



Category:
Financial
Related Entities

Responsible Office:
[University Controller](#)

Policy Title:
Other Related Entities Guidelines

Document Number:
9500

Effective Date:
June 22, 2016

This policy item applies to:
State-Operated Campuses

Table of Contents

[Summary](#)

[Policy](#)

[Definitions](#)

[Other Related Information](#)

[Procedures](#)

[Forms](#)

[Authority](#)

[History](#)

[Appendices](#)

Summary

State-operated campuses are authorized, with the approval of the Chancellor or designee, to establish other related entities (ORE) to support a specific need of a campus or to provide a direct benefit to the campus or the State University of New York (University) as a whole which need or benefit cannot be provided by a Campus-Related Entity^[1] (Alumni Association, Auxiliary Services Corporation or Foundation) or an Affiliate of a Campus-Related Entity.

To the extent appropriate, an ORE is authorized to receive and acquire, on behalf of the campus, real and personal property that supplements State of New York resources and provides a means to meet campus facility requirements in areas that are intended to be self-funding in nature.

Any proposed exceptions to these guidelines must be approved in writing by the Chancellor or designee. Any proposed amendments to these guidelines must be approved by the Board of Trustees upon the recommendation of the Chancellor and Audit Committee.

^[1] These guidelines do not cover the following campus-related entities and their affiliates: Alumni Associations, Auxiliary Services Corporations, and Campus-related Foundations. The responsibilities, structure and governance, accountability, compliance, and reporting, and linkage to campus for these campus-related entities and their affiliates are contained in their respective guidelines.

I. Structure and Governance

Prior to forming an ORE, the campus must prepare a written business and operating plan defining the purpose of the ORE and outlining the authorized services that will be provided to the campus and/or the University and obtain the approval of the campus President and the Chancellor or designee.

The charter or certificate of incorporation of the ORE should make reference to the campus it will benefit in terms of purposes, objectives and programs. The ORE must be a non-profit corporation organized and existing under the laws of the State of New York and tax-exempt under [the Internal Revenue Code \(IRC\)](#). The ORE's board of directors (ORE Board) is responsible for the governance and oversight of the ORE's affairs, personnel, and properties. The ORE Board is also responsible for issuing necessary policies, ensuring the ORE operates in accordance with its mission and all legal requirements, and monitoring the ORE's financial condition.

The campus president (including any acting or interim president approved by the Board of Trustees) or designee will be an ex officio, voting member of the ORE Board, but may not serve as Chair of the ORE Board or of any Affiliate board or as the manager or President of the ORE or any Affiliate. A majority of the ORE's directors should be individuals who are not faculty, staff, or students of the campus. No members of the Campus Council may serve on the ORE Board or the governance body of any Affiliate.

The ORE is authorized to establish one or more Affiliates. Each Affiliate should be a non-profit corporation organized and existing under the laws of the State of New York and tax-exempt under the IRC, unless a different corporate structure is more appropriate as determined by the ORE Board. Prior to formation of an Affiliate, a plan outlining the structure, governance, purpose, and initial and planned funding/capitalization of each proposed Affiliate, must be approved in writing by the campus president and Chancellor or designee. The majority of the governance body of each Affiliate should also be members of the ORE Board, unless a different board composition is approved by the Chancellor or designee.

The certificate of incorporation and other organizing documents (e.g. bylaws or operating agreement) of the ORE and each of its Affiliates must provide that the net assets of the organization be distributed to the University or other University-related entity organized for similar purposes on behalf of the campus or the ORE, respectively, in the event the ORE or any of its Affiliates is dissolved. Dissolutions and dispositions of related net assets are subject to all applicable laws, regulations, and restrictions. Copies of all organizing documents, including all amendments thereto must be on file with the Office of the University Controller.

II. Accountability, Compliance and Reporting

The ORE and each of its Affiliates must operate in accordance with sound business practices and at a minimum, must:

- Obtain the ORE Board's approval of the annual budget and the audited financial statements
- Cause an appropriate official of the ORE to provide periodic fiscal reports to the ORE Board for its review
- Develop, administer, and communicate written policies and procedures for all key business functions. These policies and procedures should, at a minimum, cover the following areas: (i) cash receipts and disbursements, (ii) gift acceptance, (iii) spending, (iv) investment management, (v) procurement (including travel expenses and credit cards), (vi) payroll, (vii) inventory, (viii) agency accounts, (ix) conflicts of interest and (x) whistleblower. Such policies must require that disbursements are reasonable business expenses that support the campus, are consistent with donor intent (where applicable), are adequately documented, and do not conflict with the law. If the ORE or any of its Affiliates engages a third-party (e.g. a Campus-Related Entity) to provide administrative support services, each must ensure that this third-party has in place, to the extent applicable, the written policies and procedures enumerated above
- Comply with all applicable laws, including the Non-profit Revitalization Act of 2013, each as amended

from time to time

- Establish and maintain a system of internal controls designed to provide reasonable assurance of the achievement of objectives, reliability of financial reporting, safeguarding of assets, effectiveness and efficiency of operations, and compliance with laws and regulations
- Ensure that the proceeds of fundraising are appropriately recorded, credited, acknowledged and administered based on legal requirements and donor stewardship parameters
- Adhere to principles as defined in the “Donor Bill of Rights” and the Association of Fundraising Professionals’ “Code of Ethical Principles and Standards of Professional Practice.”
- Adhere to all applicable legal requirements and the University procedures when providing fiscal, administrative, and investment functions

OREs and their Affiliates are prohibited from engaging in the following activities:

- Instructional and credit-bearing programs;
- Sponsored research programs (Sponsored research programs are to be administered by The Research Foundation for The State University of New York, the “Research Foundation”);
- Activities that generate revenue from the use of State property (e.g., cell tower leases and pouring rights);
or
- Those that are prohibited by law, policy or regulation.

Any exception to these prohibitions must be requested in writing by the ORE and campus president, submitted to the Chancellor or designee. The request must include the business case or basis for the exception including the operational, financial and other benefits; must certify compliance with all applicable laws; and must demonstrate that notice of the requested exception has been provided to all affected parties, including without limitation the Research Foundation, campus faculty and any other campus related entity. Written requests will be reviewed and evaluated to determine whether sufficient justification has been provided for approval. Each exception to these prohibitions must be approved in advance by the Chancellor or designee and must be consistent with all applicable laws. Exceptions will be incorporated into the contract between the ORE and the campus by amendment and will be effective upon approval by the Chancellor or designee and all required external state agencies.

Each ORE and its Affiliates must prepare annual financial statements (consolidated or separately issued) in conformity with U.S. generally accepted accounting principles and have an audit conducted by a licensed independent certified public accounting firm or sole practitioner (independent auditor) in accordance with generally accepted auditing standards. The audit must be completed within 90 days after the close of the ORE’s fiscal year. Consistent with principles of good governance, the independent auditor should be appointed only after a competitive procurement process. The term of appointment must be for no more than a five-year term, after which the ORE and/or Affiliate (as applicable) must solicit these services through a new competitive procurement process.

The books and records, financial condition, operating results, and program activities of the ORE and its Affiliates are also subject to periodic audit by the Office of the University Auditor and, to the extent allowed by law, by outside regulatory bodies. All audit reports from whatever source, the certified (consolidated) financial statements and any management letter, together with the associated corrective action plan of the ORE and each of its Affiliates must be promptly provided to the campus President and the Office of the University Controller. Management’s corrective action plan should include the planned timeframe for addressing the independent auditor comments. Additionally, on an annual basis, the ORE must certify to the University that it and each of its Affiliates has complied with the terms of the contract between it and the campus including the provisions of these guidelines.

The ORE and its Affiliates must meet all regulatory filing requirements on a timely basis (e.g., federal and state taxing authorities, Attorney General Charities Bureau, etc.).

III. Linkage to Campus

A formal contract, in substantial accord with the model contract developed by the University (Appendix A), must be executed between the campus and/or the University (as applicable) and the ORE. The contract should authorize the ORE to operate on campus, and should enumerate its activities and those of each Affiliate it establishes. Each authorized activity should be identified in the contract, with written amendments required for new activities (Appendix B). The contract must be approved by the Chancellor or designee (and external State agencies when required), can extend for a term of not more than 10 years,^[1] and should be terminable by the University in whole or part with 45 days written notice given by the University.

The ORE should reimburse the campus for the use of space, utilities, and other services that the campus provides to the ORE consistent with the approved annual budget and terms and conditions of the contract with the campus.

The ORE's use, if any, of the campus name and marks for fundraising, or other appropriate purposes, must be authorized pursuant to the contract between the ORE and the campus.

IV. Amendments

These guidelines may be amended from time to time by the Board of Trustees upon public notice and the recommendation of the Chancellor and Audit Committee of the Board of Trustees. All guideline amendments shall become effective upon a duly adopted amendment to the contract between the University and the ORE.

[1] Contract terms exceeding five years are subject to pre-approval by External State agencies and may not be approved without a satisfactory business justification.

Definitions

Affiliate means an entity formed to assist in meeting the specific needs of, or providing a direct benefit to the campus, or the University as a whole, or the ORE. The governance structure of an Affiliate of an Other Related Entity must include the right of either (i) the University, (ii) the University on behalf of a campus or (iii) the ORE to appoint, elect or otherwise participate in the selection of the board or other governing body of such entity, either as a sole member, or as one of the members, or otherwise designated with such right. The objective and purpose of the Affiliate must be consistent with the overall mission of the University.

Campus Council means a council for a state-operated campus as provided by NYS Education Law §356, to perform functions prescribed by statute and the Board of Trustees, at its respective campus.

Other Related Entity means an entity other than a Campus-Related Entity that is formed to meet the specific needs of, or provide a direct benefit to, a campus or the University as a whole and is approved by the Chancellor or designee in accordance with established University guidelines. The governance structure of an Other Related Entity must include the right of the University or the University on behalf of a campus to appoint, elect or otherwise participate in the selection of the board or other governing body of such entity, either as a sole member, or as one of the members, or otherwise designated with such right. The objective and purpose of an Other Related Entity must be consistent with the overall mission of the University. Student government associations and clinical practice management plans are not within the definition of Other Related Entity.

Other Related Information

[Code of Ethical Principles and Standards of Professional Practice of Fundraising Professionals \(AFP\)](#), Association of Fundraising Professionals (AFP).

[Donor Bill of Rights](#), Association of Fundraising Professionals (AFP).

[New York Non-profit Revitalization Act of 2013](#) amending the Not-For-Profit Corporation Law.

[New York State Ethics – A Plain Language Version](#), from the SUNY Internal Controls website.

[New York State Joint Commission on Public Ethics \(JCOPE\) website](#).

[SUNY Compliance Website Ethics pages](#).

Related Policies

[SUNY Policy Doc. No. 9300 Alumni Associations Guidelines](#)

[SUNY Policy Doc. No. 9600 Foundations Guidelines](#).

[SUNY Policy Doc. No. 9400 Auxiliary Services Corporations Guidelines](#).

Procedures

There are no procedures relevant to this policy.

Forms

There are no forms relevant to this policy.

Authority

[State University of New York Board of Trustees' Resolution 2016-46, Campus-Related Entities Policies, June 22, 2016](#).

[Internal Revenue Code §501\(c\)\(3\)](#) (Exemption from tax on corporations).

History

On June 22, 2016, the guidelines in this Policy were established by BOT Resolution No. 2016-46.

Appendices

[Appendix A](#) - Campus ORE Model Contract

[Appendix B](#) - Services and Activities - Exhibit C

[Appendix C](#) - Facilities, Personnel, Equipment and Other Support Goods and Services Provided by the Campus - Exhibit D

[Appendix D](#) - Description of Affiliated Organizations and Campus-provided Resources - Exhibit E