



Committee Meeting: Policy Committee	Date: January 10, 2017
Committee Chair: Kate Masiello – members present listed on page 5	
New or Edited: New	

POLICY NAME: Affiliated Entities

POLICY TYPE: Board

SUBMITTED BY: William D. Reuter, SUNY Erie Community College Chief Administrative & Financial Officer

ISSUE OR STATEMENT OF PURPOSE: To assist the SUNY Erie Community College Board of Trustees in fulfilling its fiduciary responsibility in administering SUNY Erie Community College and its Affiliated Entities (i.e. the Auxiliary Services Corporation {ASC} and the SUNY Erie Community College Foundation {Foundation}), the contractual relationship between SUNY Erie Community College and its Affiliates must be strengthened to require timely and accurate monthly and ad hoc financial reporting to the Trustees, including performance goals and metrics so that Trustees can assess the Affiliated Entities’ performance through enhanced controls, regular reporting (particularly on matters involving student activity fees), and compliance with improved conflict of interests provisions.

CORRECTIVE ACTION PLAN RECOMMENDATION (if any): The Corrective Action Plan (CAP) approved by the SUNY Erie Community College Board of Trustees on April 12, 2016 recommendation 3a Board Oversight - “The Board of Trustees will adopt a policy that prohibits any College official from also serving as either Chair, President or Treasurer of the Auxiliary Services Corporation of Erie Community College”; recommendation 3b Board Oversight - “The Board of Trustees will adopt a policy that requires any contract with the Auxiliary Services Corporation of Erie Community College and the Erie Community College Foundation, Inc., to include a requirement that a majority of such entities’ Board of Directors must be comprised of independent members (i.e., persons who are not college officials, employees, students or doing business with either the College or the affiliated entity). Said contracts with affiliated entities should also require that their Audit Committee be comprised of independent directors”; recommendation 17a Affiliated Entities – “The Board of Trustees will adopt a policy that written agreements with affiliated entities will stipulate how performance will be measured and evaluated”; recommendation 17b Affiliated Entities – “The Board of Trustees will require the ECC President to renegotiate the College’s existing contracts with the Auxiliary Services Corporation of Erie Community College and the Erie Community College Foundation, Inc., for consideration and approval by the Board of Trustees. This renegotiation will focus on the construct of the affiliated entities’ Board of Directors, development of specific performance metrics and reports that demonstrate accountability, and how goals and objectives are being established and achieved”; recommendation 18a Affiliated Entities – “The Board of Trustees will adopt an ‘affiliate entity’ formal comprehensive policy covering the Auxiliary Services Corporation of Erie Community



POLICY NAME: Affiliated Entities - **Continued**

College and the Erie Community College Foundation, Inc.”; recommendation **18b** Affiliated Entities – “For the Auxiliary Services Corporation of Erie Community College, the policy will include, memorialization of the fiduciary obligation pertaining to student fees and if the activity fees are spent, specifying the purposes for which the student activity fees may be used and the process for allocating the fees among those uses. The policy will require, at least, the following: (1) all annual student activity allocations will be based on an annual application process that focuses on the goals and objectives of the use of any allocation requested and require an accounting of the prior year’s allocation and use (if any) of fund balance; (2) a limit to the aggregate carryover of the fund balance of any prior years to no more than 25 percent of the immediate prior year allocation, except upon good cause shown; (3) a process for any excess fund balance to revert to the College to be held in a restricted account to supplement or reduce future student activity fee levies”; recommendation **18c** Affiliated Entities – “Prior to adopting or updating any affiliated entities policy, the Board of Trustees will undertake a comprehensive review of current permitted uses and allocation process under the existing contract with the Auxiliary Services Corporation of Erie Community College and determine if these permitted uses and the allocation process are adequate and appropriate to ensure that student activity fees are used for the benefit of the students referencing the longitudinal time frame of at least three years”; recommendation **18d** Affiliated Entities – “For all affiliated entities, the policy will include: (1) adequate documentation regarding key activities and contractual obligations including submission of an annual comprehensive report; (2) review of audit reports, periodic financial reports and other interim reports necessary to evaluate the activities and performance in pursuit of stated goals and objectives, including submission of an annual comprehensive report describing, among other items, the status of the clearly defined goals and objectives adopted by the Affiliated Entity’s Board of Directors; (3) annual and long term performance metrics, proposed to the Board of Trustees for joint adoption by the Affiliated Entity and Erie Community College; (4) a process whereby Erie Community College collected, unspent funds will revert to Erie Community College; and (5) the recommendations nineteen, twenty, twenty-one and twenty-two as specified”; recommendation **18e** Affiliated Entities – “The Board of Trustees will, prior to updating its policy, review current policies and contracts to determine if adequate safeguards address College financial resources provided to the Auxiliary Services Corporation of Erie Community College or the Erie Community College Foundation, Inc., are used for intended purposes”; recommendation **19a** Affiliated Entities – “The Board of Trustees will adopt an Affiliated Entities formal comprehensive policy and require Affiliated Entities to provide adequate documentation regarding their key activities and contractual obligations that will include the fiduciary obligation pertaining to student fees and how activity fees are spent, specifying the purposes for which the student activity fees may be used and the process for allocating the fees among those uses. In addition, the Board of Trustees will consider recommending that the Auxiliary Services Corporation of Erie Community College policy for student activity fee allocations provided to and used by clubs and organizations should be reviewed by the Auxiliary Services Corporation of Erie Community College Board of Directors



POLICY NAME: Affiliated Entities - Continued

at least annually to determine whether the amount of the fee is appropriate and necessary through annual comprehensive reporting”; recommendation **19b** Affiliated Entities – “The Auxiliary Services Corporation of Erie Community College will: (1) administer the policy as reflected in the College Board of Trustees’ Agreement with the Auxiliary Services Corporation of Erie Community College; (2) determine the amount of activity fee allocations retroactively and provide appropriate feedback by reviewing the allocations, expenditures and fund balance on an annual basis. Annually, and at some time during the year, a committee of the ASC will review the previous fiscal year and prepare a report of each of the clubs and activities to specify what was received and how much was spent; and (3) recommend the cycle of reporting to the Board of Trustees. The report will be presented to the Board of Trustees as a snapshot of what action took place for each club and activity, to demonstrate how all collected funds were expended”; recommendation **19c** Affiliated Entities – “Within thirty days of the submission of this report, the Board of Trustees will require the College Administration to conduct an examination of the fund balances of all clubs and organizations receiving activity fee allocations of the past three years and report on the necessity of such fund balances that exceed 25 percent of the last annual allocation to each of such clubs and organizations”; recommendation **19d** Affiliated Entities – “Finally, along with developing a process for unspent activity fee funds reverting back to the College, contracts between the College with the Auxiliary Services Corporation of Erie Community College and with the Erie Community College Foundation, Inc., will be comprehensively reviewed and revised”; recommendation **20a** Affiliated Entities – “The Board of Trustees will adopt an Affiliated Entities formal comprehensive policy and require Affiliated Entities to provide adequate documentation regarding their key activities and contractual obligations that will include the fiduciary obligation pertaining to student fees and how activity fees are spent, specifying the purposes for which the student activity fees may be used and the process for allocating the fees among those uses, and establishing clearly defined and measurable goals and objectives. This process will help evaluate the performance of the Affiliated Entities”; recommendation **20b** Affiliated Entities – “The Board of Trustees will require the Board of Directors of the Auxiliary Services Corporation of Erie Community College and the Erie Community College Foundation, Inc., to develop goals and objectives along with annual and long term performance metrics. These metrics will be proposed to the Board of Trustees for joint adoption by the Auxiliary Services Corporation of Erie Community College and Erie Community College likewise, the Erie Community College Foundation, Inc. and Erie Community College”; recommendation **20c** Affiliated Entities – “The Erie Community College Foundation, Inc.’s goals and objectives will also include the enhancement of student quality of life, assisting to meet annual needs, developing endowments and enhanced connection to alumni relations”; recommendation **21a** Affiliated Entities – “In keeping with the Board of Trustees’ plan to adopt an Affiliated Entities formal comprehensive policy and require Affiliated Entities to provide adequate documentation regarding their key activities and contractual obligations, the Board of Trustees will review audit reports, periodic financial reports and other interim reports necessary to evaluate the activities and performance of Affiliated Entities in pursuit of stated goals and objectives”; recommendation **21b** Affiliated Entities – “The Board of Trustees will



POLICY NAME: Affiliated Entities - **Continued**

adopt a policy that requires quarterly written financial reports from the Auxiliary Services Corporation of Erie Community College and monthly written financial reports from the Erie Community College Foundation, Inc. These reports will be provided to the Financial Health Committee for review and report to the Board of Trustees. The written reports will be made part of the Board of Trustees’ minutes”; recommendation **21c** Affiliated Entities – “The policy will also require the Auxiliary Services Corporation of Erie Community College and the Erie Community College Foundation, Inc., to provide the Board of Trustees with an annual statement of its goals and objectives with associated specific and appropriate metrics for the upcoming year and report on its activities for the immediately preceding year. The Auxiliary Services Corporation of Erie Community College and the Erie Community College Foundation, Inc., will suggest, for Board of Trustees’ consideration, the timing of such annual reports”; recommendation **21d** Affiliated Entities – “The Board of Trustees will continue to receive and monitor the Affiliated Entities’ annual external audit and management reports, reflecting the activity of each entity”; recommendation **22** Affiliated Entities – “In order to require Affiliated Entities to provide adequate documentation regarding their key activities and contractual obligations, the Board of Trustees Affiliated Entities policy will provide for specific and consistent reporting to the Board of Trustees, including information and data on key activities and benefits to students and Erie Community College”.

DOES IT SUPERCEDE A POLICY/WHICH ONE: No prior policy exists. There are existing contracts between the College and its Affiliated Entities that will require modification to incorporate items delineated above as CAP implementation plan of action items. Specifically this Policy (CAP 18a) will address how performance will be measured and evaluated, inclusion of metrics for performance to be measured (CAP 17a, 17b, 18d, 20b, 21c), construct of the Board of Directors as well as its officers (CAP 3a, 3b, 17b), submission of an annual comprehensive report, reviews of audit reports and other periodic financial reports (CAP 17b, 18d, 18e, 21a, 21d, 22), and regular financial reporting be provided to the Financial Health Committee of the Board of Trustees with inclusion in the minutes of the monthly Board minutes (CAP21b).

Exhibit A to this Policy is a summary of the proposed changes to the ASC contract, as well as its performance goals and metrics. Exhibit B is a summary of the proposed changes to the Foundation contract, specifying the performance metrics to be included.

Note: Several of the CAP recommendations make specific reference to student activity fees. A separate, stand-alone Student Activity Fee Policy has been approved by the Policy Committee on January 3, 2017 and the SUNY Erie Community College Board of Trustees on January 27, 2017. The specific CAP items addressed by the Student Activity Fee Policy are as follows: 18b, 18c, 18d, 19a, 19b, 19c, 19d, and 20a.

POLICY COMMITTEE RECOMMENDED ACTION: Pending review and approval by the Financial Health Committee of the ECC Board of Trustees, the Policy Committee recommends



POLICY NAME: Affiliated Entities - **Continued**

the Board of Trustees approve this Board policy under the Report of the Chair, Ad Hoc Committee Reports, Policy Committee.

POLICY COMMITTEE MEMBERS PRESENT – Trustees Kathleen Masiello, Susan Swarts, and Neal McCallum, Trustee Tim Callan via telephone call in, Senior Vice President of Operations Mike Pietkiewicz, EVP Academic Affairs Rick Washousky, Director of Human Resources Tracey Cleveland and Chief Administrative and Financial Officer William Reuter.

DATE OF BOARD APPROVAL: January 27, 2017

POLICY COMMITTEE TEAM FOLLOW-UP: Following Trustee Approval, this policy will be included in the Board of Trustee Policy Manual and an amended contract between SUNY Erie Community College and the ASC and between SUNY Erie Community College and the Foundation will be submitted for approval at the February 23, 2017 Board of Trustee meeting.

INFORMATION/INPUT CONSIDERED DURING POLICY COMMITTEE

DELIBERATIONS: As prescribed by Education Law Article 126 and Part 600 of Community College Regulations, SUNY Community College Trustees have fiduciary responsibilities in administering a community college.

The existing contracts between the College and its Affiliated Entities (ASC and Foundation) were reviewed to determine elements necessary for revision to specifically address CAP items.

The proposed contractual changes and performance goals and metrics were reviewed, discussed and approved by the ASC Board of Directors and the ECC Foundation Board of Directors. The ASC approved items are included as Exhibit A and the Foundation approved items are included as Exhibit B. to this Policy.

A separate Student Activity Fee Policy was previously approved that was reviewed in conjunction with this Policy.

This Policy has been previously reviewed and discussed at the Policy Committee meetings of December 13, 2016, January 3, 2017 and January 10, 2017. At the Board of Trustee meeting of December 15, 2016, under the Monthly Learning Opportunities section of the agenda, the Chair of the Board provided an overview of some of the key elements of the onboarding and orientation process that were incorporated into this Policy.

At the meeting of January 3, 2017 the Policy Committee unanimously approved this Policy, along with an exhibit pertaining to the Auxiliary Services Corporation, with edits that have been made to the above. The contractual provisions that are proposed to be changed will be included in an amended contract between the College and ASC and the College and the Foundation. The expected contract amendments are scheduled for Board of Trustee consideration in Feb. 2017.

Affiliated Entities Policy – Exhibit A – Auxiliary Services Corporation

(ASC) Potential Contractual Changes

Items that need to be discussed or considered in the Agreement revision include the following:

1. Adding Childcare as a service the ASC is licensed to operate.
2. Rewording of ASC's responsibility for the Wellness account as the ASC only pays expenses from this account, reimbursed from the college, and does not hold the revenue generated from the Wellness account.
3. Adding an authorization to hold other college accounts that are not derived from Activity fees or funded by ASC (Career Resources, Erie Room and EM Statler, Going Green), and providing the authorization to process payments for student grants such as from Career Exploration Internship Program (CEIP).
4. Redefining Excess Cash Reserve or replacing the calculation with an annual rent payment defined as 15% of the prior year's bookstore commission plus an annual budget of College Support to be determined by the ASC Board (an amount that is fiscally responsible in the ASC budget). The current formula does not take into account operating expenses for Childcare or the Business Office or the College Support that is an expense component of the ASC budget but not currently treated as an operating expense.
5. Adding requirements for reporting to the BOT or its subcommittees: quarterly financial reports, an annual report on Activity Fee usage and balances and the annual Audit report.
6. Removing "Alumni Activities" from allowable uses of Activity Fees and revising the section on how to handle unspent Activity Fees, referencing the Student Activity Fee Policy.
7. Adding goals and performance metrics for the ASC as an addendum or exhibit to the contract between the College and ASC (potential goals and performance metrics follow).
8. Requiring the SUNY Erie Community College Board of Trustees to approve substantial proposed changes to the ASC By-Laws which could impact the ASC's mission, change or eliminate services currently provided by the ASC or if a subsidiary is created to perform a permitted function such as student housing.
9. Adding the required composition of the Board to include a majority of "disinterested" directors.
10. Adding a requirement that no college official may serve as a corporation officer.
11. Adding a requirement that an Audit committee must be comprised of independent directors.
12. Adding a contract term.
13. Adding an indemnification of the ASC by the college.

Affiliated Entities Policy – Exhibit A – Auxiliary Services Corporation

(ASC) Potential Goals and Performance Metrics

Auxiliary Services Corporation's primary goal or mission is to support SUNY Erie Community College through the provision of quality, affordable ancillary services that promote and cultivate educational and social campus activities and assist in student success. Services may be self-operated or sub contracted.

CHILD CARE:

Goal: Provide quality, affordable, convenient on campus child care that assists with student retention and graduation.

Metrics:

1. Maintain OCFS licensing standards and maximize center enrollments to be at least 75% of licensed capacity.
2. Maximize usage of State and Federal Grants to subsidize childcare tuition for as many student parent as possible with priority given to returning students.
3. Achieve satisfactory ratings on Family Surveys conducted each semester.

FOOD SERVICE:

Goal 1: Provide quality campus dining options at competitive prices.

Metrics:

1. Menu price increases to be limited to major increases in cost of goods.
2. Retail cash and credit sales should at a minimum, keep pace with college enrollment declines or increases (i.e. if enrollment declines 5%, retail sales should not decline any more than 5 %).
3. Erie County Health Department Inspections should reflect no critical violations.

BOOKSTORES:

Goal 1: To provide students with the correct class materials at the most affordable prices in a timely manner

Metrics: (all proportionate to enrollment)

1. Increased on-time textbook adoptions from faculty to enable students to get the most money back at buyback and to increase the number of used books available.
2. Increased price matches to enable students to receive the most for their money.

Affiliated Entities Policy – Exhibit A – Auxiliary Services Corporation (ASC)

3. Increased textbook rentals and digital book unit sales of a minimum of 1% per year to save students on book costs.

BUSINESS OFFICE:

Goal: To provide accurate, timely accounting services for ASC operations and fiduciary accounts

Metrics:

1. No audit exceptions on the annual audit report.
2. Accounts payable to be paid within 30 days
3. Accounts receivable to be received within 45 days or by the contractual date.
4. Vendor contracts monitored for current insurance on file and all financial terms met by the term dates.
5. Student Activity fees disbursed in accordance with established guidelines and an annual reporting of expenditures and balances provided to the Board of Trustees. Executive Director participation as a non-voting member of the Activity Fee Allocations Committee and provision of annual activity fee usage reports to the committee.

COLLEGE SUPPORT:

Goal: To provide supplemental financial support to the college

Metrics:

1. Provide an annual budget determined by the ASC Board for college programming, special events, advisory board hospitality
2. Provide financial support for North Hospitality Cafeteria Lab classes and Culinary hotline production classes by purchasing the food and supplies used
3. Provide personnel to assist those labs (cashier and ware washer for North and purchasing clerk for City).

LONG TERM:

Goal: To continually review ASC capital assets for necessary additions or replacements to ensure that the best possible services are provided for the college community.

Metrics:

1. Annual Capital investment by purchasing replacements for outdated or inefficient equipment or assets
2. Pursue renovation projects to improve space utilized by the ASC.

Affiliated Entities Policy - Exhibit B - ECC Foundation

Clarifying Addendum to the "AGREEMENT" between Erie Community College Foundation and Erie Community College effective September 1, 2013 to August 31, 2018

This clarifying Addendum in response to the Office of the State Comptroller audit of Erie Community College and consistent with existing Erie Community College Foundation's Bylaws and policies, serves to clarify certain provisions within the existing agreement. The original agreement executed by the parties September 1, 2013 "AGREEMENT" remains in full force and effect and is not changed by virtue of this clarification.

- 1) As noted by the Office of the State Comptroller, the Foundation is a separate legal entity, incorporated as a 501c3 not-for-profit corporation with an independent Board of Directors who solely carry the legal and fiduciary responsibilities for the activities of the Foundation. The Foundation Bylaws were revised on August 28, 2015 to be in full compliance with the NYS Non-Profit Revitalization Act of 2013. The revised Bylaws include the President of the College and the Associate Vice President for Foundation and Alumni Affairs as *ex officio* members of the Foundation Board. At least one member of the college's Board of Trustees is included in the Board's membership as a voting member. As of January 12, 2017, no college Board of Trustee member will serve as an officer of the Foundation board.
- 2) The Foundation prepares an Annual Fundraising Plan inclusive of current goals and past outcomes aligned with the College's Strategic Plan-*ECC Excels*. The plan will be presented to the ECC Board of Trustees at a meeting following adoption by the Foundation Board of Directors.
- 3) The Foundation's Audit Committee Chairman or designated board officer will present the approved Foundation audit and the Foundation Annual Report to the ECC Board of Trustees after its approval from the Foundation board. This action will commence in the first quarter of the calendar year.
- 4) The Foundation will provide a quarterly gift (donor listing) report and quarterly management report (December, March, June and September) to the ECC Financial Health Committee.
- 5) The Associate Vice President of the ECC Foundation or a designated Foundation representative will provide a verbal report at each monthly ECC Board of Trustees meeting.



Richard Mason

Chairman, Erie Community College Foundation, Inc.

Date: January 12, 2017

Resolution 2017.0 1.12-1R Support for Corrective Action Plan

In accordance with Erie Community College's Corrective Action Plan for the 2015 NYS audit, the Erie Community College Foundation Board of Directors hereby approves the clarifying addendum to the agreement signed August 29, 2013 between the College and the Foundation. All actions stated in the clarifying addendum will commence January 12, 2017 and will remain in effect through the term of the agreement.