible to determine whether or not they are eligible to accept employment with the Auxiliary immediately upon resignation from the College.

The Board of Directors of the Auxiliary Services organization may provide retirement benefits different from those provided comparable College employees and may withhold retirement benefits or permanent status benefits or both from temporary employees. For the purposes of this procedure, a temporary employee is:

- an employee employed for a specific research project, workshop, institute or other special project funded by any grant, contract or gift; or
- an employee whose contract of employment is for a fixed term not exceeding three years.

The Board of Directors of the Auxiliary Services organization may withhold permanent status benefits from executive employees. For the purposes of this procedure, an executive employee is any management employee with responsibility for the development and execution of the Auxiliary's policies and includes, but is not limited to, general managers, managers, directors and the like, as determined by the Board of Directors of the organization.

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.

An auxiliary organization may contract with the College for the services of a College employee and reimburse the College for that portion of the employee's full-time assignment (and corresponding benefits) that is spent in providing said services.

Accounting and Reporting for the Auxiliary Services Organization

The fiscal year of the Auxiliary shall coincide with that of the College. The Auxiliary Services organization shall develop an accounting system that is in accordance with generally accepted accounting principles.

The Auxiliary shall implement financial practices that will assure its fiscal viability. Such standards shall include professional management, adequate working capital, adequate reserve funds for current operations, capital replacements, contingencies, and adequate provisions for new business requirements.

The Auxiliary shall submit its programs and budgets for review at a time and in a manner specified by the College President/CEO.

Funds derived from indirect cost payments shall only be appropriated with the specific approval of the College President/CEO. All uses of such funds shall be regularly reported to the College's Board of Trustees.

Should the College President/CEO determine that any program or appropriation planned by the Auxiliary Services organization is not consistent with College 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 College President/CEO to be operating outside the acceptable policy of the Board of Governors or the College, then that program or appropriation shall be discontinued by direction of the College President/CEO until further review is accomplished and an appropriate adjustment is made.

The Board of Directors of the Auxiliary shall approve all expenditure authorizations.

Records and Annual Report of the Auxiliary Services Organization

Personnel and payroll records shall be maintained as permanent records by the Auxiliary Services organization.

Adequate records of all other transactions of the organization shall be maintained for a minimum of five years. Transactions of the organization include, but are not limited to, purchases, disbursements, and investments.

An annual report shall be submitted to the Board of Directors of the Auxiliary Services organization and to the College President/CEO by September 15. The report shall include, but is not limited to:

- all financial statements required to be filed with the State Chancellor's Office;
- a comparison of budgeted and actual expenditures;
- a description of major accomplishments of the organization; and
- a description of improvements proposed for operation of the organization.

Annual Audit

The Auxiliary Services 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 as updated and amended from time to time. Copies of the annual audit report shall be submitted to the Board of Trustees and to the State Chancellor's Office within 30 days after it is received by the Auxiliary Services 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 College itself.

The Auxiliary 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. The organization shall comply with this requirement by:

- publishing the audited financial statement in a campus newspaper; or
- publishing a notice in a campus newspaper indicating the on-campus location where copies of the financial statement may be obtained or reviewed; or
- publishing or noticing the audited statement in a campus bulletin or other appropriate medium if a campus newspaper is unavailable.

Insurance

The Auxiliary Services organization shall secure and maintain insurance adequate to protect its operations from catastrophic losses and as required by law, including but not limited to, the following:

- comprehensive liability;
- property and extended coverage, when applicable;

- all risks, money, and securities;
- fidelity and performance bonds covering its chief fiscal officer;
- automotive liability when applicable; and
- Workers' Compensation.

In any insurance policy secured by the Auxiliary, the College shall be named as additional insured.

A copy of each policy or endorsement or insurance certificates setting forth the coverage and limits shall be provided to the College within 30 days from the receipt of the document. In obtaining the insurance coverage, the Auxiliary may secure the insurance directly through its own broker or through the College.

Use of Facilities by the Auxiliary Service Organization

Facilities may be made available by the College to the Auxiliary Services organization to perform the functions specified in these regulations or in an agreement, under the following circumstances:

- the Auxiliary may occupy, operate, and use College facilities designated as the Sac Book Rac, Dining Services, the Mountie Stop, the Mountie Grill, the Short Stop, the Express Stop, the Quick Stop, and various vending locations on campus. The Auxiliary will administer the functions and services related to these locations utilizing the trade fixtures, supplies, and assets currently available for these operations; and
- in consideration for use of these facilities and assets, the Auxiliary agrees to pay to the College rent of \$10,000, payable in one payment by December 31, each year.

List of Auxiliary Organizations in Good Standing

Each year, the College President/CEO shall provide to the Board of Trustees a list of all auxiliary organizations in good standing. All auxiliary organizations which, after periodic review in the manner specified hereinafter in these regulations, are found to be in compliance with applicable laws, policies, and regulations shall be included in the list.

When the College President/CEO has reason to believe that a particular organization should be removed from the list of auxiliary organizations in good standing, a conference shall be held to determine whether such grounds for removal do in fact exist. The Board of Directors of such organization shall be entitled to participate in this conference and shall have a minimum of one month's notice to prepare response to the issues which have been raised.

Based upon such conference, the College President/CEO shall decide whether the particular organization shall be removed from the list of auxiliary organizations in good standing.

An organization so removed shall not be permitted to do any of the following:

- use the name of the College;
- have as a director any official in the College acting in his/her official capacity;
- operate a commercial service for the benefit of the College; and
- receive gifts, property, or funds to be used for the benefit of the College.

If the auxiliary organization is dissolved or ceases operations upon removal from the list of organizations in good standing, its net assets and liabilities shall be distributed according to the terms of the written agreement between the organization and the College.

Limitation on Transfer of Funds to Auxiliary Organizations

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

Compliance Review by the College President/CEO

All Auxiliary organization procedures and practices shall be reviewed to determine compliance with Education Code Sections 72670 et seq. and the policies, rules, and regulations of the Board of Governors and of the College. The College President/CEO shall designate the individual to conduct this review, which shall be conducted at the end of the first complete fiscal year after its establishment and at least once every three years thereafter.

When the College President's/CEO's designee determines, after inspection and review, that certain Auxiliary Services organization procedures and practices are not in compliance with policies, rules, and regulations of the Board of Governors and the College, a recommendation concerning the items of noncompliance shall be communicated in writing to the College President/CEO and to the Board of Directors of the Auxiliary. The Board of Directors shall reply in writing within one month, either describing the actions which will be taken, including time table, to bring said procedures and practices into compliance; or describing the reasons why the Board of Directors considers the procedures already to be in compliance.

If the College President's/CEO's designee considers the proposed corrective actions to be acceptable, the Auxiliary shall be so informed. A second compliance review shall be held at the end of the time agreed to and the results communicated in writing to the College President/CEO and to the Board of Directors.

When the Auxiliary fails to provide an acceptable proposal for corrective actions or fails to implement successful corrective actions within the agreed upon time, the College President/CEO shall inform the Board of Directors of such further action as he/she considers

appropriate, which may include a recommendation to the Board of Trustees for termination of the contract.

Revision of Rules and Procedures and Reports to the State Chancellor's Office

Rules and procedures for the administration of auxiliary organizations may be revised as necessary by the College President/CEO or designee. The Board of Directors of the auxiliary organization in good standing shall be promptly notified in writing of such revisions and be informed of the date by which any changes in the organization's procedures must be accomplished.

Any such revisions shall be submitted to the State Chancellor's Office for approval. The College shall report, as may be required from time to time, on the operation of its auxiliary organizations.

Reviewed: May 14, 2013

Reviewed: December 6, 2014

Reviewed: June 9, 2015

Reviewed: August 17, 2016