August 20, 1996

CHANCELLOR'S MEMORANDUM CM-F-01.00-08/96

TO: Members, Council of Presidents
FROM: Charles B. Reed
SUBJECT: Direct Support Organization (DSO)
AUTHORITY: Section 240.299, Florida Statutes
Rule 6C-9.011, Florida Administrative Code

POLICY/PURPOSE: To establish uniform criteria for certifying Direct Support Organizations and uniform policies regarding the operation and oversight of Direct Support Organizations.

1. Direct Support Organizations (DSOs) are recommended by the university president to the Chancellor for review and recommendation to the Board of Regents (BOR) for certification. The President may request that the Board of Regents decertify a university DSO. The request for decertification shall include a plan for disposition of the organization's assets and liabilities.

2. Certification as a DSO is required if the organization will:
   A. Use the resources or name of the university; or,
   B. Receive, hold, invest, or administer assets or property or make expenditures for the benefit of the university.
3. A university request for certification of a DSO by the BOR shall include:

A. The Articles of Incorporation.

B. The Bylaws, which shall describe the operating procedures and specific individual responsibilities of boards, committees, and officers as related to the activities of the organization.

C. The organization's policy on public access to organization records and meetings.

4. The Articles of Incorporation and the Bylaws, together, shall:

A. Provide that any person employed by the organization shall not be considered to be an employee of the State of Florida by virtue of employment by the organization.

B. Provide that the chief executive officer or director of the organization shall be selected and appointed by the governing board of the organization, with prior approval by the university president. The director or chief executive officer shall report to the university president or the president's designee who shall be a vice president or other senior officer reporting directly to the university president and to the governing board.

C. Include or reference the organizational policy on public access to records and meetings. The policy shall ensure public access to financial information involving expenditures, completed business transactions, and the investment and management of assets, while protecting the confidentiality of personal or financial information about donors, prospective donors, or volunteers.

D. Provide that any subsequent amendments to the Articles of Incorporation or Bylaws shall be submitted by the university president to the Chancellor for BOR approval, prior to becoming effective.
E. Provide that the university president shall have the following powers and duties:

(1) Monitor and control the use of university resources by the DSO.

(2) Control the use of the university name by the DSO.

(3) Monitor compliance of the DSO with state and federal laws and rules of the BOR.

(4) Recommend to the BOR an annual budget, pursuant to Paragraph 7.

(5) Review and approve expenditure plans at least quarterly, pursuant to Paragraph 8.

(6) Approve salary supplements and other compensation or benefits paid to university faculty and staff from DSO assets; and salaries, benefits, and other compensation paid to employees of the DSO, consistent with Board of Regents' policies provided in Paragraph 10. The university president may designate an individual who shall be a vice president of the university or other senior officer of the university reporting directly to the president to serve in this capacity. Determination of compensation of athletic personnel from DSO assets may be made at the discretion of the university president and may not be delegated.

(7) Approve contribution of funds or supplements to support intercollegiate athletics.

5. The DSO shall, upon certification by the BOR, file with the Department of State as a Florida not-for-profit corporation under the provisions of Chapter 617, Florida Statutes.

6. Each university's foundation shall conduct its financial operation observing a fiscal year ending on either June 30 or December 31 of each year. Other DSOs shall observe the fiscal year of choice.
7. The DSO shall submit an annual budget which has been approved by the DSO's governing board and recommended by the university president to the BOR for review. The budget shall be submitted in the format of Attachment I no later than sixty (60) days after the first day of the fiscal year for which the budget pertains.

A. The construction of physical facilities shall be set forth in the budget including those on leased public property as authorized and defined in Section 235.055, Florida Statutes. The construction of facilities, although set forth in the budget, shall require prior approval of the BOR if the project is to be constructed on state land or with state funds. Any other construction project shall require notification to the Chancellor prior to commencement of construction.

B. Salary supplements, compensation, and benefits provided to the university president, to university faculty, and staff and to employees of the DSO with DSO assets shall be detailed in the budget.

C. A schedule of the names of the governing board members, their dates of service, and committee membership lists shall be submitted with the budget. The schedule of names shall include a statement signed by the university president, or the president's designee, certifying that the composition of the governing board is in accordance with its Bylaws. The individuals appointed by the Chair of the BOR and by the university president shall be clearly identified.

8. The DSO shall prepare and submit to the university president a quarterly expenditure plan that separately delineates planned actions which result in a commitment of university resources or which represent a significant commitment of the resources of the DSO, including but not limited to:

A. Major fund raising events and campaigns along with their purpose.

B. Compensation and benefits to university employees and employees of the organization.

C. Capital projects including land acquisition, construction, renovation, or repair.

D. Other major commitments of the resources of the DSO as defined by the university president.
9. The DSO shall submit annually to the BOR, for review by the Chancellor, an audit and related financial documents in accordance with CM-H-01.00-08/96.

10. The following policies concerning salary supplements, compensation, and benefits provided to the university president to university faculty and staff and to employees of the DSO with DSO assets are applicable:

   A. Full or part-time employees of DSOs are not state employees and may not participate in State Retirement or other fringe benefits available to employees of the State.

   B. Any salary supplement provided by a DSO to the university president shall be consistent with BOR action on the recommendations of the Chancellor concerning the annual salary amount to be paid from combined state and private funds to the university president.

   C. Salary supplements and other compensation or benefits provided for university employees will be paid using the State of Florida payroll payment process, and will not be subject to state retirement contributions nor included in salary averaging for the purpose of computing retirement benefits.

   (1) The university president, or the president's designee, shall approve all supplemental compensation to be paid to university employees by DSOs. Determination of compensation of athletic personnel from DSO assets is to be made at the discretion of the university president and may not be delegated.

   (2) The list of approved payees shall be provided to the University Payroll Office for processing as prescribed by the Bureau of State Payrolls.

   (3) The DSO, in coordination with the respective university, shall transfer the appropriate funds from the DSO into a State Treasury account for disbursement in accordance with State Comptroller's guidelines. These funds shall be sufficient to pay all federally required employer matching. The appropriate withholding taxes, as dictated by the State Comptroller, will also be applicable.
Prior to increasing the salary or changing the salary source for an
individual who receives compensation from a DSO fund source that
does not contribute to the Florida Retirement System (FRS) and from a
fund source that does contribute to FRS, the university shall request a
written analysis from the Division of Retirement, Florida Department of
Management Services, or other appropriate state agency, if the
proposed change in salary increases the proportion of the total salary
that is paid from state funds. This analysis, assessing the potential
impact of such action on FRS, shall be provided to the Chancellor prior
to the president's approval of the change in salary. If the change in salary
results in a significant fiscal impact on the FRS, an assessment payable
to the FRS may be required.

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CBR/fbj
Attachment