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TO: Dr. Monty Sullivan
LCTCS President

THROUGH: Joseph F. Marin 
Chief Operations Officer

FROM: Tarie Roberson 
Director of Advancement

SUBJECT: Policy #5.017 – LCTCS Policy on Foundations

DATE: January 29, 2021

APPROVED

 2/10/21
LCTCS BOARD OF SUPERVISORS

FOR BOARD ACTION

Recommendation: Staff recommends that the Board approve the attached Policy #5.017 – “LCTCS Policy on Foundations.”

Background: The LCTCS currently has a policy on operations and administration of foundations. Our intent is to provide a clear explanation of Louisiana Governmental Audit guidelines while eliminating conflicting and confusing language. The state audit law allows for entities with between \$75k and \$200k in revenues to get only a compilation and those with revenues between \$200k and \$500k a financial statement review. This provides some relief to smaller foundations.

The amount of revenue and other sources/local and state assistance a local auditee receives also determines whether the local auditee may self-prepare the report or must contact a certified public accounting (CPA) firm to perform the related engagement.

<i>Amount of revenues and other sources/local and state assistance received</i>	<i>Type of report provided</i>	<i>CPA or self-prepared</i>
<i>\$500,000 and over</i>	<i>Audit</i>	<i>Independent CPA</i>
<i>\$200,000 - \$499,999</i>	<i>Review/attestation</i>	<i>Independent CPA</i>
<i>\$75,001 - \$199,999</i>	<i>Compilation</i>	<i>CPA</i>
<i>\$75,000 and under</i>	<i>Sworn financial statements</i>	<i>Self-prepared; or the local auditee may choose to have CPA prepare report</i>

Current policy reads:

Operations and Administration of Foundations

All foundations and other private, nonprofit alumni organizations that raise private funds for the support of public institutions within the Louisiana Community and Technical College System (LCTCS) shall have a financial accounting system established pursuant to customary and current accepted accounting standards.

The financial affairs of the organization shall be audited annually in accordance with generally accepted auditing standards by an independent certified public accountant. Independently Audited Financial Reports for foundations/affiliated organizations supporting LCTCS institutions are due to its affiliated LCTCS college by the date specified by the college. The reports are due to the System Office no later than the deadline approved by the Board in Policy #5.012, *Annual Financial Reporting*.

Recommended changes read:

Any alumni association, alumni foundation, or other private, nonprofit alumni organization that raises private funds for the support of a public institution of higher education which receives seventy-five thousand dollars or less in funds in a fiscal year shall not be required to have an audit. However, the organization shall execute a certification indicating that it received seventy-five thousand dollars or less in funds in the fiscal year and shall prepare a sworn financial statement.

History of Prior Actions: No prior actions



**Approved for Distribution to the Board
Dr. Monty Sullivan, President**

2-10-21

Date

Signature: Tarie Roberson
Tarie Roberson (Feb 8, 2021 15:21 CST)

Email: tarieroberson@lctcs.edu

Signature: Joseph Marin
Joseph Marin (Feb 8, 2021 15:34 CST)

Email: jmarin@lctcs.edu

LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM
Policy # 5.017

Title: **LCTCS POLICY ON FOUNDATIONS**

Authority: Board Action	Original Adoption:	03/10/04
	Prior Revision Date:	09/11/13
	Last Revision Effective:	02/10/21

This policy provides operating guidelines for private, non-profit foundations supporting the mission and activities of the Louisiana Community and Technical College System and its Colleges.

The LCTCS Board of Supervisors agrees with the Louisiana Legislature that private support enhances the programs, facilities, research, and educational opportunities offered by public institutions of higher education in Louisiana, including student scholarships. Therefore, the Board encourages the activities of foundations, alumni associations, and other private, nonprofit organizations that raise private funds for the support of public institutions of higher education.

Private, nonprofit organizations under the direction and control of private individuals who support institutions of higher education are effective in obtaining private support for those institutions. College-affiliated foundations are recognized by the IRS as institutionally-related nonprofit organizations and, as such, have a special relationship with the college and the LCTCS. These foundations play a critical role in obtaining support for the college whose name they bear. This relationship calls upon the college and its affiliated foundation to assume certain responsibilities and obligations as a result of this relationship, under the governance of this Board.

Provisions

In recognition of the importance of foundations to the System, the Board of Supervisors establishes the following policies:

Approval on Foundations

The organization and the establishment of any foundation whose purpose is to support a college of the LCTCS including its programs, facilities, scholarships, research, and community outreach shall first be reviewed and approved by the System President and College Chancellor and then approved by the Board. The sole beneficiary of such a foundation must be one or more of the colleges or programs of the LCTCS.

As part of this procedure, the Board must also receive and approve the foundation's associated Articles of Incorporation and Bylaws, and the cooperative endeavor agreement or operating agreement between the Foundation, the LCTCS College, and the Board.

In accordance with applicable provisions of Louisiana law, LCTCS colleges and the system office may support their affiliated foundation with dedicated staff, accounting services, printed materials and other in-kind services and support to ensure that they can be effective in securing contributions.

Operations and Administration of Foundations

Any alumni association, alumni foundation, or other private, nonprofit alumni organization that raises private funds for the support of a public institution of higher education which receives seventy-five thousand dollars or less in funds in a fiscal year shall not be required to have an audit. However, the organization shall execute a certification indicating that it received seventy-five thousand dollars or less in funds in the fiscal year and shall prepare a sworn financial statement.

Reimbursements and Supplemental Compensation

All foundation payments over one thousand dollars for any single transaction to, or on behalf of, or to reimburse the expenses of an employee of the Board Office, and employee of any of the LCTCS colleges, or a member of the Board of Supervisors of the LCTCS shall be approved in writing by the Board. All requests, approvals and documents provided to a higher education institution or management board in connection with such requests or approvals, shall be retained in the system office if it applies to a Board Member or System Office employee or the college if it applies to a college employee and shall be subject to inspection, examination, copying and reproduction in accordance with the provisions of R.S. 44:1 et seq. (Public Records and Recorders)

Supplemental Compensation and fringe benefits provided by Foundation to college or system employees:

1. Foundations may fund supplemental compensation or other fringe benefits to college or system employees to the extent permitted by Louisiana law, with prior Board approval, for any legal purpose that is in support of the college or the system's overall mission. Examples include but are not limited to: salaries or enhanced compensation packages for development staff, public/governmental relations, faculty in high-demand programs and chancellors.
2. The request to the Board of Supervisors to provide supplemental compensation and fringe benefits to college employees may only be made by the foundation with the agreement of the college chancellor and shall be in accordance with the mission, goals and objectives of the college. Foundation requests to provide supplemental compensation or designated taxable fringe benefits shall be signed by an authorized representative of the foundation and submitted in writing to the Board of Supervisors by the Chancellor and shall require Board approval. The request shall require justification for providing the benefit and its importance in fulfilling the mission of the college and/or the goals of the program.

3. **Supplemental compensation for college chancellors shall be limited to 15% of annual salary, exclusive of benefits.**
4. The funds provided by the foundation for supplemental compensation or other designated taxable fringe benefits shall be provided as a direct grant to the college for that specific purpose and not paid directly to individuals. These funds shall be segregated and maintained as self-generated funds. All employees receiving any taxable compensation through the support of a foundation to its college shall remain state employees, accountable only to the college for their job performance. Qualified business expense reimbursements shall be paid directly to college employees, not to the college.
5. All such payments shall be conditioned upon the foundation having an executed cooperative endeavor agreement with the college and the Board of Supervisors

Funds for student scholarships shall be provided as a grant to the college. The college shall be solely responsible for the selection of scholarship recipients and awarding of scholarship funds.

Compliance with all Louisiana laws including the following:

Article 7, Section 14 of the Constitution prohibits funds or property of an LCTCS educational entity from being donated, loaned, or pledged to a foundation. However, as a result of the Louisiana Supreme court decision in *Cabela*, the Louisiana Attorney General provides new guidance as to the use of public funds.

1. First, there must be reciprocal obligations between the parties. This should be demonstrated through the use of a cooperative endeavor agreement.
2. Second, there must be a determination as to the appropriateness of the expenditure. The Attorney General announced a three-prong test, which will be used to make this determination.
 - a. There must be a public purpose for the expenditure or transfer of funds;
 - b. The expenditure or transfer, taken as a whole, does not appear to be gratuitous;
 - c. There must be evidence demonstrating that the public entity has a reasonable expectation of receiving a benefit at least equivalent to the amount expended or transferred.

In order to document compliance with the provisions of the *Cabela* decision, a college must maintain records to demonstrate all the elements of paragraphs “a” and “b” above.

Revised Statue 42:1111, Ethical Standards for Public Servants, addresses payment from nonpublic sources to public servants.

The requirements set forth in Revised Statue 17:3390, regarding the requirements for private non-profit corporation must be met in order that the foundation not be a public or quasi-public entity. These include:

1. The majority of the voting members of the corporation's board of directors are not members or employees of a higher education management board.

2. The corporation is under the management and control of a board of directors elected by the contributing members or shareholders of the corporation.

3. The corporation reimburses, as governed by the *Cabela* decision, either directly or through in-kind services, the cost of housing, personnel, which personnel shall remain public servants for all purposes, and other support furnished to the corporation by any institution of higher education.