

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: November 1, 2021

REGULATION TITLE:

Direct Support Organizations;
Health Services Support Organizations.

REGULATION NO.:

1.300

SUMMARY: This proposed regulation amendment updates the language to meet the current legislative and BOG requirements for direct support organizations and health services support organizations.

AUTHORITY: BOG Regulation 1.001 and 9.011

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION AMENDMENT IS: Courtney Brown, Legal Assistant II, 123 Tigert Hall, Post Office Box 113125, University of Florida, Gainesville, Florida 32611, 352-392-1358 office, 352-392-4387 facsimile, regulations@ufl.edu.

NAME OF PERSON WHO APPROVED THE PROPOSED REGULATION AMENDMENT: W. Kent Fuchs, President

THE FULL TEXT OF THE PROPOSED REGULATION AMENDMENT IS ATTACHED TO THIS NOTICE.

REGULATIONS OF
THE UNIVERSITY OF FLORIDA

1.300 Direct Support Organizations; Health Services Support Organizations.

(1) The Board of Trustees (“BOT”) may establish direct support organizations (“DSO”) and health services support organizations (together with DSOs, “support organizations”) and certify them to use University property, facilities, and personal services. Such support organizations shall be organized and operated to serve the best interests or missions of the University, including the University’s research, education, and service missions, and may receive, hold, invest, and administer property and make expenditures to or for the benefit of the University or for the benefit of a research and development park or research and development authority affiliated with the University.

(2) Each support organization must comply with the conditions in this regulation in order to use University property, facilities, or personal services, as well as the requirements for appropriate budget and audit review and oversight. In addition, the following conditions are established:

(a) Thresholds to be established by BOT that delineate when approval by BOT is required for the purchase of goods and services by a DSO.

(b) All debt issued by a DSO is subject to the State University System Debt Management Guidelines and all public-private partnership transactions involving a DSO are subject to the State University System Public-Private Partnership Guidelines.

(c) Thresholds to be established by BOT that delineate when approval is required by BOT for the acquisition of real property and the construction or renovation of facilities by a DSO.

(d) University personal services used by a DSO are subject to the remuneration

requirements set forth in section 1012.976, Florida Statutes.

(e) No DSO may use state funds for travel expenses incurred by the DSO.

(f) No DSO may give, either directly or indirectly, any gift to a political committee as defined in section 106.011, Florida Statutes, for any purpose.

(3) The Director or Chief Executive Officer of the support organization shall report to the University President or designee.

(4) Operating budgets of supporting organizations shall be prepared at least annually, and approved by the organization's governing board and the BOT. Significant changes in planned expenditures in the approved budget must be reported to BOT as soon as practicable but no later than the deadline established by BOT.

(5) Support organizations shall provide for an annual audit conducted pursuant to university regulations or policies. The annual audit report shall be submitted to BOT for review. The audit report shall be submitted to the Board of Governors and the Auditor General. BOT or its designee, the Board of Governors, the Auditor General, and the Office of Program and Policy Analysis and Government Accountability may require and receive any records relative to the operation of a support organization from the organization or its independent auditors.

(6) Each support organization shall submit its federal Internal Revenue Service application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990) to BOT or its designee at the times required by regulation or policy of BOT. Copies of such forms shall be provided by the University to the Board of Governors.

(7) Any transfer of a state appropriation to a DSO is limited to funds pledged for capital projects.

(a) This regulation does not prohibit the transfer of non-state funds between University DSOs, or the transfer of non-state funds to a DSO, as long as the original source of funding was not a state appropriation.

(b) a DSO may transfer funds and provide the use of DSO property, facilities, or personal services without any charge to the University.

(c) The University will report annually to the Legislature and the Board of Governors all transfers of state funds to each DSO, using the format and instructions specified by the Chancellor.

(8) Each support organization shall provide equal employment opportunities to all persons, regardless of race, color, national origin, sex, religion, age, disability, marital status, veteran status, or any other basis protected by law.

(9) The BOT Chair shall appoint at least one representative to each DSO board of directors and executive committee (if any). The University President or designee shall also serve on each DSO board of directors and executive committee, if any. BOT shall approve all appointment to any DSO board other than the Chair's representative(s) or the President or President's designee. The Chair's designee may not be the University President; nor may the Chair and President appoint the same person to represent both the Chair and the President on any one DSO board.

(10) BOT shall decertify a support organization if the BOT or designee determines that the organization is no longer serving the best interest or mission of the University and decertification is appropriate. In decertifying a support organization, BOT shall require an accounting of the organization's assets and liabilities and take such reasonable action as necessary to secure the return of all University property and facilities as requested by the University.

(11) In order to ensure each support organization is operating in a manner consistent with the goals of the University and in the best interest of the state, each support organization shall conduct due diligence on potential members of its board prior to any appointment, nomination, or election. BOT or designee shall identify the appropriate level of due diligence to be performed, by regulation or policy, and issue guidelines for the process to be followed in reviewing and evaluating any information obtained.

Authority: BOG Regulation 1.001 and 9.011

Specific Authority: 1001.74(4), 1004.28(2) FS.

Law Implemented: 1001.74(37), 1004.28 FS.

History: New 1-7-03, Amended 6-3-03, .

RULESREGULATIONS OF

THE UNIVERSITY OF FLORIDA

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~~1.300—University of Florida; Direct Support Organizations; Health Services Support Organizations.~~

~~(1)——The President of the University may recommend to the Board of Trustees that an organization meeting the requirements of Section 1004.28(1)(a), F.S., be designated a University of Florida Direct Support Organization (“DSO”). Upon approval by the Board of Trustees, a DSO shall be considered to be certified and authorized to use the property, facilities and personal services of the University.~~

~~(2)——In order to be considered for certification as a DSO, an organization must fulfill the requirements of Section 1004.28(1)(a), F.S., and must have Articles of Incorporation and Bylaws that together:~~

~~(a)——Provide that any person employed by the organization shall not be considered to be an employee of the University of Florida Board of Trustees by virtue of employment by the DSO.~~

~~(b)——Provide that the chief executive officer or director of the DSO shall be selected and appointed by the governing board of the DSO, with prior approval of the President of the University, and that the chief executive officer or director shall report to the President or a designee reporting directly to the President.~~

~~(c)——Provide that any amendments to the Articles of Incorporation or Bylaws be subject to the approval of the University Board of Trustees.~~

~~(d)——Provide that the President of the University shall have the following powers and duties:~~

~~1.——Monitor and control the use of University resources by the organization.~~

Control the

(1) The Board of Trustees ("BOT") may establish direct support organizations ("DSO") and health services support organizations (together with DSOs, "support organizations") and certify them to use University property, facilities, and personal services. Such support organizations shall be organized and operated to serve the best interests or missions of the University, including the University's research, education, and service missions, and may receive, hold, invest, and administer property and make expenditures to or for the benefit of the University or for the benefit of a research and development park or research and development authority affiliated with the University.

(2) Each support organization must comply with the conditions in this regulation in order to use University property, facilities, or personal services, as well as the requirements for appropriate budget and audit review and oversight. In addition, the following conditions are established:

(a) Thresholds to be established by BOT that delineate when approval by BOT is required for the purchase of goods and services by a DSO.

(b) All debt issued by a DSO is subject to the State University System Debt Management Guidelines and all public-private partnership transactions involving a DSO are subject to the State University System Public-Private Partnership Guidelines.

(c) Thresholds to be established by BOT that delineate when approval is required by BOT for the acquisition of real property and the construction or renovation of facilities by a DSO.

(d) University personal services used by a DSO are subject to the remuneration requirements set forth in section 1012.976, Florida Statutes.

2. (e) No DSO may use of the University name by the DSO.

~~3. Monitor compliance of the organization with federal and state laws.~~

~~Approve contributions of funds or supplements to support intercollegiate athletics for travel expenses incurred by the DSO.~~

~~Provide that the (f) No DSO may give, either directly or indirectly, any gift to a political committee as defined in section 106.011, Florida Statutes, for any purpose.~~

~~(3) The Director or Chief Executive Officer of the support organization shall report to the University President or designee.~~

~~(4) Operating budgets of supporting organizations shall be prepared at least annually, and approved by the organization's governing board and the BOT. Significant changes in planned expenditures in the approved budget must be reported to BOT as soon as practicable but no later than the deadline established by BOT.~~

~~(5) Support organizations shall provide for an annual audit conducted pursuant to university regulations or policies. The annual audit report shall be submitted to BOT for review. The audit report shall be submitted to the Board of Governors and the Auditor General. BOT or its designee, the Board of Governors, the Auditor General, and the Office of Program and Policy Analysis and Government Accountability may require and receive any records relative to the operation of a support organization from the organization or its independent auditors.~~

~~(6) Each support organization shall submit its federal Internal~~

Revenue Service application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990) to BOT or its designee at the times required by regulation or policy of BOT. Copies of such forms shall be provided by the University to the Board of Governors.

(7) Any transfer of a state appropriation to a DSO is limited to funds pledged for capital projects.

(a) This regulation does not prohibit the transfer of non-state funds between University DSOs, or the transfer of non-state funds to a DSO, as long as the original source of funding was not a state appropriation.

(b) a DSO may transfer funds and provide the use of DSO property, facilities, or personal services without any charge to the University.

(c) The University will report annually to the Legislature and the Board of Governors all transfers of state funds to each DSO, using the format and instructions specified by the Chancellor.

(8) Each support organization shall provide equal employment opportunities to all persons, regardless of race, color, ~~religion, gender, age or~~ national origin, sex, religion, age, disability, marital status, veteran status, or any other basis protected by law.

~~(e) — Prohibit the giving, directly or indirectly, of any gift to a political committee or committee of continuous existence as defined in Section 106.011, F.S., for any purpose other than those certified by a majority roll call vote of the organization's governing board at a~~

regularly scheduled meeting as being directly related to the educational mission of the University.

(3) — (9) The BOT Chair of the University of Florida Board of Trustees may shall appoint at least one representative to the governing body each DSO board of directors and the executive committee of each DSO. In addition, the (if any). The University President of the University or a designee shall also serve on the governing body each DSO board of directors and executive committee of each DSO.

(4) — Each DSO shall submit an annual budget which has been approved by its governing board to, if any. BOT shall approve all appointment to any DSO board other than the Chair's representative(s) or the President of the University or the President's designee for review. Such proposed budget shall be submitted no later than sixty (60) days after the first day of the fiscal year to which the proposed budget pertains. The President or The Chair's designee shall report results of review to may not be the Board of Trustees.

(5) — Significant changes in projects funded, expenditures, or income projected in University President; nor may the annual budget must be reported to the Chair and President. Planned actions which would cause a commitment of University resources or which appoint the same person to represent a significant commitment of the resources of the DSO should be reported by the first date of the fiscal quarter in which they are to occur. Each DSO shall cause a financial audit of its accounts and records to be conducted by an independent certified public accountant after the close of each fiscal year. The audit report shall be submitted by the both the Chair and the President of the University to the Board of Trustees no later than the end of the sixth month following the close of the organization's fiscal year on any one DSO board.

(a) ~~— Audits (10) BOT shall be conducted pursuant to Section 1004.28(5), F.S. and in accordance with rules adopted by the Auditor General pursuant to Section 11.45(8), F.S. and University of Florida rules.~~

(b) ~~— The President of the University shall submit the annual audit report to the Auditor General and to the Florida Board of Governors no later than nine (9) months after the close of the organization's fiscal year.~~

~~The President of the University may recommend to the Board of Trustees that and~~decertify a support organization ~~be decertified as a DSO if the President~~BOT or designee determines that the organization is no longer serving the best interest or mission of the University. ~~The recommendation for and decertification shall include a plan for disposition is appropriate. In decertifying a support organization, BOT shall require an accounting of the organization's assets and liabilities and take such reasonable action as necessary to secure the return of all University property and facilities as requested by the University.~~

(11) In order to ensure each support organization is operating in a manner consistent with the goals of the University and in the best interest of the state, each support organization shall conduct due diligence on potential members of its board prior to any appointment, nomination, or election. BOT or designee shall identify the appropriate level of due diligence to be performed, by regulation or policy, and issue guidelines for the process to be followed in reviewing and evaluating any information obtained.

Specific Authority 1001.74(4), 1004.28(2) FS.

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