

General Institution

1 **AP 3600 AUXILIARY ORGANIZATIONS**

2 **References:**

- 3 Education Code, Sections 72670 et seq. and 72690;
- 4 Government Code, Sections 12580 et seq.;
- 5 Title 5, Sections 59250 et seq.

6 **Definitions**

7 **Board of Directors** - The term board of directors as used herein means the governing
8 board of an auxiliary organization.

9 **Board of Trustees** - The term Board of Trustees as used herein means the Board of
10 Trustees of the District.

11 **Board of Governors** - The term Board of Governors as used herein means the Board of
12 Governors of the California Community Colleges.

13 **President/Superintendent** - The term President/Superintendent as used herein means
14 the President/Superintendent of the District or designee.

15 **District** - The term District as used herein means the Cerritos Community College District.

16 **Recognition and Establishment of Auxiliary Organizations**

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

- 20 • The purpose(s) for which the auxiliary organization is to be established;
- 21 • A statement of fact that the auxiliary organization exists solely to serve the District;
- 22 • The functions which the auxiliary organization is intended to perform;
- 23 • The proposed bylaws and articles of incorporation for the auxiliary organization,
24 including the size and composition of the board of directors; and
- 25 • The proposed written agreement between the auxiliary organization and the
26 District, as required in Title 5, Section 59259.

27 The process of recognition shall be as follows:

- 28 • When the President/Superintendent receives a request to establish an auxiliary
29 organization, the President/Superintendent shall submit a recommendation
30 concerning the establishment of said organization to the Board of Trustees within
31 three months.
- 32 • The Board of Trustees shall hold a public hearing on each recommendation
33 concerning the establishment of an auxiliary organization.

- 34 • At a subsequent scheduled meeting after the public hearing, the Board shall
35 announce its decision concerning the establishment of the organization, and, if
36 approved, authorize the functions it may perform, identify the number and category
37 or categories of the board of directors and approve contractual arrangements.

38 At such time as the District recognizes an auxiliary organization, it shall submit to the state
39 Chancellor's Office any written agreements with the auxiliary organization, as well as the
40 articles of incorporation, bylaws, or other governing instruments.

41 **Recognized Services, Programs and Functions**

42 Auxiliary organizations may be recognized and established by the Board of Trustees to
43 perform services, programs and functions which are an integral part of the community
44 college educational programs. The following supportive services and specified programs
45 have been determined to be appropriate:

- 46 • Student association or organization activities;
- 47 • Bookstores;
- 48 • Food and campus services;
- 49 • Facilities and equipment, including parking;
- 50 • Loans, scholarships, grants-in-aid;
- 51 • Workshops, conferences, institutes and federal and specially funded projects;
- 52 • Alumni activities;
- 53 • Supplemental health services;
- 54 • Gifts, bequests, devises, endowments and trusts; and
- 55 • Public relations programs.

56 This section shall not be construed to prohibit an auxiliary organization from taking actions
57 essential to satisfy the non-profit corporation or tax laws of the State of California or the
58 federal tax laws.

59 Operations of commercial services on a campus shall be self supporting when operated
60 by an auxiliary organization.

61 **Authority and Responsibility of Auxiliary Organizations**

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

65 All services, programs and activities that may be undertaken by an auxiliary organization
66 shall be maintained for the general benefit of the educational program of the District.
67 Upon approval by the Board of Trustees, an auxiliary organization may assume any of
68 the services, programs and activities listed in these procedures in order:

- 69 • To provide the fiscal means and the management procedures that allow the District
70 to carry on educationally related activities not normally funded by state
71 apportionment;

- 72 • To eliminate the undue difficulty that would otherwise arise under the usual
73 governmental budgetary, purchasing, and other fiscal controls except as expressly
74 prohibited by the Education Code or Title 5 or the District's procedures; or
75 • To provide fiscal procedures and management systems that allow effective
76 coordination of the auxiliary activities with the District in accordance with sound
77 business practices.

78 **Composition of Boards of Directors**

79 The board of directors of each auxiliary organization shall be appointed in accordance
80 with the organization's articles of incorporation or bylaws and consisting of voting
81 membership from one or more of the following categories: administration, staff, members
82 of the community, students.

83 The size of the board of directors of an auxiliary organization shall be at least large
84 enough to accommodate the one or more categories from which board members are
85 selected.

86 The board of directors shall have the advice and counsel of at least one attorney admitted
87 to practice in California and at least one certified public accountant. Upon being notified
88 of the certified public accountant selected by an auxiliary organization, the District shall
89 forward the applicable auditing and reporting procedures to the selected certified public
90 accountant.

91 **Conduct of Boards of Directors**

92 No member of the board of directors of an auxiliary organization shall be financially
93 interested in any contract or other transaction entered into by the board of which he/she
94 is a member. Any contract or transaction entered into in violation of this section is void.

95 No contract or other transaction entered into by the board of directors of an auxiliary
96 organization is void under the provisions of Education Code, Section 72677; nor shall any
97 member of such board be disqualified or deemed guilty of misconduct in office under such
98 provisions, if pursuant to Education Code, Section 72678 both of the following conditions
99 are met:

- 100 • The fact of such financial interest is disclosed or known to the board of directors
101 and noted in the minutes, and the board thereafter authorizes, approves, or ratifies
102 the contract or transaction in good faith by a vote sufficient for the purpose without
103 counting the vote or votes of such financially interested member or members.
104 • The contract or transaction is just and reasonable as to the auxiliary organization
105 at the time it is authorized or approved.

106 The provisions of Education Code, Section 72678 above shall not be applicable if any of
107 the following conditions are met:

- 108 • The contract or transaction is between an auxiliary organization and a member of
109 the board of directors of that auxiliary organization.
110 • The contract or transaction is between an auxiliary organization and a partnership
111 or unincorporated association of which any member of the board of that auxiliary

- 112 organization is a partner or in which he or she is the owner or holder, directly or
113 indirectly, of a proprietorship interest.
- 114 • The contract or transaction is between an auxiliary organization and a corporation
115 in which any member of the board of directors of that auxiliary organization is the
116 owner or holder, directly or indirectly, of five percent or more of the outstanding
117 common stock.
 - 118 • A member of the board of directors of an auxiliary organization is interested in a
119 contract or transaction within the meaning of Education Code, Section 72677 and
120 without first disclosing such interest to the governing board at a public meeting of
121 the board, influences or attempts to influence another member or members of the
122 board to enter into the contract or transaction.

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

127 **Bylaws**

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

- 129 • The number of members of the board of directors, the categories from which
130 members shall be selected and the method by which they shall be selected.
- 131 • The size of the board of directors.
- 132 • That at least one public business meeting will be held each quarter.
- 133 • The procedures for approving expenditures.
- 134 • The procedures for accepting gifts, donations, bequests, trusts and specially
135 funded grants and other income.

136 **Master Agreement between District and Auxiliary Organizations**

137 In the recognition and establishment of an auxiliary organization, there shall be a written
138 agreement between the District and the auxiliary organization which sets forth the
139 purposes of the auxiliary organization as permitted under this procedure and Title 5,
140 Section 59259.

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

146 An auxiliary organization shall provide only those services, programs, or functions
147 authorized by a written agreement. No other service, program, or function shall be
148 permitted or performed unless a written agreement between the District and the auxiliary
149 organization is amended to provide otherwise.

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

- 151 • The services, programs, or functions the auxiliary organization is to manage,
152 operate, or administer.
- 153 • A statement of the reasons for administration of the functions by the auxiliary
154 organization instead of by the District under usual District procedures.
- 155 • The areas of authority and responsibility of the auxiliary organization and the
156 District or College.
- 157 • The facilities and services to be made available by the District to permit the
158 auxiliary organization to perform the services, programs, or functions specified in
159 the written agreement.
- 160 • The charge or rental to be paid to the District by the auxiliary organization for the
161 facilities used or services provided in connection with the performance of its
162 function. The charge or rental specified shall be identified in sufficient time before
163 it is incurred so that the organization may determine to what extent it is liable.
- 164 • A mutually agreed upon method of determining in advance to what extent the
165 organization shall be liable for indirect costs relating to specially funded programs,
166 including federally sponsored programs.
- 167 • The responsibility for maintenance and payment of operating expenses.
- 168 • Based upon the requirement of the master agreement/s between the District and
169 each auxiliary organization, each year's benefits provided by the auxiliary
170 organization and the related cost incurred by the District shall be audited and
171 disclosed in the District's financial statement. Said benefit calculation shall be
172 presented annually for consideration of approval by the District's Board of
173 Trustees.
- 174 • The disposition to be made of net earnings derived from the operation of the
175 auxiliary organization, including earnings derived from facilities owned or leased
176 by the auxiliary organization, and provisions for reserves.
- 177 • The disposition to be made of net assets and liabilities on dissolution of the
178 auxiliary organization or cessation of the operations under the agreement.
- 179 • The covenant of the auxiliary organization to maintain its organization and to
180 operate in accordance with Sections 72670 through 72682 of the Education Code
181 and with the regulations contained in Title 5, Sections 59250 et seq. as well as
182 District Board Policy.
- 183 • The understanding that the auxiliary organization shall obtain the services and
184 counsel of an attorney admitted to practice in the State of California whenever the
185 need arises.
- 186 • The understanding that the auxiliary organization shall not enter into any contract
187 or other business arrangement involving real property either by lease involving
188 payments of more than \$25,000 per annum and duration terms of more than one
189 year, or by purchase without prior notification and consultation with the
190 President/Superintendent.

191 **Personnel**

192 Each auxiliary organization shall develop general regulations to govern its operations,
193 including policies and regulations concerning the salaries, working conditions and
194 benefits of its employees.

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

197 Except as otherwise provided in any board rules, the board of directors of each auxiliary
198 organization shall, pursuant to Education Code Section 72672, provide salaries, working
199 conditions and benefits for its full-time employees that are comparable to those provided
200 District employees performing substantially similar services. For those full-time
201 employees who perform services that are not substantially similar to the services
202 performed by District employees, the salaries established shall be comparable to the
203 salaries prevailing in other educational institutions in the area or commercial operations
204 of like nature in the area.

205 The board of directors of each auxiliary organization may provide retirement benefits
206 different from those provided comparable District employees and may withhold retirement
207 benefits or permanent status benefits or both from temporary employees. For the
208 purposes of this procedure, a temporary employee is:

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

213 The board of directors of each auxiliary organization may withhold permanent status
214 benefits from executive employees. For the purposes of this procedure, an executive
215 employee is any management employee with responsibility for the development and
216 execution of the auxiliary organization's policies and includes, but is not limited to, general
217 managers, managers, directors and the like, as determined by the board of directors of
218 each auxiliary organization.

219 Should retirement benefits be provided, they may but need not be provided by the Public
220 Employees' Retirement System. Any newly created auxiliary organization is exempted
221 from the requirement of providing retirement benefits for a period not to exceed three
222 years from the date on which the Board of Trustees recognizes the establishment of such
223 auxiliary organization.

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

227 **Accounting and Reporting for Auxiliary Organizations**

228 The fiscal year of the auxiliary organization shall coincide with that of the District.

229 Each auxiliary organization shall develop an accounting system that is in accordance with
230 generally accepted accounting principles.

231 The auxiliary organization shall implement financial practices that will assure its fiscal
232 viability. Such standards shall include professional management, adequate working

233 capital, adequate reserve funds for current operations, capital replacements,
234 contingencies and adequate provisions for new business requirements.

235 Each auxiliary organization serving the District shall submit its programs and budgets for
236 review by their Board of Directors which includes the District's President/ Superintendent
237 as per the agreed upon time and manner.

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

241 The President/Superintendent has the responsibility of determining if a program or
242 appropriation planned by an auxiliary organization is consistent with District policy. If it is
243 found that a program or appropriation is not in compliance, such shall not be implemented.
244 Further, should a program or appropriation which has received approval, upon
245 subsequent review, be determined by the President/Superintendent to be operating
246 outside the acceptable policy of the Board of Governors or the District, then that program
247 or appropriation shall be discontinued by direction of the President/ Superintendent until
248 further review is accomplished and an appropriate adjustment is made.

249 The board of directors of an auxiliary organization shall approve all expenditure
250 authorizations.

251 **Records and Annual Report of Auxiliary Organizations**

252 Personnel and Payroll records shall be maintained as permanent records by each
253 auxiliary organization.

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

257 An annual report shall be submitted to the board of directors of the auxiliary organization
258 and to the President/Superintendent. The report shall include, but is not limited to:

- 259 • All financial statements required to be filed with the state Chancellor's Office
- 260 • A comparison of budgeted and actual expenditures
- 261 • A description of major accomplishments of the organization
- 262 • A description of improvements proposed for operation of the organization.

263 Records maintained by an auxiliary organization shall be available to the public to inspect
264 or copy at all times during the office hours of the auxiliary organization, pursuant to and
265 with the exceptions provided in Education Code sections 72690 et seq.

266 **Annual Audit**

267 Each auxiliary organization shall have an annual fiscal audit of any and all funds. The
268 audit shall be performed by a certified public accountant in accordance with procedures
269 prescribed by the state Chancellor. Copies of the annual audit report shall be submitted

270 to the Board of Trustees and to the state Chancellor's Office within 30 days after it is
271 received by the auxiliary organization. Thereafter, it shall be a public record, except as
272 otherwise provided by law. Such audits may be conducted as part of a fiscal audit of the
273 District itself.

274 Auxiliary organizations shall annually publish an audited statement of their financial
275 condition, which shall be disseminated as widely as feasible and be available to any
276 person on request. A reasonable fee may be charged to cover the costs of providing a
277 copy. An auxiliary organization shall comply with this requirement by:

- 278 • Publishing the audited financial statement in a campus newspaper; or
- 279 • Publishing a notice in a campus newspaper indicating the on-campus location
280 where copies of the financial statement may be obtained or reviewed; or
- 281 • Publishing or noticing the audited statement in a campus bulletin or other
282 appropriate medium if a campus newspaper is unavailable.

283 **Insurance**

284 An auxiliary organization shall secure and maintain insurance adequate to protect its
285 operations from catastrophic losses and as required by law, including but not limited to,
286 the following:

- 287 • Comprehensive liability;
- 288 • Property and extended coverage, when applicable;
- 289 • All risks, money and securities;
- 290 • Fidelity and performance bonds covering its chief fiscal officer;
- 291 • Automotive liability when applicable; and
- 292 • Workers' Compensation

293 In any insurance policy secured by the auxiliary organization, the District shall be named
294 as additional insured.

295 A copy of each policy or endorsement or insurance certificates setting forth the coverage
296 and limits shall be provided to the District within 30 days from the receipt of the document.

297 In obtaining the insurance coverage, the auxiliary organization may secure the insurance
298 directly through its own broker or through the District.

299 **Auxiliary Organizations: Use of Facilities**

300 Facilities may be made available by the District to an auxiliary organization to perform the
301 functions specified in these regulations or in an agreement, under the following
302 circumstances. The auxiliary organization may occupy, operate, and use such District
303 facilities as are mutually identified as appropriate for the functions and/or activities that
304 have been undertaken by the auxiliary organization.

305 **List of Auxiliary Organizations in Good Standing**

306 The President/Superintendent shall periodically provide to the Board of Trustees a list of
307 all auxiliary organizations in good standing. All auxiliary organizations which, after

308 periodic review in the manner specified hereinafter in these regulations, are found to be
309 in compliance with applicable laws, policies and regulations shall be included in the list.
310 When the President/Superintendent has reason to believe that a particular organization
311 should be removed from the list of auxiliary organizations in good standing, a conference
312 shall be held to determine whether such grounds for removal do in fact exist. The board
313 of directors of such organization shall be entitled to participate in this conference, and
314 shall have a minimum of one month notice to prepare response to the issues which have
315 been raised.

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

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

- 320 • Use the name of the District;
- 321 • Have as a director any official in the District acting in his/her official capacity;
- 322 • Operate a commercial service for the benefit of the District or any of its colleges;
323 and
- 324 • Receive gifts, property, or funds to be used for the benefit of the District or any of
325 its colleges.

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

329 **Limitation on Transfer of Funds to Auxiliary Organizations**

330 No funds or resources, other than funds or resources derived from gifts or bequests, shall
331 be transferred by the District to any of its auxiliary organizations for the purpose of either
332 avoiding laws or regulations which constrain community college districts or providing the
333 District with an unfair advantage with respect to the application of any state funding
334 mechanism. Such state funding mechanisms include, but are not limited to, general
335 apportionment funding, capital outlay funding, Extended Opportunity Programs and
336 Services funding, and funding for programs and services for students with disabilities.

337 **Compliance Review by President/Superintendent**

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

344 If the President/Superintendent's designee determines, after inspection and review, that
345 certain auxiliary organization procedures and practices are not in compliance with
346 policies, rules and regulations of the Board of Governors and the District, a
347 recommendation concerning the items of noncompliance shall be communicated in

348 writing to the President/Superintendent and to the board of directors of the auxiliary
349 organization. The board of directors shall reply in writing within one month, either
350 describing the actions which will be taken, including time table, to bring said procedures
351 and practices into compliance; or describing the reasons why the board considers the
352 procedures already to be in compliance.

353 If the President/Superintendent's designee considers the proposed corrective actions to
354 be acceptable, the auxiliary organization shall be so informed. A second compliance
355 review shall be held at the end of the time agreed to and the results communicated in
356 writing to the President/Superintendent and to the board of directors.

357 When the auxiliary organization fails to provide an acceptable proposal for corrective
358 actions or fails to implement successful corrective actions within the agreed upon time,
359 the President/Superintendent shall inform the board of directors of such further action as
360 he/she considers appropriate, which may include a recommendation to the Board of
361 Trustees for termination of the contract.

362 **Revision of Rules and Procedures and Reports to the state Chancellor's Office**

363 Rules and procedures for the administration of auxiliary organizations may be revised as
364 necessary by the President/Superintendent or designee. The board of directors of each
365 auxiliary organization in good standing shall be promptly notified in writing of such
366 revisions and be informed of the date by which any changes in the organization's
367 procedures must be accomplished.

368 Any such revisions shall be submitted to the state Chancellor's Office for approval.

369 The District shall report, as may be required from time to time, on the operation of its
370 auxiliary organizations.

371 Office of Primary Responsibility: President/Superintendent
372 Vice President, Business Services

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(Replaces former Cerritos College Policies 5021, 5021.1, 5021.2, 5021.3)