

## NOTICE OF PROPOSED REGULATION AMENDMENT

Date: May 17, 2021

**REGULATION TITLE:**

University Direct Support Organizations

**REGULATION NO.:**

UCF-4.034

**SUMMARY OF REGULATION AMENDMENT:**

This regulation is being amended to better align with BOG Regulation 9.011 and the recently approved Resolution on Presidential Authority. New language has been added to address updates to the equal opportunities language required in DSO bylaws: to reference thresholds when Board of Trustees approval is required for purchase of goods and services, acquisition of real property and construction or renovation of facilities; to provide that the DSO governing boards are the appropriate boards for approving tax forms; and to state that DSOs are prohibited from giving to political committees. In addition, language has been removed that is no longer authorized or required under the existing BOG regulation 9.011.

**AUTHORITY:** BOG Regulations 1.001 and 9.011

**NAME OF PERSONS WHO INITIATED PROPOSED REGULATION AMENDMENT:**

Jennifer Cerasa, Senior Associate General Counsel

**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:**

Regulations Administrator  
4365 Andromeda Loop N.  
Millican Hall, Suite 360  
Orlando, FL 32816-0015  
Phone: (407) 823-2482  
e-mail: [regulations@ucf.edu](mailto:regulations@ucf.edu)

**FULL TEXT OF THE PROPOSED REGULATION AMENDMENT:**

**UCF-4.034 University Direct Support Organizations.**

(1) As provided in Section 1004.28, Florida Statutes, and Florida Board of Governors Regulation 9.011, a Direct Support Organization is an organization ~~that is~~ certified by the University of Central Florida Board of Trustees as operating in a manner consistent with the goals of the University and the best interest of the State.

(2) To obtain certification as a Direct Support Organization, the organization ~~must~~will submit to the Board of Trustees the following:

- (a) The proposed Articles of Incorporation.
- (b) The proposed Bylaws, which ~~shall~~will describe the operating procedures and specific individual responsibilities of the ~~b~~Board of ~~d~~Directors, committees, and officers of the organization.

(3) The Articles of Incorporation and the Bylaws, together, ~~shall~~will provide ~~that~~:

- ~~(a) Persons employed by the organization shall not be considered to be employees of the State of Florida by virtue of employment by the organization.~~
- ~~(a) The chief executive officer or director of the organization shall be selected and appointed by the governing board of the organization, subject to prior approval by the President of the University.~~ The director or chief executive officer ~~will~~shall report to the President of the University or the President's designee, ~~who shall be a vice president or other senior officer reporting directly to the President.~~
- ~~(b) The Chair of the Board of Trustees shall appoint at least one Trustee representative to the board of directors and any executive committee (if any) of the organization, and the President of the University or his/her/their designee shall also serve on the board of directors and any executive committee of the organization. The Board of Trustees shall approve all appointments to each Direct Support Organizations Board of Directors, except for the Chair's Trustee representative and the President (or President's designee). The Chair's Trustee representative 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 Direct Support Organization board.~~
- ~~(c) Any subsequent amendments to the Articles of Incorporation or Bylaws of the organization will must be submitted to the Board of Trustees for approval prior to becoming effective.~~
- ~~(d) The organization shall provide equal employment opportunities for all persons regardless of race, color, religion, sex, age, or national origin, disability, marital status, veteran status, or any other basis protected by law. Personal services~~

provided to the organization will ~~must~~ comply with Section 1012.976, Florida Statutes.

(4) Upon certification by the Board of Trustees, a Direct Support Organization is authorized to use the property, facilities, and personal services of the University.

(5) All debt issued by a Direct Support Organization is subject to the Florida Board of Governors Debt Management Guidelines and all public-private partnership transactions involving a direct support organization are subject to the State University System Public-Private Partnership Guidelines.

(6) DSOs will require approval by the Board of Trustees for the purchase of goods and services, acquisition of real property, and the construction or renovation of facilities, at the thresholds more particularly set forth in the Resolution on Presidential Authority, as the delegated authorities may be updated from time to time.

~~Direct support organizations shall conduct business in accordance with the UCF Debt Management Guidelines and the Delegation of Authority to the President. As required therein, the Board of Trustees shall approve: purchases, acquisitions, and project expenditures with an annual financial commitment, obligation, or contingent risk of five million dollars or .5% of the university budgets, whichever amount is smaller; a contractual obligation of either more than five (5) years' duration or an aggregate net value of five million or more dollars; and the issuance of debt by a direct support organization. The provisions of this paragraph are not intended to apply to either: (i) the receipt by or award of funds to a direct support organization, such as donations or sponsored research funding or (ii) a direct support organization expenditure where the funding is supplied by a third party (including but not limited to a granting agency, awarding entity, or donor) as part of a grant, award, sponsored research contract, or donation.~~

(6) ~~The President of the University shall have the authority to monitor and control the use of University name and resources by the organization, monitor compliance of the organization with state and federal laws and rules of the Board of Trustees, and approve salary supplements and other compensation or benefits paid to the University faculty and staff from organization assets.~~

(7) As of July 1, 2019, 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 the 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) Annually, each university will report to the Legislature and the Board of Governors all transfers of state funds to each university DSO, using the format and instructions specified by the Chancellor.

(8) A Direct Support Organization is responsible for submitting any forms that may be required by the Internal Revenue Services, including but not limited to, the Recognition of Exemption Form (Form 1023) and its Return of Organization Exempt from Income Tax form (Form 990). The University Board of Trustees designates the Direct Support Organization's board of directors (or its applicable committee) as the appropriate reviewing and approval authority. Copies of the Form 1023 and Form 990 shall will be provided to the Board of Governors by the University.

~~(7) The President of the University shall determine the compensation of organization employees from organization assets and such authority may not be delegated.~~

~~(98) A Direct Support Organization shall will prepare, at least annually, a budget to be reviewed and approved by the organization's governing board and the Board of Trustees.~~

~~(109) The A Direct Support Organization shall will prepare quarterly expenditure plans for review and approval by the President or designee, who shall will be a vice president or other senior officer of the university reporting directly to the President.~~

~~(110) A Direct Ssupport Oorganizations shall will provide for an annual audit by an independent certified public accountant, as prescribed by applicable law and rules, which shall will be forwarded to the Board of Trustee for review, as well as the Board of Governors and Auditor General. and oversight.~~

~~(12) A Direct Support Organization may not use state funds for travel expenses incurred by the Direct Support Organization.~~

~~(13) The Direct Support Organization is prohibited from giving, either directly or indirectly, any gift to a political committee as defined in section 106.011, Florida Statutes, for any purpose.~~

~~(144) The University President may request that the Board of Trustees decertify a Ddirect Ssupport Oorganization if the President determines that the organization is no longer serving the~~

best interest of the University. The request for decertification ~~shall~~will include a plan for disposition of the Direct Support Organization's assets and liabilities.

(152) The Direct Support Organization ~~shall~~will comply with all other obligations required by law and regulation, including those required by Section 1004.28, Florida Statutes and Florida Board of Governor Regulation 9.011. ~~As set forth therein, the organization shall not use state funds for travel expenses.~~

*Authority: BOG Regulations 1.001 and 9.011. History—New 4-3-03; Formerly 6C7-4.034; Amended 5-11-09, 9-15-14, 1-24-19, 7-18-19, \_\_\_\_\_-21.*