

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED AMENDED REGULATION**

DATE: March 29, 2023

REGULATION NUMBER AND TITLE: 9.013, Auxiliary Operations

SUMMARY:

Universities have a variety of auxiliary services that include, but are not limited to; housing, parking, food service, bookstore, telecommunications, printing, postal services, and computing services. This regulation outlines the integral service that auxiliaries provide to the university community.

Each university determines whether its auxiliaries are self-supporting on an individual or collective basis, except for athletics, which must be a self-supporting entity. This restriction goes back to the Board of Regents.

An amendment is being recommended that allows the use of unreserved cash from a non-athletic auxiliary to be used for athletics within certain parameters. The university Board of Trustees may make a recommendation to the Board of Governors for use of this unrestricted cash on a case by case basis, taking into consideration the unique facts and circumstances surrounding each individual situation. The university must provide, at a minimum, the following information to the Board of Trustees and Board of Governors:

- a. the non-athletic auxiliary the funds are coming from;
- b. justification that the use of unreserved cash will benefit the broader student body or university community;
- c. if the non-athletic auxiliary has outstanding debt, verification that the funds are unrestricted cash balances and that sufficient current revenues exist to cover all expenditures, including debt service payments and required reserves;
- d. assurance by the university, with concurrence by the Division of Bond Finance, that the transfer does not violate bond covenants; and
- e. documentation that a disclosure has been made to students that non-athletic auxiliary revenue, that may have come from student fees or payments, will be transferred to athletics.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO PROPOSE REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

**THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED
REGULATION: Tim Jones, Senior Vice Chancellor, Finance and Administration**

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

General Counsel, Board of Governors, State University System, 200 W. College
Avenue, Suite 216, Tallahassee, Florida 32399, (850) 245-0466 (phone),
(850) 245-9685 (fax), or generalcounsel@flbog.edu.

9.013 Auxiliary Operations

(1) Auxiliary services are integral activities of a university that furnish to its faculty, staff and students goods and/or services that are necessary or desirable but not readily available elsewhere in terms of costs, quality, quantity, timeliness, convenience, or other similar considerations. These activities shall support the educational endeavor of the institution and enhance its functioning; therefore, they shall not detract or distract from this basic endeavor in any way, financially or otherwise.

(2) Each auxiliary service is an individual entity and shall be accounted for as such. A service may be operated by the institution or by a private contractor under the institution's supervision. Under either arrangement, all pertinent institutional revenues and costs shall be assigned to each auxiliary and the consequent financial results of operations determined.

(3) There shall be a uniform system of financial reporting within the State University System for auxiliary services. Each institution may determine whether its auxiliary services will be self-supporting on an individual or collective basis, except for athletics, which shall be a self-supporting entity. The use of unreserved cash from a non-athletic auxiliary may be considered for athletics by the university board of trustees and approved by the Board of Governors. The Board of Governors will consider this on a case by case basis, taking into consideration the unique facts and circumstances surrounding each situation. The university administration should provide, at a minimum, the following information to the university board of trustees for its consideration, and subsequently to the Board of Governors, so that a transparent and informed decision can be made:

- (a) the specific non-athletic auxiliary the funds are coming from, the amount of the proposed transfer, and the amount of reserves available;
- (b) justification that the use of unreserved cash from the non-athletic auxiliary will benefit the broader student body or campus community;
- (c) if the supporting non-athletic auxiliary has outstanding debt, verification that the funds to be used are unreserved cash balances and that sufficient current revenues exist to cover all expenditures, including, but not limited to, debt service payments and required reserves;
- (d) assurance by the university, with concurrence of the Division of Bond Finance, that such transfer does not violate any bond covenants; and
- (e) in the event the non-athletic auxiliary revenues to be transferred include student fees or payments, documentation that a disclosure has been made to students that non-athletic auxiliary revenues which include student fees or payments will be transferred to athletics.

(4) Revenues for auxiliary services shall not be provided from general revenue supported budget entities except in payment of goods and/or services. Provided,

however, auxiliary services may be housed in buildings that are financed from other sources.

(54) Proposed expenditures from the various auxiliary funds shall be reflected in annual budgets filed with the Board of Governors.

Authority: Section 7(d), Art. IX, Fla. Const., History—Formerly BOG Rule 6C-3.14 and 6C-9.13, 3-4-74, 12-17-74, 8-29-77, 9-8-77, 8-11-85, 1-8-86, 4-10-86, 11-20-08.

Amended xxxx