

**STATE BOARD OF HIGHER EDUCATION
INTERNAL MANAGEMENT DIRECTIVES**

SECTION 1–ADMINISTRATIVE ORGANIZATION AND PROCEDURES

1.145 Appointment of Presidents

The Board shall appoint the Presidents, upon recommendation from the Chancellor, to serve at its pleasure. They shall hold the rank of professor. Indefinite tenure may be awarded in a department at the institution upon the agreement of the faculty.

4.11 Board Policy on Outside Activities and Related Compensation

- (1) Employees may engage in outside consulting or other work so long as it does not substantially interfere with institutional obligations.
- (2) “Employees,” as used in this policy, means an employee hired under the authority of the Board.
- (3) Laboratory and other institutional facilities and resources, including support staff and stationery, shall not be used in outside work for which the employee received remuneration unless expressly authorized by the institution. Such authorization may be included in the institution policy or as part of the approval of an employee’s specific request.
- (4) Remuneration received in accordance with IMD 4.011 and IMD 4.015 from sources outside the University System shall be considered official salary, honorarium, or reimbursement of expenses for purposes of ORS 244.040. Receipt of such compensation does not have to be reported under IMD 4.015(4) or (5) unless the outside work creates a potential conflict of interest as defined in ORS 244.020(8).

4.15 Institution Policy on Outside Activities and Related Compensation

Each institution shall adopt policies and procedures to implement IMD 4.011 to 4.015. Such policies and procedures shall:

- (1) Include appropriate measures, such as one day per week, which define faculty time available for outside activities related to the faculty member's institutional responsibilities. Outside activities unrelated to institutional responsibilities and undertaken by faculty on personal time, regardless of whether compensated, are not subject to these Board of Higher Education and institution policies. However, if the faculty member, while on personal time, engages in outside activities that create a potential conflict of interest, the faculty member must provide written disclosure thereof in accordance with (4) and (5) below.
- (2) Identify the name(s) or title(s) of institutional administrator(s) assigned responsibility for reviewing and acting on requests to engage in outside activities related to the faculty member's institutional responsibilities as referenced in (1) above.
- (3) Identify and describe types of outside faculty activity related to faculty institutional responsibilities and associated funding sources which the institution approves as a class(es) and which will not require review and prior approval, such as health care faculty clinical activities, services as an expert witness, and services other than those identified in IMD 4.010(4) and (6) below. If, however, the particular activity under the class creates a potential conflict of interest, the faculty member shall provide a written disclosure thereof to a designated supervisor in accordance with (4) and (5) herein.
- (4) Require faculty to disclose to the named institutional administrator(s) in writing, and to receive prior approval on a case-by-case basis, to engage in outside activities involving any or all of the following:
 - (a) Acceptance of compensation, or ownership of equity in the case of a private entity.
 - (b) Service in a line management position or participation in day-to-day operations of a private or public entity.
 - (c) Service in a key, continuing role in the scientific and technical activity of a private or public entity.

Institutional case-by-case approval will not be required if the activity is included within the scope of an institution-defined class as established under (3) above.

- (5) Require that the faculty member's written disclosure, as referenced in (4) above, fully describe the:

- (a) Type of work or consulting to be provided to the named entity;
 - (b) Nature of the relationship (e.g., employer/employee, entity/contractor, or consultant);
 - (c) Anticipated time commitment;
 - (d) Expected benefits to the entity, faculty member, and institution;
 - (e) Use of institutional facilities and support personnel, if any, and method of reimbursing institution for both direct and indirect costs, if institution approves such use; and
 - (f) Financial arrangements pertaining to funding sources of compensation, including equity ownership and other forms of economic value provided the faculty member or any immediate member of the faculty member's family.
- (6) Require the institutional administrator(s) to consider the following when reviewing written requests to engage in outside activities:
- (a) Written disclosures identified in (5) above.
 - (b) Contributions of the relationship to the faculty member's primary obligation to the institution and its support of the academic integrity of the institution as well as the faculty member's interdepartmental relationships.
 - (c) Prospective non-financial benefits to the faculty member and institution.
 - (d) Average time commitment over an academic term, such commitment not to exceed the limits established by the institution unless the institutional administrator(s) determines that the activity provides extraordinary benefit to both the institution and the participant as a faculty member. In cases where the time limits are to be exceeded, the faculty member shall disclose the amount of time in excess of the limits, and the institutional administrator(s) shall document in writing the rationale for approving the request to exceed the limits.
 - (e) Assurances that the outside activity does not substantially interfere with the faculty member's instructional, research, and other

related institutional responsibilities, including those to students. Special attention must be given to the intellectual property interests of students who may create and claim ownership to such property developed in the process of completing their academic programs.

- (f) Appropriateness of the use of institutional facilities and support personnel, if approved, including written documentation that the full cost thereof will be reimbursed to the institution.
- (7) Establish the type, nature, and extent of the information required to be reported under (2) through (6) above, which shall be made a part of a faculty member's confidential personnel record.
- (8) Provide a process whereby a faculty member dissatisfied with a decision of an authorized administrator may appeal that administrator's decision to another institutional authority. That authority shall be vested with power to make a final determination relative to authorization to engage in the outside activity.
- (9) Provide for the institutional president to report to the Chancellor's Office by August 31 of each year any change in institutional policy on outside activities and evidence of procedures followed in monitoring faculty and family acceptance of compensation and equity for outside activities of the faculty member.
- (10) Specify appropriate sanctions against faculty who fail to comply with Board and institutional policies and procedures concerning outside activities and acceptance of related compensation and equity.
- (11) Be submitted to the Chancellor's Office for review and approval prior to adoption.

Licensing, Patent, Educational, and Professional Materials Development, and Copyright Policies and Procedures

6.205 Application of Policies and Procedures

The policies for licensing, patents, educational and professional materials development, and registration of copyrights apply to all Department of Higher Education employees whose work-related assignments, regardless of location, might enable them to develop new knowledge which was conceived purposely or fortuitously. The policies also apply to other persons using institutional facilities, personnel, or other resources.

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Definitions

- (1) Inventions or technological improvements to which these policies apply include any new and useful process, machine, device, manufacture, or composition of matter, and any new and useful improvements.
- (2) Educational and professional materials to which these policies and procedures apply are those used or distributed primarily for the formal or informal instruction or education of professional or general students. Such materials may result from the instructional, research, or public service activities of employees.
- (3) Materials to which these policies and procedures apply are exemplified by:
 - (a) Writings, lectures, study guides, books, textbooks, journal articles, glossaries, laboratory manuals, proposals, musical or dramatic compositions, listings, tables, charts, graphs, figures, manuals, codes, software, unpublished scripts, and programmed instructional materials.
 - (b) Video and audio recordings, live video and audio broadcasts, cassettes, tapes, films, filmstrips, slides, transparencies, and other reproductions and visual aids.
 - (c) Computer programs and computer-assisted courseware.
- (4) Inventor(s) means the individual(s) who first conceived the idea, invention, or technological improvement.
- (5) Author(s) means the individual(s) responsible for primary subject-matter guidance and development of educational and professional materials.
- (6) Material is said to be in the public domain if it is not protected by common law or statutory copyright and, therefore, is available for copying without infringement.
- (7) Publication occurs when by consent of the copyright owner, the original or tangible copies or phonorecords of a work are sold, leased, loaned, given away, or otherwise made available to the general public, or when an authorized offer is made to dispose of the work in any such manner, even if a sale or other disposition does not in fact occur.

- (8) The term "owner" refers to the party who owns or controls the copyright and who has the right to sell, assign, distribute, or license the use of such material.
- (9) Board- and institution-assisted effort is individual effort that involves institution and Board support in the form of significant personnel time, facilities, or other resources.
- (10) Sponsored effort is institution-assigned effort, and assignment, among others, to conduct research and to develop materials, with substantial or all of the personnel time, facilities, or other resources for the assignment being provided by the institution and Board, or an outside sponsor such as a federal agency or private corporation.

6.215 Rights to Inventions, Technological Improvements, Educational, and Professional Materials

- (1) The Board reserves the ownership rights to all institutional work-related inventions, and to educational and professional materials developed with institutional resources, including the right to a free and irrevocable license for usage, and if desired, the licensing for use by others. The foregoing does not preclude an institution employee from granting copyright privileges to the publisher of a scholarly or professional journal when no compensation or royalty is involved.
- (2) Educational and professional materials shall be considered as having been developed in the course of employment in those cases when the individual was employed for the specific purpose of preparing or producing the material, or was specifically directed to develop the material as part of general employment duties and responsibilities.
- (3) Lecture notes and other materials prepared by academic staff in connection with a teaching assignment and with only incidental use of institutional facilities, funds, staff, and other resources normally shall be viewed as flowing from individual effort and initiative and shall not be construed as having been produced in the course of discharging the obligations of employment.
- (4) Funds and facilities provided by governmental, commercial, industrial, or other public or private organizations, but administered and controlled by the institution and Board, shall be considered to be funds and facilities provided by or through the institution and Board.

- (5) If it is determined that inventions or materials developed are not related to work or to an assigned project and that development involved no or minimal use of institutional funds or facilities, or that the material developed is incidental to the individual's work assignment, or that the institution and Board have no right, vested interest, or claim in an invention, and the institution decides to forego the licensing or patenting of an invention or the publishing and copyrighting of the material, the president or designee may recommend to the Vice Chancellor for Finance and Administration or a designee that the Board's interest and rights be waived, and that a statement be issued which waives any institution or Board claim. Such a waiver may be granted only if pre-existing commitments to sponsoring agencies have been cleared. Upon receipt of such waiver, the inventor or author shall be free to take such further steps as desired. In the case of an invention, however, the institution has usually provided substantial laboratory, supply and equipment support. Therefore, the president or designee will normally recommend the execution of a limited release only after the institution has exhausted efforts to license or patent the invention. This release enables the inventor to exploit the invention and recover reasonable exploitation, licensing, and patenting costs related thereto and a sum up to \$10,000 out of the royalty income receipts, with the inventor and the Board sharing equally in the balance of the net royalty income.

- (6) Except as provided above, the ownership rights to all forms of educational and professional material in the form of books, musical or dramatic composition, architectural designs, paintings, sculptures, or other works of comparable type developed by institution and Board employees, either in conjunction with or aside from their employment, shall accrue to the author, unless the material is prepared in compliance with contractual provisions or as a specific work assignment, or significant institutional and Board resources were utilized. An academic staff person's general obligation to produce scholarly works does not constitute such a specific institution or Board assignment.

6.220 Research and Development of Inventions and Materials with Outside Organizations

- (1) In accepting grant and research funds from governmental, nonprofit and commercial agencies, the institution and researcher shall agree to the conditions in the agreement with the sponsoring agency pertaining to licensing, patent policies, and ownership of all copyrightable material conceived and developed in the course of work required by the agreement. Such agreements shall normally include provisions enabling the institution to publish the findings of research and rights to take title to

patentable inventions, discoveries, and educational and professional materials arising from the work performed. In the absence of such agreement or terms, the products shall be the property of the institution and Board.

- (2) At the time any sponsored assignment is made and when inventions, new technology, or materials subject to copyright may be expected to be produced, affected institutional staff are to be advised of copyright limitations and rights to inventions imposed by extramural sponsors as well as institutional and Board policies and procedures regarding the same.
- (3) In cases where it appears in the interest of the Board, institution, inventor, and sponsor, and upon the recommendation of the president or designated administrator, the Vice Chancellor for Finance and Administration or designee may grant rights to the sponsor, including the right to acquire a proprietary interest in and to any invention or patent developed during the sponsored research project.
- (4) When an invention is developed in the course of sponsored research, the sponsor may be granted a non-exclusive license for its own use and, only if appropriate, an option to acquire a limited term, royalty-bearing, exclusive license to such invention.

6.225 Disclosure of Inventions and Copyrightable Materials

- (1) Employees and any other persons who conceive or develop inventions or technological improvements while engaged in activities utilizing institutional resources shall report the findings on a Department of Higher Education standard disclosure form to, and confer with, the institutional committee, or person designated by the president to administer licensing, patent, educational and professional materials development and copyright policies and procedures. The purpose of the disclosure of an invention or materials developed is to enable the institution to determine potential for licensing, patenting, publishing, and registering of copyright, and the equities of the inventor, author, institution, and Board. Disclosure of details of an invention that might jeopardize the licensing or patent potential may be delayed until the committee or president designee has acted.
- (2) If it is determined that the Board and institution have vested interest and claim in an invention, the inventor shall enter into a standard Department of Higher Education Licensing and Patent Assignment Agreement. The agreement shall be prepared initially at the institution.

6.230 Agreement To Assign Rights

- (1) As part of the acceptance of the Notice of Appointment, each academic employee is obligated to comply with conditions of employment including agreement to assign rights to inventions conceived and materials developed while employed by the institution.
- (2) In cases where a Notice of Appointment is not used, and the employee's work involves potential for discovery or invention, the employee shall execute a standard Department of Higher Education Agreement to Assign Invention, Licensing, and Patent Rights prepared at the institution.

6.235 Administration of Policies and Procedures

- (1) The Board delegates to the Vice Chancellor for Finance and Administration or designee authority to work with each president or designated administrator to obtain licensing, production, and publishing agreements and patents, develop and approve forms used in administering licensing and patent policies, and execute all types of agreements, waivers, releases, and net royalty distribution agreements.
- (2) Each institution and the Board reserve the sole right to make agreements with sponsoring agencies and to include therein provisions regarding ownership and disposition of rights in inventions and materials deemed to be in the interest of the institution, Board, and public.
- (3) The president is responsible for informing employees regarding Board licensing, patent, educational, and professional materials development, and copyright policies and procedures. The president may delegate this responsibility to a committee or an administrator.
- (4) The duties of the president, committee or a designated administrator shall be:
 - (a) To protect confidentiality of the inventor's or author's disclosure.
 - (b) To counsel with the inventor or author, examine the invention or materials disclosure, and appraise the equities of all concerned parties. If it is determined that the institution and Board have no rights, vested interest, or claim, the committee or administrator shall recommend that the president seek a release or waiver for the inventor or author.

- (c) To counsel with the inventor or author concerning Board policies and procedures applicable to the invention or material, and with policies of sponsoring agencies, if any, and to assist with compliance.
 - (d) To recommend to the president options for maximizing public, Board, institution, and inventor or author benefits when seeking licenses, patents, and publishing agreements. Such action shall be preceded by the execution by an inventor of a Licensing and Patent Assignment Agreement initiated at the institution.
 - (e) To recommend to the president appropriate action pertaining to the invention or material within 60 days after its disclosure.
- (5) When institutional facilities are utilized on a reimbursable basis to develop educational or professional materials or to conduct research on an invention, an agreement shall be prepared and recommended by the president or designee to the Vice Chancellor for Finance and Administration or designee. Such agreement shall be executed in advance of use of the facilities and shall set forth the understanding regarding the use of facilities, ownership rights, and financial arrangements.

6.240

Determination of Equities

In determining equities relating to ownership rights in an invention or material, institutional personnel and the Vice Chancellor for Finance and Administration or designee shall follow these guidelines:

- (1) Consideration shall be given to the equity of all parties in light of circumstances surrounding the development of the new knowledge.
- (2) If an invention or material is deemed to be the result of joint efforts, an agreement shall be reached among the inventors or authors, institution, and Board for distribution of any royalties. The total of net royalty income paid to all inventors or authors shall not exceed the maximum percentage of net royalty income that Board policy allows to be distributed to a single inventor or author.
- (3) In the event an agreement cannot be reached regarding the amount of equity of each party and subsequent distribution of net royalty income, the president shall recommend resolution to the Vice Chancellor for Finance and Administration after having taken affirmative steps to assure thorough consideration of the equities of all parties.

6.245

Commercialization of Inventions

- (1) The Board encourages the president to assist the invention commercialization process to the extent that the invention contributes toward fulfillment of the institution's mission. Resource allocation for licensing, patenting, and technology transfer, however, is the responsibility of the president.
- (2) The president, designee, or appointed committee shall counsel with inventors to determine how to make the invention available to industry and the public in an effective and non-discriminatory manner, to obtain reasonable royalties for use in furthering institutional education and research objectives, and to reward the inventor through participation in net royalty income received.
- (3) When feasible, the president or designated administrator shall recommend that the Vice Chancellor for Finance and Administration grant non-exclusive, royalty-bearing licenses to all qualified organizations. Exclusive licenses may be recommended if it is determined that such a license is required in the best interest of the public, Board, institution, and inventor in order to encourage marketing and eventual public use of the invention.
- (4) Before granting an exclusive license, a bona fide effort shall be made by the institution to apprise qualified organizations known to be interested in the subject matter of the invention and in developing the invention through a non-exclusive license.
- (5) When it is deemed appropriate to grant an exclusive license, the length of exclusivity shall be limited to that time deemed necessary to provide the licensee with the necessary incentive and opportunity to market the product and recover developmental costs, usually not more than five years from the date of first commercialization of the invention, or the issuance of a patent, whichever comes first, and a non-exclusive license for the life of the patent. Exclusive licenses may include the right of the licensee to sublicense others. The Vice Chancellor for Finance and Administration and the Chancellor may approve exceptions to the length of exclusivity, when justified and recommended by the institution.
- (6) Licensing and sponsored research agreements shall include provisions:
 - (a) Prohibiting the use of the name of the researcher, institution, and Board, either directly or implied, in any advertising relating to the commercialization of the product or process or in supporting

evidence provided in prospectus literature, and the use of any statements which imply approval of the licensee's or sponsoring agency's marketing techniques, business objectives, or relationships with wholesalers, retailers, or consumers. Exceptions to this policy require Board approval.

- (b) Indemnifying the institution against any and all claims, demands, damages, costs, and other related items arising from the manufacture, use, or sale of the licensed invention or process, and, whenever possible, from any liability for damages resulting from a final judicial determination that such commercial utilization of the invention constitutes an infringement of any third party patent.
- (c) Allowing the institution to produce and use the invention or process for its own educational or research purposes.
- (d) Allowing the institution and inventor to publish the findings of research and to continue with research related to the process or invention including publication of future findings.
- (e) For receiving or examining accounting records maintained by the licensee and any sub-licensees.
- (f) For removing licensing rights and terminating the agreement should the licensee fail to develop and market the product within a reasonable time.

6.250 Distribution of Royalties

- (1) The Vice Chancellor for Finance and Administration or designee, upon the recommendation of the president, shall act on behalf of the Board to conclude agreements to share net royalty income accruing to the Board from licensing and patent agreements, and from the sale, lease, or licensing of materials outside the institution.
- (2) Agreements involving the sharing of net royalty income shall be initiated in writing at the institution and recommended by the president or designee to the Vice Chancellor for Finance and Administration or designee for review and approval. In determining disposition of income, due consideration shall be given to the equity of all parties in the light of all circumstances surrounding the development of the invention or material.

- (3) Prior to distribution of any royalty income, the Vice Chancellor for Finance and Administration or designee shall require deduction from gross royalty income, of all institutional expenses and reasonable costs incurred in developing the invention or material, expenses incurred in enforcing or defending any patent, copyright litigation, licensing, interference, and marketing costs attributable to the invention or material, as well as any other expenses deemed necessary to recoup.

Gross royalty income minus all such costs and expenses constitutes net royalty income.

- (4) The maximum net royalty income that may be distributed to the inventor shall be 40 percent of the first \$50,000 of net royalty income received by the Board, 35 percent of the next \$50,000, and 30 percent of all additional net royalty income.
- (5) The maximum net royalty income that may be distributed to the author shall be 50 percent of the net royalty income received by the Board.
- (6) Net royalty income received by the Board, less the amount distributed, if any, shall be dedicated to the institution of the inventor, or author, subject to the limitation of ORS 351.250. The use made of such net income shall be at the discretion of the president, subject to Board-established budget policy.
- (7) If the originator and developer of an invention or author of material cannot be determined, or if the inventor or author waives any claim to net royalty income, the percent share of royalties intended for such person may be distributed, upon recommendation of the president or designee, to the originating department, laboratory, or center at the institution.

6.255 Copyright Registration Procedures

In establishing copyright registration procedures, institutional personnel and the Vice Chancellor for Finance and Administration or designee shall follow these guidelines:

- (1) All educational and professional materials developed with significant Board and institution-assisted effort shall be registered for copyright, at the option of the institution and Board, in the name of the institution and Board. The institution and Board shall provide for disclosure of appropriate credits and shall counsel with participating employees regarding presentation of materials.

- (2) Educational and professional materials developed with minimal Board- or institution-assisted effort should be registered for copyright, if at all, in the name of the author. The author and the president or his designated representative will agree upon the cost of institutional support for such effort, and the author will reimburse the institution for such costs out of royalties received from the registered materials.
- (3) Materials developed under sponsored assignments should be registered for copyright, if at all, in the name of the institution and the Board, with appropriate acknowledgment to the author. The institution and author are obligated to adhere to any publication rights included in agreements made with grant or contract sponsors.
- (4) Educational and professional materials developed solely by individual effort shall be registered for copyright, if at all, in the name of the author. All rights, including those to royalties, reside with the author.

Financing Reserves for Repair or Replacement of Depreciable Assets of Auxiliary Enterprise and Other Self-Liquidating Activities

6.350 Building/IOTB Repair and Equipment Replacement Reserves for Auxiliary Enterprises and Other Self-Liquidating Activities

- (1) Auxiliary enterprises and other self-liquidating activities shall maintain building/IOTB repair and equipment replacement reserves for the purpose of funding the cost of repairs or replacement of depreciable assets. Such reserves should be sufficient to promote the efficient and effective operation of the related operating unit, avoid significant fluctuations in fees charged for services, and minimize the potential for unanticipated financial shortfalls that may impact the other funds of the institution.
- (2) Each auxiliary enterprise and other self-liquidating activity shall determine the appropriate level of repair reserves for buildings and improvements other than buildings (IOTBs) and equipment replacement reserves based on a capital asset management plan (Plan) that is prepared/updated at least annually and approved by the institution's vice president for finance and administration or designee. The Plan required under this provision will be based on a minimum five-year planning horizon and will assess the repair or replacement needs of each asset or asset class and include an analysis of the annual funding necessary to accumulate the funds required to execute the plan. When preparing/updating the Plan, consideration should be given to the availability of interest earnings on reserves of auxiliary enterprises in order to maximize the benefits of setting aside

reserve funds. The Plan required under this section must be retained for audit purposes.

- (3) Each auxiliary enterprise and self-liquidating activity with capital assets of \$150,000 (recorded cost) or more will prepare and retain the capital asset management plan (Plan) referred to in section (2) above. Should the Plan indicate the need for building/IOTB repair and/or equipment replacement reserves, a fund should be established for those purposes (if not already established) and funded accordingly. Institution-specific policies will determine whether activities with less than \$150,000 (recorded cost) of capital assets will prepare a Plan and establish and fund any reserves.
- (4) Generally, building/IOTB repair and equipment replacement reserves may not be used for any other purpose than to repair or replace capital assets used in the operation of the related auxiliary enterprise or other self-liquidating activity. Consideration should be given to statutory requirements (see section (6) below), applicable federal cost requirements, and the source of funding before authorizing the use of building/IOTB repair and equipment replacement reserves for any other purpose. Authorization for such other use may only be granted by the institution's vice president for finance and administration or designee and must be documented and retained for audit purposes.
- (5) Pursuant to ORS 351.615, only building repair and equipment replacement reserves of auxiliary enterprises may be credited to the Higher Education Auxiliary Enterprise Building Repair and Equipment Replacement Fund (Fund). Reserves for the repair or replacement of other depreciable assets (IOTBs) of auxiliary enterprises may not be credited to the Fund. Monies deposited in the Fund may not be used for any other purpose than for the repair and alteration of auxiliary enterprise buildings and the replacement of auxiliary enterprise equipment. No repair/replacement reserves of service departments or any other self-liquidating activities may be credited to the Fund.
- (6) Except as otherwise provided, exceptions to the requirements of sections (1) through (5) may be granted by the Vice Chancellor for Finance and Administration or designee.

Fiscal Management of Auxiliary Enterprises and Other Self-Liquidating Activities

6.500 Policy for Education-Related Business Activities

The primary mission of the institutions within the Oregon University System is the creation and dissemination of knowledge. To carry out this mission, institutions

do engage in education-related business activities, i.e., activities which enhance, promote, or support instruction, research, public service, or other education-related activities where goods or services being sold or rented are directly and substantially related to an educational or research program.

The Board affirms that all institution education-related business activities shall meet the following conditions:

- A. The activity is deemed to be an integral part of, and directly and substantially related to, the fulfillment of an institution's instructional, research, public service, or other education-related mission.
- B. The activity is operated for the primary benefit of the students, staff, and faculty associated with and served by the institution or its affiliated units. The activity is needed to provide goods or services at a reasonable price, on reasonable terms, and at a convenient time and location. Sales or rental of services and products to on-campus visitors and campus conference participants are considered incidental to the purpose of these activities.

Some typical products, services, and facilities provided at or in close proximity to an institution to meet the needs of its constituents are instruction-related materials; housing and food services; student health services; and athletic, cultural, and recreational activities; including the facilities where such products and services are provided.

In furtherance of education-related business activities, institutions shall provide for the following:

- (1) When determining whether any particular education-related business activity should be provided by an institution, institutional presidents or their designees shall consider whether the activity is currently and adequately provided by private businesses. If the services of private businesses are considered adequate but the activity is nevertheless deemed important to be provided by the institution, the institution president or designee shall state in writing its justifications for providing the activity. A copy of the statement shall be submitted for review to the Vice Chancellor for Finance and Administration or designee.
- (2) To ensure recovery of direct costs of engaging in the education-related business activities, institutions shall charge students, faculty, staff, campus conference participants, and the public to participate in institutional events, for the purchase of the goods or services, and for the rental of any facilities. An institution president may waive charges for selected education-related business activities.

- (3) An institution may make its services and facilities available to nonprofit or community organizations without recovering all direct costs, provided there is sufficient inventory or capacity. An institution may also make its services and facilities available to for-profit community businesses and organizations provided there is sufficient capacity and availability. Charges to profit-making organizations shall cover the direct and indirect costs of the use of the facilities and services provided. Services, products, and facilities may similarly be provided to federal, state, and political subdivisions, subject to negotiated charges, terms, and conditions.
- (4) An institution may promote and market in off-campus public media only those services and events which are of interest to the general public, such as cultural presentations, intercollegiate athletics contests, and educational programs.
- (5) Following approval by the institution president to provide goods, services, and facilities referenced above, the institution shall adopt a fee schedule or, in cases where prices fluctuate, a pricing markup policy for those services, products, and facilities.

6.520 Budgeting for Auxiliary Enterprises and Other Self-Liquidating Activities

- (1) Each institution shall prepare and submit budgets for auxiliary enterprise and other self-liquidating activities (housing, student centers, intercollegiate athletics, health services, parking, bookstores, other rentals, other auxiliaries, service departments, designated operations) as a part of the annual operating budget development process.
- (2) The budgets shall be prepared based on the flow of economic resources measurement focus as required for financial reporting by the Governmental Accounting Standards Board.
- (3) The budgets shall conservatively anticipate income from user fees and other sources to provide for all operating expenses (including depreciation) and for the establishment and maintenance of bond sinking funds, including the repayment of any outstanding obligations, the establishment and maintenance of building/IOTB repair and equipment replacement reserves, and the elimination of prior year cash overdrafts and/or negative net asset balances, subject to policies governing service departments approved by the institution's federal cognizant agency. If income has been or appears likely to be insufficient for these purposes, the proposed budget shall identify the sources from which needed resources are required to eliminate such deficiencies

- (4) If any auxiliary enterprise or other self-liquidating activity ends a fiscal year with a cash overdraft, a negative working capital position, or a negative net asset balance, the institution will submit a revised budget plan for eliminating the cash overdraft(s), the negative working capital position, and/or the negative net asset balance(s) to the Vice Chancellor for Finance and Administration or designee for approval. If the Vice Chancellor for Finance and Administration or designee determines that the cash overdraft(s), negative working capital position, and/or negative net asset balance(s) are material, the revised budget plan will be submitted to the Board for approval after consultation with institution management.
- (5) Exceptions to the requirements of sections (1) through (4) may be granted by the Vice Chancellor for Finance and Administration or designee.

Section 8

(The previous Section 8, Educational Systems, was repealed October 22, 1982.)

SECTION 8—POLICY FOR INTERCOLLEGIATE ATHLETICS

8.1 Role of Athletics in a College or University

Intercollegiate athletic programs are considered by the Board to assist the colleges and universities in achieving their goals. They:

- (1) Contribute to the instructional programs by providing highly competitive opportunities for those students who excel in the various athletic activities.
- (2) Enable the institutions to prepare graduates to serve the schools and colleges as athletic coaches, physical education teachers, athletic trainers, and athletic program administrators.
- (3) Provide students, alumni, and other members of the public with spectator satisfaction and with an opportunity to identify with their institutions outside the classroom and laboratories.
- (4) Enable the institutions to involve the public, not otherwise related to the institutions, in support of our colleges and universities.
- (5) Provide opportunities for a few students, especially in football, basketball, and baseball, to prepare for careers in professional sports.

8.6 Categories of Intercollegiate Athletic Activities

For the purposes of establishing financial policy and determining equality of opportunity, two categories of intercollegiate athletic activities are established. They are:

- (1) Major revenue-producing athletic activities.
- (2) All other athletic activities.

Major revenue-producing athletic activities are defined as those which, in the judgment of the president of the institution and concurred in by the Board, are anticipated collectively to be capable of producing revenue equaling or exceeding operating and capital expenditures.

Equality of Opportunity

Equality of opportunity shall be established and judged within each of the two categories of intercollegiate athletics, "major revenue-producing" and "other."

If the institution identifies any athletic activity as major revenue-producing, it must also identify at least one such activity for men and one for women even though one of the activities may not satisfy the definition of major revenue-producing.

Provision must be made for an activity to move from one category to the other.

8.16

Financing

(1) Major Revenue-Producing Athletic Activities

Major revenue-producing athletic activities are those that, by definition, are estimated to be self-supporting from gate receipts, television and radio income, conference income, contributions, and other revenues generated through the operation of those activities. Any incidental fees used to support major revenue-producing athletic activities will be deemed to be for the purpose of financing student admissions. No state tax funds, appropriated for education and general purposes, are to be used either for operating or capital expenditures, except as provided in (3) below. "Operating expenses" include both salaries and applicable physical plant costs.

(2) Other Athletic Activities

Other athletic activities are to be financed from student incidental fees, gate receipts, and contributions. State funds appropriated for Education and General purposes may be used only to fund the salaries of coaches at the regional universities and Oregon Institute of Technology.

(3) Proportionate Financing of Joint Use Facilities

State funds are used and may continue to be used for physical plant and other operating costs applicable to spaces within athletic facilities that are utilized for Educational and General purposes, such as lectures, convocations, physical education activity classes, concerts, and commencement exercises.

(4) Resources for Capital Construction and Improvements

Expenditures for capital construction and capital improvements for athletics are to be financed from resources available for auxiliary enterprises such as gifts, bond borrowings under the provisions of Article XI-F(1) of the Oregon Constitution, and excess sinking fund reserves from commingled student building fees.

8.021 Levels of Competition

Institutions should seek the highest feasible level of competition for each activity, recognizing that financial and/or ethical considerations may force reductions in the competitive levels.

8.026 Cost Containment

The presidents of Oregon State University and the University of Oregon are instructed to work with each other and to pursue within the Northwest region, the Pac-10, and the NCAA appropriate cost containment measures such as grants based only on need, fewer grants, reduced recruiting efforts, smaller coaching staffs, and other appropriate measures.

If such efforts, over a five-year period, are unsuccessful, the Board will reassess its position and instruct the University of Oregon and Oregon State University whether or not to implement those cost containment policies even in the absence of Pac-10, NCAA, and regional action.

Portland State University, Oregon Institute of Technology, and the three regional universities are instructed to adopt similar cost containment measures, as appropriate.

8.31 Academic Progress and Degree Attainment

The presidents of institutions having intercollegiate athletics programs are instructed to establish policies and procedures that commit student athletes, counselors, coaches, and athletic program administrators to pursuing the dual student athlete goals of maintaining normal progress toward completion of the baccalaureate degree and attainment thereof, usually in not more than five years after the date of initial registration. Such policies shall require:

- (1) Minimum academic term carrying loads of 12 hours during seasons of competition, in prescribed courses leading to a baccalaureate degree selected by the student athlete; and compliance with normal progress rules established by the institution; and

- (2) Development and use of continuing academic progress monitoring systems which, when necessary, activate appropriate corrective measures by the student athlete, counselor, coaches, and athletic program administrator.
- (3) Each institution president to submit annually to the Board a report on the success of student athletes in pursuing the goals of academic progress and degree attainment.

8.36 Code of Ethics

Each institution offering a program of intercollegiate athletics shall comply with the following code of ethics. Violation of the code of ethics shall be considered an adequate basis for sanctions for cause.

(1) Purpose

The purpose of this code of ethics is to prescribe standards of conduct for student athletes participating in the intercollegiate athletic programs of the institution, coaches, intercollegiate athletic administrators, and other personnel associated with intercollegiate athletics. It is also the purpose of this code of ethics to identify the responsibilities of coaches, intercollegiate athletic administrators, and other personnel in the institution's department of intercollegiate athletics.

(2) Designation of Institution Officers

The institution president shall assign in writing to the director of athletics the responsibility for implementing the provisions of this policy, except that the Faculty Athletic Representative shall retain the sole prerogative for determining the athletic eligibility of student athletes participating in the intercollegiate athletic program of the institution.

(3) Directives

- (a) The intercollegiate athletic program of the institution shall reflect high standards of scholarship, sportsmanship, fair play, integrity, and concern for the individual.
- (b) The intercollegiate athletic program of the institution shall be conducted in accordance with the constitution and bylaws of the alliances and/or conferences of which the institution is a member,

and the rules, policies, and directives of the Board of Higher Education and institution.

- (c) Student athletes participating in the intercollegiate athletic program of the institution shall be required to:
 - (i.) Maintain such academic standards as established by the institution for all students;
 - (ii.) Comply with the eligibility requirements of the institution as a prerequisite for participation in its intercollegiate athletic programs;
 - (iii.) Demonstrate high standards of sportsmanship and fair play, while participating in an intercollegiate athletic program of the institution;
 - (iv.) Refrain from participation in an intercollegiate athletic program of the institution when existing injuries and/or physical impairments would jeopardize the student athlete's health and welfare; and
 - (v.) Deport themselves in a manner which brings credit to themselves, their teammates, and the institution.
- (d) A head coach of an intercollegiate athletic program is required to maintain such discipline as necessary to assure that student athletes and coaches in that sport maintain high standards of sportsmanship, fair play, and integrity; encourage high standards of scholarship for student athletes; establish and maintain high standards regarding the welfare of student athletes; and adhere to the principles of nondiscrimination.
- (e) Coaches in the intercollegiate athletic program of the institution are required to maintain high standards of sportsmanship, fair play, and professional integrity; encourage high standards of scholarship for student athletes; and adhere to principles of nondiscrimination.
- (f) Each individual performing administrative, promotional, public relations, or related functions in the intercollegiate athletic program of the institution is required to demonstrate high standards of professional conduct; encourage high standards of sportsmanship, fair play, professional integrity and scholarship;

establish high standards regarding the welfare of student athletes; and adhere to the principles of nondiscrimination.

- (g) The following is proscribed conduct for each head coach, assistant coach, and individual performing administrative, promotional, public relations, or related functions in the intercollegiate athletic program of the institution:
- (i.) Using the position with the institution to obtain financial gain, other than official institution salary or reimbursement of expenses and honoraria from either institution or non-institution sources, unless prior approval is obtained from the institution president;
 - (ii.) Using the position with the institution to obtain financial gain for any member of the household or for any business with which the employee or any member of the employee's household is associated;
 - (iii.) Engaging in any outside activity which substantially interferes with the employee's responsibilities in the intercollegiate athletic program of the institution;
 - (iv.) Accepting any employment outside the institution involving time or honorarium without the prior approval of the institution president;
 - (v.) Accepting gifts, as defined in ORS 244.020(5), from any source, including but not limited to, professional sports organizations, private businesses, or athletic "boosters";
 - (vi.) Receiving, or influencing directly or indirectly, awards of prizes of value from any institution-operated or affiliated promotional activity associated with the intercollegiate athletic program of the institution;
 - (vii.) Using institution buildings, facilities, services, or grounds for personal or private gain, without the prior written authorization of the institution president;
 - (viii.) Using, or permitting the use of the name of the institution or any emblem of the institution in commercial or personal promotional activities, except by the prior written authorization of the institution president;

- (ix.) Violating the constitution and bylaws of an alliance or conference in which the institution holds membership, particularly those provisions pertaining to recruiting of student athletes, financial aid for student athletes, eligibility of student athletes, and extra benefits for student athletes;
 - (x.) Engaging in, encouraging, or permitting the physical or mental abuse or harassment of student athletes;
 - (xi.) Permitting student athletes who have not been certified for competition by a medical physician prior to a sports season to participate in the intercollegiate athletic program of the institution;
 - (xii.) Permitting, requiring, or encouraging a student athlete who is injured, or otherwise physically or mentally impaired, to participate in the intercollegiate athletic program of the institution without authorization from a physician or authorized athletic trainer;
 - (xiii.) Permitting, encouraging, or engaging in abuse or harassment of game officials, game opponents, or spectators while participating in an intercollegiate athletic program of the institution;
 - (xiv.) Encouraging, aiding, or abetting, including acts of omission, any individual, including non-institution persons, to engage in conduct proscribed by the alliance or conference in which the institution holds membership and the Administrative Rules, policies, and Internal Management Directives of the Oregon State Board of Higher Education and the institution.
- (h) Any coach, head coach, or individual performing administrative, promotional, public relations, or related functions in the intercollegiate athletic program of the institution should strive to be perceived as an ethical leader, and, therefore, should avoid the appearance as well as the fact of impropriety.
- (i) Waivers

The institution president retains the sole prerogative and authority for authorizing exceptions in writing to the provisions contained herein.

(j) Compliance and Sanctions for Violations

Individuals violating the provisions of this code of ethics may be subject to sanctions for cause.

For student athletes participating in the intercollegiate athletic program of the institution who violate the provisions contained herein, the sanctions for cause may include loss of eligibility for a period of time prescribed by the institution Faculty Athletic Representative. The institution may impose sanctions in addition to loss of eligibility pursuant to the provisions of the student conduct code of the institution.

For coaches or for intercollegiate athletic administrators, sanctions for cause include but are not limited to oral or written reprimand, suspension with pay, suspension without pay, or termination, as determined by the institution president.

(k) Contract and Policy Distribution

This policy for intercollegiate athletics, including the Code of Ethics, shall be attached to the Notice of Appointment for coaches, athletic administrators, and other personnel associated with the intercollegiate athletics program as well as distributed to and discussed with all student athletes.