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## Memorandum to Presidents

Date: January 15, 1982 Vol. 82 No. 1  
From: Office of University Affairs and Development  
Subject: Reporting Requirements for Campus-Related Foundations

From time to time, this Office receives requests from SUNY campuses and the Campus-Related Foundations as to the kinds of reports which the foundations may be required to prepare under federal and New York State law or regulations. So that such information would be accurate and current, the Office of the University Counsel was asked to prepare a brief summary of the sources of reporting requirements for not-for-profit corporations.

The listing below is not intended to be an exhaustive treatment of the reporting laws and regulations. It should be noted, also, that direct responsibility for complying with the specific requirements lies with the foundations, which should seek guidance on compliance from their own legal counsel. However, it is important that presidents also be aware of these requirements because of the close relationships between the campuses and the foundations.

1. Internal Revenue Code -- Charitable organizations, such as the campus-related foundations, must obtain a determination from the Internal Revenue Service on their tax exempt status by filing an application for recognition of exemption under §501(c)(3) of the Internal Revenue Code on IRS Form 1023. It is important to note that Form 1023 when properly completed, includes the notice, required under §508(b) of the Code, that the organization is not a private foundation.

Not-for-profit organizations must file annual information returns on IRS Form 990, although separate returns on Form 990T must be filed to report unrelated business income.

2. New York State Tax Law -- Not-for-profit organizations must file Form CT-247 with the State Department of Taxation and Finance to obtain exemption from New York State corporation franchise taxes, pursuant to regulations

adopted under Article 9A of the State Tax Law (20 NYCRR §1-3.4(b)(6)). Additionally, not-for-profit organizations which are subject to federal tax on unrelated business income are taxable under Article 13 of the State Tax Law if those unrelated business activities are pursued in New York. Form CT-13 must be filed to report these activities.

3. Executive Law -- Article 7-A of the Executive Law has certain reporting requirements governing organizations involved in the solicitation and collection of funds for charitable purposes. Every not-for-profit organization which intends to solicit such contributions must register with the Secretary of State unless it receives less than \$10,000 in contributions during any fiscal year and all of its fund-raising functions are carried on by individuals who are not paid for such services. In most cases, these organizations must also file annual written reports with the Secretary of State.
4. Estates, Powers and Trusts Law -- Section 8-1.4 of the Estates, Powers and Trusts Law requires that every organization holding and administering property for charitable purposes must register with the Attorney General. Registration is accomplished by the submission of Form NYCF-1. Charitable organizations must also file annual written reports with the Attorney General setting forth information as to the nature of the organization's assets and their administration. (Organizations required to report annually to the Secretary of State, pursuant to Article 7-A of the Executive Law, may comply with this filing requirement by filing with the Attorney General a copy of such report and of all returns filed with the IRS.)
5. Not-For-Profit Corporation Law -- Section 513 of the N-PCJ provides that the treasurer of a not-for-profit corporation must make an annual report to the members or to the governing board (if there are no members) concerning assets held by the organization which were received by gift, grant or devise for a specific purpose.

The N-PCJ also requires the preparation of an annual report of directors which must be presented at the annual meeting of members or at the annual meeting of the board if the corporation has no members (N-PCJ, §519).

6. State University Board of Trustees Guidelines for Campus Related Foundations -- Paragraph D of the Guidelines requires an annual audit of each campus-related foundation by an independent certified public accountant. The results of the audit, as well as the annual report, must be provided to the campus chief administrative officer who forwards them to the Chancellor. This requirement does not apply to the campus-related foundations established for the benefit of the community colleges. The Trustees' Guidelines are specifically directed to the campus-related foundations for the state-operated campuses.

The exact statutory provisions should be consulted by each Campus-Related Foundation to determine whether they are applicable in a given factual situation. This Memorandum also presupposes that a foundation has been duly formed and does not address the specific legal requirements necessary for the actual incorporation of a not-for-profit corporation.

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This Memorandum addressed to:

Presidents, State-operated campuses  
Presidents, Community Colleges  
Deans, Statutory Colleges  
Dr. Odle  
Vice Provost Spencer

Information Copies to:

Campus-Related Foundations