



Item: AC: A-1

## AUDIT AND COMPLIANCE COMMITTEE

Tuesday, November 13, 2018

**SUBJECT: REQUEST TO AMEND REGULATION 6.013 – UNIVERSITY DIRECT SUPPORT ORGANIZATIONS**

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### PROPOSED COMMITTEE ACTION

Recommend approval of amendments to FAU Regulation 6.013 – University Direct Support Organizations.

### BACKGROUND INFORMATION

FAU Regulation 6.013 has been amended to align with changes in Board of Governors Regulation 9.011 and Section 1004.28, Florida Statutes. The proposed changes to this regulation provide the following:

- The title of Chief Operating Officer of a University Direct-Support Organization (DSO) has been updated to Chief Executive Officer.
- The Chair of the Board of Trustees shall appoint at least one representative to the governing board and executive committee of the organization, and the President of the University or his/her designee will serve on the governing board and executive committee of the organization. The Board of Trustees shall approve all other appointments, including without limitation appointments through election by the organization's board, to any Direct Support Organization's board. The Chair's designee may not be the President of the University; 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. The appointments of the Chair and the President shall be effective immediately upon written notice to the Direct Support Organization's board chair. All other appointments, including any re-appointments, shall not be effective, and no person may assume or retain any position on a Direct Support Organization, until approved by the Board of Trustees.

- Significant changes in planned expenditures in an approved DSO budget must be reported to the Board of Trustees.
- Any purchase of goods and services, acquisition of real property, and/or construction or renovation of facilities by a DSO in excess of one million dollars (\$1,000,000) (collectively, “DSO Threshold Transactions”) shall require the approval of the Board of Trustees; provided, however, that such approval is not required for DSO Threshold Transactions solely between a DSO and the University or between two or more DSOs.
- Any 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.
- University personal services used by a DSO are subject to the remuneration requirements set forth in section 1012.976, Florida Statutes.
- DSOs are prohibited from using state funds for travel expenses incurred by the DSO.
- DSOs are prohibited from giving, either directly, or indirectly, any gift to a political committee as defined in section 106.011, Florida Statutes, for any purpose.
- A Direct Support Organization shall provide for an annual audit by an independent certified public accountant pursuant to University regulations and policies, which shall be forwarded to the Board of Trustees, the Board of Governors, and the Auditor General for review.
- The Chair of the Board of Trustees and the President of the University may require and receive any records or data relative to the operations of a DSO from the organization or from its independent auditors.

**IMPLEMENTATION PLAN/DATE**

Upon Board approval.

**FISCAL IMPLICATIONS**

N/A

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**Supporting Documentation:** Text of proposed amended Regulation 6.013

**Presented by:** David Kian, Vice President & General Counsel

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# Florida Atlantic University

## Regulation 6.013 University Direct Support Organizations

- (1) A Direct Support Organization is an organization that is certified by the Florida Atlantic University Board of Trustees as organized and operating to serve the best interests or missions of the University, including the University's research, education and service missions, 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 submit to the Board of Trustees the proposed Articles of Incorporation and the proposed Bylaws, which shall describe the operating procedures and specific individual responsibilities of the Board of Directors, committees, and officers of the organization. Any subsequent amendments to the Articles of Incorporation or Bylaws of the organization must be submitted to the Board of Trustees for approval prior to becoming effective.
- (3) The Director or Chief ~~OperatingExecutive~~ Officer of the organization shall be selected and appointed by the President of the University in consultation with the governing board of the organization. The Director or Chief ~~OperatingExecutive~~ Officer shall report to the President of the University or the President's designee. The governing board of the organization shall provide the President an annual assessment of the Director or Chief ~~OperatingExecutive~~ Officer's performance, which shall be considered by the President when conducting the Director or Chief ~~OperatingExecutive~~ Officer's annual evaluation.
- (4) The ~~chair~~Chair of the Board of Trustees ~~may~~shall appoint ~~at least one~~ representative to the ~~governing board of directors~~ and executive committee of the organization, and the President of the University or his/her designee will serve on the ~~Board of Directors governing board~~ and executive committee of the organization. The Board of Trustees shall approve all other appointments, including without limitation appointments through election by the organization's board, to any Direct Support Organization's board. The Chair's designee may not be the President of the University; 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. The appointments of the Chair and the President shall be effective immediately upon written notice to the Direct Support Organization's board chair. All other appointments, including any re-appointments, shall not be effective, and no person may assume or retain any position on a Direct Support Organization, until approved by the Board of Trustees.
- (5) Upon certification by the Board of Trustees, a Direct Support Organization is authorized to use the property, facilities and personal services of the University to the extent permitted by applicable law.
- (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 and regulations of the Board of Trustees and the Board of Governors, as applicable, and approve salary supplements and other compensation or benefits paid to the University faculty and staff from organization assets. Persons employed by the organization shall not be considered to be employees of the State of Florida solely by virtue of employment by the organization.

- (7) A Direct Support Organization shall prepare, at least annually, a budget to be reviewed and approved by the organization's governing board and submitted to the Board of Trustees for review and approval. Significant changes in planned expenditures in the approved budget must be reported to the ~~PresidentBoard~~ of ~~the UniversityTrustees~~ as soon as practicable, but in no event later than thirty (30) days after the organization's governing board approves the changes.
- ~~(8)~~ Any purchase of goods and services, acquisition of real property, and/or construction or renovation of facilities by a Direct Support Organization in excess of one million dollars (\$1,000,000) (collectively, "DSO Threshold Transactions") shall require the approval of the Board of Trustees; provided, however, that such approval is not required for DSO Threshold Transactions solely between a Direct Support Organization and the University or between two or more Direct Support Organizations.
- ~~(9)~~ Any debt issued by a Direct Support Organization is subject to the State University System 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.
- ~~(10)~~ University personal services used by a Direct Support Organization are subject to the remuneration requirements set forth in section 1012.976, Florida Statutes.
- ~~(11)~~ A Direct Support Organization is prohibited from using state funds for travel expenses incurred by the Direct Support Organization.
- ~~(12)~~ A 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.
- ~~(13)~~ A Direct Support Organization shall provide for an annual audit by an independent certified public accountant pursuant to University regulations and policies, which shall be forwarded to the Board of Trustees ~~or designee~~, the Board of Governors, and the Auditor General for review. The Chair of the Board of Trustees and the President of the University may require and receive any records or data relative to the operations of a Direct Support Organization from the organization or from its independent auditors.
- ~~(914)~~ The Board of Trustees may decertify a Direct Support Organization if it determines that the organization is no longer serving the best interest of the University. The resolution of decertification shall include a plan for disposition of the organization's assets and

liabilities and the return of all University property and facilities as requested by the University.

(~~1015~~) The organization shall comply with all other obligations required by law, including but not limited to those required by Section 1004.28, Florida Statutes, and Board of Governors Regulation 9.011.

*Specific Authority: BOG Regulations 1.001 and 9.011; Fla. Stat. 1004.28. History: New 11-16-11. Amended -18.*