

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

**DATE: September 14, 2018**

**REGULATION NUMBER AND TITLE: Regulation 9.011 University Direct Support Organizations and Health Services Support Organizations**

**SUMMARY:**

This regulation is being amended to incorporate changes to direct support organizations (DSO) as approved in Senate Bill 4 during the 2018 session.

1. Requires Boards of Trustees to set thresholds for approval of purchases, acquisitions, projects, and issuance of debt.
2. Effective July 1, 2019, only funds pledged for capital outlay can be transferred to a DSO.
3. Effective July 1, 2019, and annually thereafter, each university shall report to the Legislature the amount of state appropriations transferred to any DSO.
4. State funds cannot be used for DSO travel expenses.
5. The Chair of the Board of Trustees shall appoint at least one representative to the DSO board.
6. Personal services used by the DSO are subject to the \$200,000 remuneration cap in section 1012.976, Florida Statutes.

**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, 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, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or [generalcounsel@flbog.edu](mailto:generalcounsel@flbog.edu)

## 9.011 University Direct Support Organizations and Health Services Support Organizations

(1) University boards of trustees may establish direct support organizations (“DSO”) and health services support organizations and certify them to use university property, facilities and personal services. Such support organizations shall be organized and operated to serve the best interests or missions of the university, including a university’s research, education and service missions, and may receive, hold, invest, and administer property and make expenditures to or for the benefit of the university or for the benefit of a research and development park or research and development authority affiliated with a university.

(2) Each board of trustees shall establish by regulation conditions with which a support organization must comply in order to use university property, facilities, or personal services and such additional conditions, controls, and requirements for support organizations as each board deems appropriate to provide for budget and audit review and oversight. In addition, the regulation must include the following conditions:

- (a) The establishment of appropriate thresholds that delineate when approval by the board of trustees is required for the purchase of goods and services by a DSO.
- (b) All 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.
- (c) The establishment of appropriate thresholds that delineate when approval is required by the board of trustees for the acquisition of real property and the construction or renovation of facilities by a DSO.
- (d) University personal services used by a DSO are subject to the remuneration requirements set forth in section 1012.976, Florida Statutes.
- (e) A DSO is prohibited from using state funds for travel expenses incurred by the DSO.
- (f) A DSO 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.

(23) The Director or Chief ~~Executive~~ Operating Officer of the support organization shall report to the University President or designee.

(34) Operating budgets of support organizations shall be prepared at least annually, and approved by the organization’s governing board and the university board of trustees ~~or designee~~. Significant changes in planned expenditures in the approved budget must be reported to the university board of trustees ~~or designee~~ as soon as practicable but no later than the deadline established by a board of trustees.

(45) Support organizations shall provide for an annual audit conducted pursuant to university regulations or policies. The annual audit report shall be submitted to the university board of trustees for review. The ~~approved~~ audit report shall be submitted to the Board of Governors, and the Auditor General. The university board of trustees or designee, the Board of Governors, the Auditor General, and the Office of Program and Policy Analysis and Government Accountability may require and receive any records relative to the operation of a support organization from the organization or its independent auditors.

(56) Each support organization shall submit its federal Internal Revenue Service application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990) to the university board of trustees or designee at the times required by the applicable regulation or policy of the board of trustees. Copies of such forms shall be provided by each university to the Board of Governors.

(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) Effective for fiscal 2018-2019, and annually thereafter, 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 support organization shall provide equal employment opportunities to all persons, regardless of race, color, national origin, sex, religion, age, disability, marital status, veteran status, or any other basis protected by law.

(89) The chair of the university board of trustees shall appoint at least one representative to each DSO board of directors and executive committee (if any). The university president or designee shall also serve on the board of directors and executive committee of each DSO. The university board of trustees shall approve all appointments to any DSO board other than the chair's representative(s) or the president or president's designee. The chair's designee 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 DSO board.

(610) University boards of trustees shall decertify a support organization if the university board of trustees or designee determines that the organization is no longer serving the best interest or mission of the university and decertification is appropriate.

In decertifying a support organization, the board of trustees shall require an accounting of the organization's assets and liabilities and take such reasonable action as necessary to secure the return of all university property and facilities as requested by the university.

Authority: Section 7(d), Art. IX, Fla. Const., History – Formerly 6C-3.12, 11-18-70, Amended and Renumber 12-17-74, Amended 4-14-76, 6-25-80, 8-11-85, Formerly 6C-9.11, Amended 9-28-86, 2-13-89, 4-10-90, 12-9-91, 8-1-94, 4-16-96, Amended and Renumbered 8-6-09, Amended XX-XX-XX.