

Historical Background of Auxiliary Organizations

Auxiliary organizations predate the establishment of the California State University (CSU) system in 1961 and were created “to provide the fiscal means and management procedures” [*Title 5 §42401(b)*] to enable the performance of business and educational functions normally performed in institutions of postsecondary education, but which were rendered difficult and cumbersome by California law for the state college to perform and/or for the state budget to fund.

Bookstores and, in some instances, related cafeteria facilities were established in the 1920’s and 1930’s. At many of the colleges, an association of students operated these activities. Prior to the establishment of auxiliary organizations, an attempt was made to operate student project activities under State procedures. In 1931, the Legislature established a \$10,000 California Polytechnic School agricultural revolving fund to assist financing student projects. However, an adverse opinion from the Attorney General’s Office concerning the lending of State credit to individuals nullified this Act, and the fund was never used. After this attempt, negotiations with the Department of Education, the Department of Finance and the Attorney General’s Office established the present base for auxiliary management of certain agricultural instructional activities.

Legislation allowing the rental of State facilities to organizations composed of faculty and/or students for cooperative campus stores was enacted in 1933. In 1941, additional legislation permitted the operation of cafeterias with the campus stores. Other legislation in 1941 permitted the leasing of State property to organizations composed of faculty and/or students for the operation of auxiliary activities, which opened the way for the more extensive development of the activities needed by the colleges and not furnished through usual State budgeting and support or not feasible through governmental processes.

In the fifties, auxiliary organizations multiplied to an extent that oversight agencies insisted on guiding principles to help shape auxiliary organization operations. A committee composed of a college president, college staff representatives, the Department of Education and the Department of Finance was appointed in 1953 to work on a statement of mutually acceptable principles. In June 1956, the Department of Education and the Department of Finance approved the developed “principles”. These principles were used as the basis for the development of lease agreements governing the operations of auxiliary organizations. In 1959, recommendations issued by the Senate Special Committee on Governmental Administration were incorporated into the previously agreed upon principles, and *Education Code (Ed Code) §24054* was enacted, to read:

The Department of Finance, or a public accountant selected by the organizations or funds hereafter described and in accordance with procedures prescribed by the Department of Finance, shall audit any and all state college auxiliary funds and funds of organizations using the name of the State, state college, or representing an official relationship with the college, or funds in which college officials participate as directors as part of their official position, whether such funds be maintained on campus or not. The operation of state college auxiliary organizations shall be conducted in conformity with regulations established by the Director of Education and approved by the Director of Finance.

Over the years, substantive amendments to *Ed Code §24054* (currently *Ed Code §89900 and §89901*) included the following:

- In 1961, the reference to the “Director of Education” was amended to read “the trustees”, and a requirement was added for the provision of salaries, working conditions and benefits for

full-time auxiliary organization employees comparable to state employees performing similar services.

- In 1969, requirements were added for a contracted annual audit to be submitted to the trustees and Director of Finance; the publication and wide dissemination of an audited statement of financial condition; and president responsibility for ascertaining whether expenditures are in accordance with policies of the trustees, the propriety of all expenditures, and the integrity of financial reporting. Further, only accounting procedures were now required to be approved by the Director of Finance.
- In 1970, a requirement was added for distribution of the published audited statement of financial condition at a regularly scheduled meeting of the trustees, and specific reference was made to the California State Colleges. Further, *Ed Code §24054.5* was added to define the term “auxiliary organization” and included the following entities:
 - (a) Any entity in which any state college official participates as a director as part of his official position.
 - (b) Any entity formed or operating pursuant to Article 2 (commencing with *§23801*) (currently Article 3 commencing with *§89300*) of this chapter.
 - (c) Any entity which operates a commercial service for the benefit of a state college on a state college campus or other state college property.
 - (d) Any entity whose governing instrument provides in substance that:
 - 1) Its purpose is to promote or assist a state college, or to receive gifts, property and funds to be used for the benefit of a state college or any person or organization having an official relationship therewith; and
 - 2) Any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of an official of a state college, or selected, ex officio, from the membership of the student body or the faculty or the administrative staff of a state college.
 - (e) Any entity whose governing instrument provides in substance that:
 - 1) Its purpose is to promote or assist the trustees or the California State Colleges, or to receive gifts, property and funds to be used for the benefit of the trustees or the California State Colleges or any person or organization having an official relationship therewith; and
 - 2) Any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of an official of the California State College, or selected, ex officio, from the membership of the trustees or the administrative staff of the California State Colleges.
 - (f) Any entity which, exclusive of the foregoing subdivisions of this section, is designated as an auxiliary organization by the trustees.

- In 1971, each auxiliary organization described in *Ed Code §24054.5* was required to select a certified public accountant, and the Office of the Chancellor was required to forward applicable auditing and reporting procedures to the selected public accountants.
- In the 1980's, various other sections within *Ed Code §89900 et seq.* were added related to governance and fiscal viability.

At about the same time, a committee comprised of two CSU presidents and a Department of Education representative was formed to clarify the “principles” and establish standards of operation. The committee paraphrased the “principles”, which were incorporated into *Title 5* on August 6, 1960. Original *Title 5* requirements were basic and included the following selected sections:

§42400 Definition – A state college auxiliary organization is an organization specified in *Ed Code §24054*.

§42401 Declaration of Policy – All activities necessary to the educational program of a state college, including service functions, are an integral part of the college program and should be so operated. Because, however, self-government in student affairs is desirable and because some activities cannot be operated effectively and without undue difficulty under the usual governmental budgetary, purchasing and other fiscal controls, activities may be undertaken by an auxiliary organization in order, to foster self-government in student affairs and to provide effective operation and eliminate the undue difficulty which would otherwise arise under such controls.

§42500 Functions – A written agreement is required for the performance by an auxiliary organization of any of the following functions:

- Operation of a semi-commercial enterprise considered by the college to be necessary to provide students with experience paralleling, as closely as possible, commercial practice.
- Operation of service functions that the Board of Trustees or their designated representative finds cannot be operated as effectively and without undue difficulty under normal state administrative budgetary, purchasing, and other fiscal controls. Such service functions may include, but shall not be limited to, the operation and management of, or furnishing of, trailer courts, food services, bookstores, health service, housing units, farms, orchards, livestock projects, research projects, workshops, institutes, and conferences.
- Administration of gifts, bequests, and devises to the auxiliary organization to be used for the benefit of the college or its students.

§42501 Contents of Written Agreement – The written agreement required by §42500 shall, among other things, specify the following:

- The functions which the organization is to administer.
- The necessity for administration of the functions by the auxiliary organization instead of the college under usual state procedures.
- The areas of authority and responsibility of the auxiliary organization and the college.

In 1969, substantive amendments to the above *Title 5* sections, renumbering of §42501 to §42502 and the addition of a new §42501 included the following:

§42400 Definition – A campus auxiliary organization is an organization which is (a) included in the list of auxiliary organizations in good standing maintained by the Chancellor pursuant to §42406, *infra*, and (b) which is an organization specified in *Ed Code* §24054 (currently *Ed Code* §89900 and §89901), which is any organization using the name of the State or a campus, or representing an official relationship with a campus, or in which any campus official participates as a director as part of his official position. The term, “auxiliary organization” includes student body organizations and other student groups which are subject to the provisions of *Ed Code* §24054; provided, that other than student body organizations, all student clubs, societies, sororities, fraternities and similar student groups not operating any commercial activity at the campus, are not subject to the further provisions of this Article, and may represent an official relationship to the campus and may use its facilities, subject to such policies and conditions as the Board of Trustees and the campus president may from time to time establish.

§42401 Declaration of Policy – All activities necessary to the educational program of a state college, including service functions, are an integral part of the college program and should be so operated. The objectives of the auxiliary organizations are as follows:

- (a) To provide for student self-government, and
- (b) To provide the fiscal means and the management procedures that allow the campus to carry on activities providing those instructional and service aids not normally furnished by the State budget, and
- (c) To provide effective operation and to eliminate the undue difficulty which would otherwise arise under the usual governmental budgetary, purchasing and other fiscal controls, and
- (d) To provide fiscal procedures and management systems that allow effective coordination of the auxiliary activities with the campus in accordance with sound business practices.

§42500 Functions – The functions to be undertaken by auxiliary organizations are for the purpose of providing essential activities which are an integral part of the college educational program.

- (a) The following functions have been determined by the Trustees to be appropriate for auxiliary organizations to operate, administer, and manage in accordance with Trustee policies:
 - 1) Student Association Activities;
 - 2) Bookstores;
 - 3) Food and College Services;
 - 4) College Union Facilities and Programs;
 - 5) Housing Facilities;
 - 6) Loans, Scholarships, Grants-in-Aids;
 - 7) Research, Workshops, Conferences, Institutes and Federal Projects;
 - 8) Instructionally-related Programs, including Agriculture;
 - 9) Alumni Activities;
 - 10) Supplementary Health Services;
 - 11) Gifts, Bequests, Devises, Endowments and Trusts;
 - 12) Public Relations Programs.

- (b) Whenever feasible, gifts should be accepted under the provision of *Ed Code §24000* or *§24001*.
- (c) No auxiliary organization may enter into any contract or other business arrangement acquiring or affecting real property either by purchase or lease, involving payments of more than \$10,000 per annum and duration terms of more than one year, without prior notification and consultation with the Office of the Chancellor.
- (d) Loans, scholarships and grants-in-aid shall only be given to currently admitted students. In no case shall the scholarship or grants-in-aid exceed the amount necessary to cover books, school fees, and living expenses, except as provided under *§42403*.
- (e) An auxiliary organization shall not engage in a function not listed in subdivision (a) of this section unless an appropriate amendment is made to subdivision (a) by the Board of Trustees, adding said function to the list of approved functions of auxiliary organizations, or unless such function is essential to satisfy the corporation laws of the State of California.

§42501 Requirement of Written Agreement – A written agreement on behalf of the State of California by the Chancellor of the California State Colleges and the auxiliary organization is required for the performance by such auxiliary organization of any of the functions listed in *§42500*, except student association activities. If an auxiliary organization performs more than a single function, then the written agreement may cover any number of the functions it performs on the campus or a separate agreement may cover each function performed.

§42502 Contents of Written Agreement – The written agreement required by *§42501* shall, among other things, specify the following:

- (a) The function or functions which the organization is to manage, operate or administer.
- (b) The necessity for administration of the function by the auxiliary organization instead of by the college under usual state procedures.
- (c) The areas of authority and responsibility of the auxiliary organization and the college.
- (d) The facilities to be made available to permit the auxiliary organization to perform the functions specified in the written agreement.
- (e) The charge or rental to be paid for the facilities used in connection with the performance of its functions.
- (f) Full reimbursement to the State for services performed by state employees under the direction of the organization.
- (g) A simple but equitable method of determining in advance to what extent the organization shall be liable for indirect costs relating to federally-sponsored programs.
- (h) The responsibility for maintenance and payment of operating expenses.
- (i) Proposed expenditures for public relations or other purposes which would serve to augment state appropriations for operation of the college.
- (j) The disposition to be made of net earnings derived from the operation of facilities owned or leased by the auxiliary organization and provisions for reserves.
- (k) The disposition to be made of net assets on dissolution of the auxiliary organization or cessation of the operations under the agreement.
- (l) The covenant of the auxiliary organization to maintain its organization and to operate in accordance with the regulations contained in this Subchapter and Trustees resolutions.

§42400 and *§42401* remained relatively unchanged since 1969. However, substantive amendments to the other sections included the following:

§42500 Functions – In 1981, the list of authorized functions was refined in some instances and expanded to include Stipends and Related Financial Assistance; Externally Funded Projects; Athletics, Radio and Television Stations, Newspapers, Films, Transportation, Printing, and other Instructionally Related Programs and Activities; and Fund-raising, Fund Management, and similar development programs. In 1989, the Acquisition and Development of Real Property was added. In 1999, the ability to enter into financing transactions and issue debt instruments was added.

§42501 Requirement of Written Agreement – In 1981, a requirement for the authority for student projects involving agricultural, vocational, or other instructional activities was required to be incorporated into the written agreement.

§42502 Contents of Written Agreement – In 1981, subsection (c) was amended to read “Service by any state officer or employee shall not be incompatible, inconsistent, or in conflict with his or her duties as a state officer or employee”. The reference to federally-sponsored programs was deleted from subsection (g). Subsection (m) was added stating that the operations of auxiliary organizations shall be integrated with campus operations and so supervised as to comply with objectives stated in §42401.

In 1995, a new Article *Title 5 §42665 et seq.* was added to *Title 5* for the establishment of a systemwide auxiliary organization to permit the establishment of for-profit subsidiary organizations. No further substantive amendments have been made to the above selected *Title 5* sections since 1999.