

# **Associated Students of Cascadia College**



# **Financial Code**

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## **FINANCIAL CODE**

### **INTRODUCTION**

In compliance with Washington State law, Cascadia College (formerly Cascadia Community College) has established the Services & Activities Fund (522 Fund) into which shall be placed fees and revenues received by the College in connection with Student Life (Programs and Activities) of the Associated Students of Cascadia College (ASCC), the Events & Advocacy Board (EAB), recreation programs, performing and cultural arts programs, publications, and clubs.

All funds gathered and expended in the 522 Fund are subject to the policies, regulations and procedures of the Board of Trustees, the State Board for Community and Technical Colleges, and the Budget and Accounting Act of the State of Washington, Chapter 43.88 RCW.

The authority for administering the code and the budgeting and control of expenditures for the Associated Students has been delegated to the Dean for Student Success and the Director of Student Life.

### **ARTICLE I**

#### **PURPOSE**

The purpose of this Financial Code is to carry out the provisions indicated in the preceding introduction, while at the same time providing for the effective administration of Student Life at Cascadia College.

### **ARTICLE II**

#### **OBJECTIVES**

The raising and expending of 522 funds by Cascadia Student Life organizations has the objective of enhancing the general educational experience and maximizing the success of every student by providing a meaningful variety of healthful, educational, cultural, recreational and social programs, activities, and services. In view of this, Student Life should assist students in focusing on the following learning outcomes:

- Learn Actively
- Think Critically, Creatively, and Reflectively
- Communicate with Clarity and Originality
- Interact in Diverse and Complex Environments

### **ARTICLE III**

#### **FUNDS**

##### Section 1 – Source of Funds

Student Life funds could be received from four sources:

- Student fees (Service & Activity, Technology, Capital Improvement, etc.) which are paid at registration.
- Revenues from activities sponsored by Student Life and/or organizations.
- Interest income (from fund balance).
- Contributions (donations, grants, etc.).

## Section 2 – Use of Funds

1. Funds in the 522 accounts (Services & Activities) are to be used only for student programs and activities at Cascadia College. Monies that are specifically fundraised by the student club shall be maintained in a separate account (840) within Cascadia's finance system.
2. Those in charge of allocation may determine how budgeted monies are to be spent so long as the expenditure is not in violation of college policies or applicable state and federal laws and is consistent with this Code and the initial intent of the request.
3. When authorized and approved in a manner consistent with this Financial Code, Services and Activities Fee revenue may be used for:
  - a. Social events, seminars, workshops, retreats, and conferences, student governmental organizations, professional consulting fees, clubs and societies, musical, dramatic, and artistic presentations and other mass media activities, tutorial services, day care centers, intramural and intercollegiate sports.
  - b. Equipment, supplies, and materials required for the operation of student programs and activities.
  - c. Approved travel and per diem for students and professional staff members participating in student programs and activities.
  - d. Premiums for liability and casualty insurance coverage for students serving in official capacities or participating in such programs and activities.
  - e. Dues for institutional memberships (including media licenses required by the FCC) in recognized student government or activities organizations provided that the legality of such expenditures is first established in consultation with the legal advisor of the college.
  - f. Salaries and compensation to students.
  - g. With expressed prior approval of the State Board, acquisition of real property and capital projects and may be used as matching funds for such purposes.
4. Limitations
  - a. Salaries of professional employees in tenurable positions and permanent classified civil service employees should not be paid from services and activities fee revenue.
  - b. Services and activities fees should not be used to fund programs, personnel, facilities, equipment, and maintenance normally covered within the State Board Allocation.

## Section 3 – Accounting and Reporting Responsibility

1. It shall be the responsibility of the Vice President of Administrative Services & Human Resources, under the direction of the College President, to maintain proper accounting of financial transactions of all 522 monies and to provide monthly reports to the administration, students, and other interested parties. Daily management and reporting of financial transactions shall be the responsibility of the Director of Student Life and the Events & Advocacy Board (EAB).
2. Separate accounts shall be kept on each activity and are available to interested parties during regular office hours of Student Life.
3. A general account for each recognized S&A Fee allocation shall be maintained by the Office of Student Life and the Events & Advocacy Board (EAB).
4. Revenue earned by S&A Fee accounts will be kept in trust by the college in the club's account. This money shall revert to the fund balance if the club becomes inactive for one full year.
5. Fundraising projects sponsored by subsidized and non-subsidized recognized student organizations are subject to approval of the (1) organization's membership, (2) the organization's advisor (if applicable), and (3) the Director of Student Life. All fundraisers must follow the established college accounting procedures.

#### Section 4 – Deposits and Expenditures

1. All funds collected or revenues produced by or through Student Life will be deposited with and/or expended through the Finance Office of the College.
2. Off campus accounts of student clubs or organizations are strictly prohibited.
3. The Finance Office maintains official records of all monies for Student Life and its subsidiary units.
4. All monies collected as a result of any Student Life activity, funded or non-funded, must be turned into the Office of Student Life at the end of the day. If after office hours, on a weekend, or on a holiday, arrangements shall be made prior with the Office of Student Life to accommodate.
5. Funds are to be deposited via the Office of Student Life and will be sent to Finance. At this time, a receipt will be issued indicating the date, account to which the monies are to be credited, and such other information as will facilitate the accounting of these monies. This receipt must be turned in to the Student Life office within 48 hours.
6. No disbursements for any account are made except by checks prepared by the Finance Office. No revenue monies may be expended until they are properly deposited and recorded in the Finance Office and checks prepared in a routine manner.

### **ARTICLE IV**

#### **STUDENT ORGANIZATIONS, CLUBS, AND PROGRAMS**

#### Section 1 – Funded Organizations and Programs

1. Any activity whose basic aim is to promote the objectives of the Financial Code may be recognized as a funded activity upon approval of the Services & Activities Fee Committee.
2. Recognized student organizations may be formed to promote any legal purpose, as stated in the Events & Advocacy Board Constitution by-laws.
3. Student organizations must be open to all students, except in cases which the Events & Advocacy Board and Office of Student Life determines there exists reasonable justification for exceptions directly related to the purpose of the organization. This typically refers to a national organization with explicit criteria.
4. The membership of student organizations must be composed solely of registered students at Cascadia College. Faculty, staff, administrators, and University of Washington – Bothell students may hold non-voting associate membership and may not use Cascadia College student S&A funds to pay for participation related to the club.
5. Cascadia students wishing to participate in UWB clubs and organizations may request funding for participation through the Cascadia Club Council request process.
6. The fact a Cascadia recognized student organization or department provides a service (defined as an event or program contributing positively to the campus community) to its members or the College, in general, is justification for providing the organization with funds to the limit that resources are available in the budgeting process.
7. Donations using 522 funds are prohibited; however, fundraised dollars not using any state resources may be used for donations. See Article III, Section 4.
8. Clubs funded during the annual Services & Activities Fee process can receive additional funding through the Club Council funding process. Other funded programs can receive additional funding through the contingency funding process.
9. Fundraising projects of student organizations are subject to the approval of the Director of Student Life or their designee.

10. Funds generated in any manner by a recognized student organization will be held in trust by the College. (Refer to Article III, Section 4 Deposits and Expenditures.)
11. Organizations receiving Services & Activities Fees shall not be entitled to carry a balance forward at the end of the fiscal year. Fund balances remaining at the end of the fiscal year shall revert to the 522 Reserve Fund. Fundraised dollars exceeding \$50.00 can be carried forward providing all expenses have been paid.
12. The fiscal affairs of all recognized student organizations are subject to the provisions of this Financial Code. Violations of this Code by a student organization shall be cause for referral to the appropriate College body or official.
13. Programs and services funded by the Services & Activities Fee Budget Committee will be considered an extension of the Events & Advocacy Board and will be expected to conduct their programs in accordance with this Financial Code and the Student Code of Conduct.

## **ARTICLE V**

### **ANNUAL BUDGETING PROCESS**

#### Section 1 – Purpose

When approved by the Board of Trustees, the Services & Activities Fee budget becomes the official spending plan for the Associated Students of Cascadia College for the fiscal year. The Services & Activities Fee budget shall promote the general welfare of the student body, reflect diverse student interests, provide continuity for existing programs, and provide options for developing a variety of educational, cultural, and social experiences.

#### Section 2 – Account Responsibility

1. Accounts shall be set up to inform the programs of their financial condition. Statements shall be prepared as needed or requested by the Director of Student Life or their designee.
2. The general long-range operational aspects (i.e. budget forecasting, fund balance account, capital projects, etc.) of the 522 funds shall lie with the Director of Student Life and Dean for Student Success Services, in consultation with the Vice President for Administrative Services & Human Resources.
3. The Director of Student Life (with support from the Dean for Student Success Services) shall assign account responsibility for specific funds.
4. The daily administrative responsibility for the proper management of the 522 Fund shall lie with the Director of Student Life or their designee.
5. The Events & Advocacy Board (EAB) Treasurer will inform the EAB of the current status of the 522 budgets at each meeting.

#### Section 3 – Revenue Estimates

1. Estimates of income into the 522 Fund will be made by the Vice President for Administrative Services & Human Resources, or their designee.
2. This revenue estimate will be the basis for beginning the budgeting process for the coming fiscal year.
3. Revenue estimates will be based on the number of full time equivalent (FTE) students projected for the forthcoming year.
4. Adjustments will be made to increase/decrease revenue levels by the Vice President for Administrative Services & Human Resources, or their designee (See Section 8-Quarterly Revenue Review).

Section 4 – Services & Activities Fee CommitteeThe Services & Activities Fee Committee shall consist of five voting students (the EAB Treasurer (or EAB Advocacy Chair if vacant) and four additional students appointed by the EAB), a faculty member (non-voting), and the Director of Student Life (non-voting). The EAB Treasurer and Director of Student Life shall appoint the Services & Activities Fee Committee Chair (as needed).

1. The Services & Activities Fee Committee shall prepare annual and amended 522 budgets for the ASCC. The budget shall be developed in a consensual manner.
2. Those submitting budget requests shall be notified in writing by the Director of Student Life concerning the status of their request and shall be advised of their right to appeal. Appeals will be formally scheduled, and once heard, the Services & Activities Fee Committee will review them for possible adjustment.
3. The annual budget will be prepared and recommended by the Services & Activities Fee Committee to the EAB for approval. After EAB approval, the budget will be sent to the Board of Trustees, via the Director of Student Life and the College President, for final approval.
4. Once approved by the Board of Trustees, the Office of Student Life and EAB will be responsible for budget oversight.
5. Once the budget is adopted, the committee and EAB are responsible for:
  - a. Recommending appropriate action and policies on all requests for 522 Funds;
  - b. Approving initial club funding according to club policy;
  - c. Monthly review of the 522 Funds;
  - d. Evaluating and recommending probationary status to the EAB for any funded and/or recognized programs.
6. The EAB Treasurer (or EAB Advocacy Chair if vacant) and the Director of Student Life shall be responsible for overseeing the budget and making necessary allocations during summer quarter or during break periods. The Director of Student Life shall report summer budget activity at the beginning of fall quarter to the EAB.

Section 5 – Budget Development Process

The budget development process shall follow the statutes of the State of Washington. RCW 28B.15.045 sets forth the requirements for budgeting 522 funds.

1. The 522 Budget Development Process shall commence at the beginning of Winter Quarter each year. A budget request form and a budget timeline shall be sent to all currently funded programs and the Cascadia campus community.
2. The budget for each student program/activity must be developed by students participating in the program in conjunction with the appropriate advisor/supervisor. Budgets being developed by professional staff must identify where students provided input in the request process.
3. All requests for monies shall be prepared in writing and shall outline the planned program and justification for expenditures.
4. The purpose of the Services & Activities Fee Committee is to hear all budget requests for 522 Funds and to prepare a balanced budget to be submitted to the EAB, College President, and the College Board of Trustees.
5. Meetings of the Services & Activities Fee Committee shall be subject to the Open Public Meetings Act, RCW 42.30, but the chairperson shall have the authority to declare an executive session within provision of the Open Public Meetings Act.
6. In the event the EAB fails to take action within ten (10) business days of the final budget request meeting, the Services & Activities Fee Committee's budget shall be considered approved.
7. All information pertaining to services and activities budgets shall be made available to interested parties.



8. Upon adoption by the Board of Trustees, all budgeted programs shall be guaranteed funding for that fiscal year so far as revenue permits. If there is a revenue shortfall, refer to process regarding access to fund balance, section 8.3 and section 10.1.

#### Section 6 – Dispute Resolution Process

In the event of a dispute or disputes involving the Services & Activities Fee Committee recommendations, the college administration shall meet with the Services & Activities Fee Committee in a good faith effort to resolve such dispute or disputes prior to submittal of final recommendations to the Board of Trustees, as provided in RCW 28B.15.045.

1. If said dispute is not resolved within fourteen days, a dispute resolution committee shall be convened by the chair of the Services & Activities Fee Committee within fourteen (14) days.
2. The dispute resolution committee shall be selected as follows: The college administration shall appoint two nonvoting advisory members; the Board of Trustees shall appoint two members; and the Committee chair shall appoint two student members of the Student Activities Fee Committee who will have a vote, and one student representing the Services & Activities Fee Committee who will chair the dispute resolution committee and be nonvoting. The committee shall meet in good faith, and settle by vote any and all disputes. In the event of a tie vote, the chair of the dispute resolution committee shall vote to settle the dispute.
3. The Board of Trustees may take action on those portions of the services and activities fee budget not in dispute in accordance with the customary budget approval timeline established by the Board. The Board of Trustees shall consider the results, if any, of the dispute resolution committee and shall take action.
4. The College President shall review the budget and publish a written response if the budget to be presented to the Board of Trustees is different than that recommended by the Services & Activities Fee Committee. This response shall outline the areas of difference between the committee recommendations and the administration's proposed budget recommendations. Before adoption of the final budget, the Board of Trustees shall address areas of difference between the committee recommendations and the administration's budget recommendations. A student representation of the Services & Activities Fee Committee shall be given the opportunity to reasonably address the Board of Trustees concerning such differences.

#### Section 7 – Budget Approval

1. Recommendations for the budget approval shall be indicated by signature of the voting members of the Services & Activities Fee Committee and the Director of Student Life. The Director of Student Life will then forward the recommended budget to the College President, who shall review the proposed budget in preparation for presentation and adoption by the Board of Trustees.
2. Final approval of the 522 Fund shall rest with the Board of Trustees.

#### Section 8 – Quarterly Revenue Review

1. Each quarter, as soon as accurate enrollment data can be determined, the total 522 revenue (including interest collected) is provided by the Vice President for Administrative Services & Human Resources (or their designee) and subject to review by the Dean for Student Success Services and Director of Student Life. A calendar of reporting deadlines and a report form template will be provided annually to VP for AS & HR by the Dean for SSS and the Director of Student Life.
2. Additional revenue, if available, shall be placed in the contingency account for allocation (see Article V, Section 9.2 for more information).
3. If a revenue shortfall occurs and budget cuts are deemed necessary, the Director of Student Life and the Dean for Student Success Services, in consultation with the EAB Treasurer, shall recommend changes to the Services & Activities Fee Committee.
4. The Services & Activities Fee Committee shall within one month submit a proposal to the EAB outlining proposed budget revisions. Approval is accomplished by majority vote of the EAB members present.

### Section 9 – Budget Changes

Requests for a change to the budget after the Board of Trustees has approved it or expenditure requests from the S&A Budget fund balance are presented by the Services & Activities Fee Committee through the Events & Advocacy Board (EAB). If the Services & Activities Fee Committee is inactive at the time, the requesting group will request a budget change directly to EAB.

### Section 10 – Fund Balance/Student Reserves

The fund balance account is maintained for the purpose of assuring integrity and continuance of programs and activities for students funded by S&A fees. With the exception of club and organization fundraised dollars, which may be carried forward, all remaining unspent Service & Activities fee monies shall, at fiscal yearend, revert to the fund balance.

1. Fund Balance – This account shall be maintained at twenty percent (20%) of the previous year's annual 522 fund and shall be used in cases of natural disaster, calamity, catastrophe and a revenue shortfall ( i.e. decreased enrollment or reduction in state allocations). Fund balance is to be used as a one-time allocation and not as an ongoing funding source for a specific expenditure. Monies will be released from the account only after a two-thirds vote of the EAB and upon approval of the Dean for Student Success Services or their designee.
  - Monies requested for a one-time allocation are eligible to be used for a 3 year period; after that time, the money must be requested again
2. Contingency Account – This account should be maintained at a minimum of five percent (5%) of the annual budget. This account will be available for specific groups or organizations (faculty, staff or student led) to make requests for unexpected costs or the development of innovative programs. Programs must be student focused and students must be included in the creation and implementation of the program. Requests must be submitted to the Events & Advocacy Board and approved with a majority vote in a timely manner.

## **ARTICLE VI**

### **EXPENDITURE PROCEDURES**

#### Section 1 – General

1. Purchase requests: All requests for purchases to be made from accounts in the 522 budget shall be initiated by the person(s) having account responsibility and processed through the Student Life office. Upon signature by the appropriate authorized staff member, the paperwork shall be submitted to the Finance Office to be processed. All requests must have approval prior to spending or authorizing a contract.
  - a. The person(s) having account responsibility acknowledges receipt of items ordered by sending packing slips or receipts to the Student Life professional staff, who will then forward them to the Finance Office.
2. Reimbursement: Reimbursement for personal funds expended should not be expected without prior approval of the Director of Student Life or their designee. Reimbursement is not the preferred method of payment and should be considered a last option.
3. Advance Payment: Deposits for services or payment for services prior to an event or services rendered is exceptionally rare and must be approved by Student Life professional staff prior to any contract being signed or service being approved.
  - a. Reporting of expenses: The person(s) assigned account responsibility is responsible for the proper disbursement of funds when advance payment has been made. Unexpended funds are to be returned to the Office of Student Life within 48 hours.
4. Recognition Awards: S&A funds may be used to buy or make awards for any individual or group when approved by the Director of Student Life or their designee. Special recognition awards may be given for special services or special recognition and shall be of nominal monetary value (\$25) and shall not be monetary.
5. Participation Prizes: Definition of a participation prizes means for students participating in an organized activity who achieved a specified outcome (completed event evaluation, visited specific tables at event, etc.). Monetary value of prizes may not exceed \$25.

6. Gift Cards: Gift cards maybe be purchased in specific instances as outlined in the Student Life Policies

and Procedures Guide. All gift cards must be affiliated with a retail business (no Visa, American Express, etc.). Gift card amounts may not exceed \$25.

7. Food at meetings: Food at meetings and events must have prior approval from the Office of Student Life professional staff. Specific detail regarding food can be found in the Student Life Policies and Procedures Guide.
8. Virtual events and meetings: Approved use of funds may vary from in person events, depending on the scope of the virtual event or meeting. More detail can be found in the Student Life Policies and Procedures Guide.
9. Emergency Procedures: In cases of genuine emergency, the process may be expedited by contacting the Director of Student Life or his/her designee. This emergency procedure must be followed by the normal procedures outlined elsewhere in this section. In no case is purchasing to be initiated without prior approval of the Director of Student Life or his/her designee. All students, faculty, and staff shall be personally liable for expenditure commitments made in violation of this procedure.
10. Appropriate Authorization: In the event an authorizing staff member is not available to approve a purchase request, the following persons are authorized to sign a request.
  - a. Dean for Student Success Services
  - b. College President
11. An accounting of all purchase requests granted shall be kept on file in the Office of Student Life.

#### Section 2 – Travel

Cascadia College travel policies and regulations shall apply to all official ASCC travel. Only travel by a recognized ASCC group or organization shall be considered official travel.

1. If 522 Funds are to be used for travel by members of a funded activity, a Cascadia Clubs/Organization must meet with the Director of Student Life or their designee at least one month prior to the event or conference registration due date.
2. Travel and Lodging: S&A funded programs may request funding to cover travel expenses, lodging and meals for events and conferences. Requests must receive prior approval by the Director of Student Life or their designee. More detail can be found in the Student Life Policies and Procedures Guide.
3. College Vehicles: The College maintains vehicles for the purpose of providing transportation for members of recognized student organizations. Violations of the Vehicle Policy and/or Motor Pool Regulations will result in the loss of vehicle privileges and could result in disciplinary action pursuant to the Student Code of Conduct.
4. Private Vehicles: The use of private automobiles is reimbursable at the approved College rate.
5. Rental Vehicles: Those organizations utilizing rental vehicles will be required to pay the full amount of the rental charge and all expenses incurred in the use of the vehicle.

#### Section 3 – College Facilities

College events and programs may incur expenses for room rentals, custodial and maintenance services. These costs may be passed on to sponsoring organizations, activities, and administrative accounts and paid through the normal College accounting process.

#### Section 4 – Charitable donations

1. There can be no use of state resources.
2. All costs must be paid from the proceeds of the fundraising event.

3. All funds collected are presented to the cashier for deposit.
4. There can be no lending of state resources. For example, a club cannot buy inventory with state funds, then sell the inventory in a fundraising event, then pay the state back from the proceeds for the cost of the inventory.
5. Funds raised for charitable donations will be kept in a separate budget, recorded in fund 840.

## **ARTICLE VI TECHNOLOGY FEE**

### **Section 1 – Purpose**

The purpose of the Technology Fee is to provide additional technical support (outside of Cascadia College's operating budget) to the Associated Students of Cascadia College through specific initiatives, including:

1. Purchase of the Microsoft Campus Agreement for the ASCC starting summer quarter of the 2002-2003 academic year and renewal annually
2. Assist the Information Services (IS) Department defer the cost of student computer use including but not limited to cost associated with student printing (toner, paper, printer maintenance, replacement, etc.), student workstation use (software and hardware upgrades, hardware maintenance, hardware replacement, etc.), student server use (upgrading software, upgrading hardware, maintenance, replacement, additional servers, etc.)
3. Pay for the costs of upgrades to the Student Life student computer equipment
4. Support shared computer equipment in the Library
5. Fund an additional IS staff member who would be in charge of maintaining students computer accounts, student email accounts, and other duties related to student computer use as deemed necessary by the Director of IS or the Events & Advocacy Board.

### **Section 2 – Account Responsibility**

1. Accounts shall be set up which shall inform the programs of their financial condition. Monthly statements shall be prepared by the Finance Office and given to the Dean for Student Success Services, the Director of Student Life, and the EAB Treasurer (or Advocacy Chair if vacant).
2. The general long-range operational aspects (i.e. budget forecasting, fund balance account, capital projects, etc.) of the 522 funds shall lie with the Vice President for Student Learning & Success.
3. The Dean for Student Success Services shall assign account responsibility for specific funds.
4. The daily administrative responsibility for the proper management of the 522 Fund shall lie with the Director of Student Life.
5. The EAB Treasurer (or Advocacy Chair if vacant) will inform the Events & Advocacy Board (EAB) of the current status of the Technology Fee twice quarterly at the EAB regular meeting.

### **Section 3 – Revenue Estimates**

1. Estimates of income into the Technology Fee funds will be made by the Vice President for Finance and Operations, or his/her designee.
2. The technology fee is assessed based on the number of course credits a Cascadia student is taking. The fee is \$4.00 per credit, with a minimum of \$10.00 and a maximum of \$40.00.
3. Revenue estimates will be the basis for beginning the budgeting process for the forthcoming fiscal year.

4. Revenue estimates will be based on the number of FTE students projected for the forthcoming year and provided by the Vice President of Administrative Services or their designee.
5. No adjustments will be made to increase/decrease revenue levels after estimates have been made unless so advised by the Vice President for Administrative Services, or their designee.

#### Section 4 – Technology Fee Committee

1. The S&A Budget Committee shall constitute the majority of the Technology Fee committee, and will also include the Director of Information Services (non-voting) and the Vice President for Administrative Services (non- voting).
2. The Technology Fee Committee shall review all submitted requests and vote on allocations of the fee. There will be no appeals process; decisions of the committee are final.
3. Those submitting budget requests shall be notified in writing by the Vice President for Administrative Services of allocation decisions.
4. Once approved by the Board of Trustees, the Vice President for Administrative Services will be responsible for budget oversight.

#### Section 5 – Budget Development Process

The budget development process shall follow the statutes of the State of Washington. RCW 28B.15.051 sets forth the requirements for budgeting technology fee funds.

1. The Technology Fee Budget Development Process shall commence during Spring Quarter each year. A budget request form and a budget timeline shall be sent to all currently funded programs and the Cascadia community.
2. The budget for each student program/activity must be developed by students participating in the program in conjunction with the appropriate advisor/supervisor.
3. All requests for monies shall be prepared in writing and shall outline the planned program and justification for expenditures.
4. The purpose of the Technology Fee Committee is to hear all budget requests to be used by technology fees collected and to prepare a balanced budget to be submitted to the EAB, College President, and the College Board of Trustees.
5. Meetings of the Technology Fee Committee shall be subject to the Open Public Meetings Act, RCW 42.30, but the chairperson shall have the authority to declare an executive session within provision of the Open Public Meetings Act.
6. In the event the EAB fails to take action within ten (10) business days, the S&A Budget Committee's budget shall be considered approved.
7. In the event of a dispute or disputes involving the Services and Activities Budget Committee recommendations, the college administration shall meet with the Services and Activities Budget Committee in a good faith effort to resolve such dispute or disputes prior to submittal of final recommendations to the Board of Trustees, as provided in RCW 28B.15.051.
8. If said dispute is not resolved within fourteen days, a dispute resolution committee shall be convened by the chair of the Services and Activities Budget Committee within fourteen (14) days.
9. The dispute resolution committee shall be selected as follows: The college administration shall appoint two nonvoting advisory members; the Board of Trustees shall appoint two members; and the Services and Activities Budget Committee chair shall appoint two student members of the Services and Activities Budget Committee who will have a vote, and one student representing the Services and Activities Budget Committee who will chair the dispute resolution committee and be nonvoting. The committee shall meet in

good faith, and settle by vote any and all disputes. In the event of a tie vote, the chair of the dispute resolution committee shall vote to settle the dispute.

10. The Board of Trustees may take action on those portions of the services and activities fee budget not in dispute in accordance with the customary budget approval timeline established by the board. The Board of Trustees shall consider the results, if any, of the dispute resolution committee and shall take action.
11. The College President shall review the budget and publish a written response if the budget to be presented to the Board of Trustees is different than that recommended by the Services and Activities Budget Committee. This response shall outline the areas of difference between the committee recommendations and the administration's proposed budget recommendations. Before adoption of the final budget, the Board of Trustees shall address areas of difference between the committee recommendations and the administration's budget recommendations. A student representation of the S&A Budget Committee shall be given the opportunity to reasonably address the Board of Trustees concerning such differences.
12. All information pertaining to services and activities budgets shall be made available to interested parties.
13. Upon adoption by the Board of Trustees, all budgeted programs shall be guaranteed funding for that fiscal year so far as revenue permits.

#### Section 6 – Budget Approval

1. Recommendations for the budget approval shall be indicated by signature of the voting members of the S&A Budget Committee and the Director of Student Life. The Director of Student Life will then forward the recommended budget to the College President, who shall review the proposed budget in preparation for presentation and adoption by the Board of Trustees.
2. Final approval of the 522 Fund shall rest with the Board of Trustees.

#### Section 7 – Quarterly Revenue Review

1. Each quarter, as soon as accurate enrollment data can be determined, the total revenue level is subject to review by the Dean for Student Success Services and Director of Student Life.
2. Additional revenue, if available, shall be placed in the contingency account for allocation.
3. If a revenue shortfall occurs and budget cuts are deemed necessary, the Director of Student Life and the Dean for Student Success Services, in consultation with the S&A Budget Committee Chair, shall recommend changes to the S&A Budget Committee.
4. The S&A Budget Committee shall within one month submit a proposal to the EAB outlining proposed budget revisions. Approval is accomplished by majority vote of the EAB members present.

#### Section 8 – Budget Changes

Requests for change to the Technology Fee budget after the Board of Trustees has approved it or expenditure requests from the S&A Budget fund balance are presented through the Events & Advocacy Board (EAB).

If the EAB and the Director of Student Life approve the proposal, the EAB Advocacy Chair presents the proposal to the President of the College and the Board of Trustees for disbursement approval.

### **ARTICLE VIII SUSPENDED OPERATIONS**

In the event of extreme circumstances restricting or suspending normal operations at the College, guidelines and requirements set by the ASCC Financial Code may be suspended, reviewed and/or adjusted to meet the needs of students during that time. This process will happen with a majority vote of the EAB, then approval of the Dean for Student Success and the Vice President of Student Learning and Success. (approved 2/16/21)

## **ARTICLE X CONTRACTS**

### **Section 1 – Responsibility**

The Director of Student Life or his/her designee must approve contractual agreements pertaining to any activity using 522 Funds.

### **Section 2 – Invalid Contracts**

Contracts pertaining to any student program made without prior approval of the Director of Student Life or his/her designee are invalid. Responsibility for payment of invalid contracts rests with the individual(s) making the contract and may not be paid from public funds.

## **ARTICLE XI CODE LIMITATIONS**

Any of the articles, sections, and parts of this Financial Code shall be decreed inoperable and void if the article, section or part is contrary to State Statutes or Community College District 10 rules or regulations. Written changes will be made on a yearly basis to keep the Code up-to-date for persons utilizing 522 Funds.

## **ARTICLE XII VIOLATIONS**

Violations of the provisions of this Financial Code by a recognized student program or activity shall be cause for revoking the program or activity's recognition status and/or funding.

## **ARTICLE XIII AMENDMENT PROCEDURE**

The Director of Student Life will receive proposed amendments to the Financial Code. The Director of Student Life will in turn consult with the EAB and Services & Activities Fee Committee (if in session) for their recommendations. The Director of Student Life will then submit the consulted proposal to the Dean for Student Success Services for approval or disapproval. If approved, the consulted proposal will be inserted into the Financial Code. The approval or disapproval will be shared with the EAB by the Director of Student Life.

# APPENDIX

## OPEN MEETINGS ACT HOUSE BILL NO. 357 FEBRUARY 1980

The multi-member student board which is the governing body of the recognized student association at a given campus of a public institution of higher education is hereby declared to be subject to the provisions of the open public meetings act as contained in this chapter, as now or hereafter amended. For the purposes of this section, "recognized student association" shall mean any body at any of the state's colleges and universities which selects officers through a process approved by the student body and which represents the interests of students. Any such body so selected shall be recognized by and registered with the respective boards of trustees and regents of the state's colleges and universities: PROVIDED, that there be no more than one such association representing graduate students, and no more than one such association representing each group of professional students so recognized and registered at any of the state's colleges or universities.

## HOUSE BILL 1480 FEBRUARY 1980

- Section 1. It is the intent of the legislature that students will propose initial budgetary recommendations for consideration by the college or university administration to the extent that such budget recommendations are intended to be funded by services and activities fees. It is also the intent of the legislature that services and activities fee expenditures for programs devoted to political or economic philosophies shall result in the presentation of a spectrum of ideas.
- Section 2. The boards of trustees and the boards of regents of the respective institutions of higher education shall adopt guidelines governing the establishment and funding of programs supported by services and activities fees. Such guidelines shall spell out procedures for budgeting and expending services and activities fee revenue. Any such guidelines shall be consistent with the following provisions:
- (1) Initial responsibility for proposing program priorities and budget levels for that portion of program budgets that derive from services and activities fees shall reside with a Services and Activities Budget Committee, on which students shall hold at least a majority of the voting memberships, such student members to be recommended by the student government association or its equivalent. The Board of Trustees shall insure that the Services and Activities Budget Committee provides an opportunity for all viewpoints to be heard during its consideration of the funding of student programs and activities.
  - (2) The Services and Activities Budget Committee shall evaluate existing and proposed programs and submit budget recommendations for the expenditure of those services and activities fees to the college or university administration.
  - (3) The college or university administration shall review and publish a written response to the Services and Activities Budget Committee recommendations. This response shall outline areas of difference between the committee recommendations and the administration's proposed budget recommendations.
  - (4) The college or university administration, at the time it submits its proposed budget recommendations for the expenditure of services and activities fees to the Board of Trustees, shall also transmit a copy of the Services and Activities Budget Committee recommendations along with any supporting documentation originally provided by the committee and a copy of the administration's response to the committee recommendations. Before adoption of the final budget



the Board of Trustees shall address areas of difference between the committee recommendations and the administration's budget recommendations presented for adoption by the board. A student representative of the Services and Activities Budget Committee shall be given the opportunity to reasonably address the Board of Trustees concerning any such differences.

- (5) Services and activities fees and revenues generated by programs and activities funded by such fees shall be deposited and expended through the office of the chief fiscal officer of the institution.
- (6) Services and activities fees and revenues generated by programs and activities funded by such fees shall be subject to the applicable policies, regulations, and procedures of the institution and the budget and accounting act, chapter 43.88 RCW.
- (7) All information pertaining to services and activities fees budgets shall be made available to interested parties.

Section 3. Sections 1 and 2 of this act are added to chapter 223, laws of 1969 ex. Sess. and to chapter 28B.15 RCW

Section 4. If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

#### **ATTACHED**

Killian Guide

Cascadia Fundraising Policy (if still exists – need to confirm)

## **Guidelines on the Use of Services and Activity Fees (a/k/a Killian Outline)** **October 2018 Revision<sup>1</sup>**

These Guidelines represent the most recent update to a document that has long circulated as guidance among student services and business administrators, known as the “Killian Outline.” It began as a compilation of AGO advice by a college administrator named John Killian in 1980 and has been periodically updated through the efforts of the Council for Unions and Student Programs (CUSP) and the Education Division of the Attorney General’s Office. The basic legal principles governing the appropriate use of services and activities (S&A) fees have changed little since 1980. However, practical application of these principles remains challenging as student programs and activities have become more sophisticated and broader in scope, colleges have faced new budgeting pressures, and the line between student activities and college operations has become more difficult to distinguish.

### **I. Basic Principles Concerning the Use of S&A Fees**

- Colleges are authorized by statute to establish and collect S&A fees from students. Once collected, the fees become public funds but remain dedicated for the use and benefit of the student body. For any proposed use of S&A fees, we must ask
  - (1) whether the use is for a student activity or program within the scope of the authority of the S&A fee statute and authorized by the board of trustees;
  - (2) whether S&A budgeting procedures have been followed; and
  - (3) whether, even if properly budgeted and for student benefit, such a use is consistent with constitutional restrictions on the use of public funds and other legal principles.<sup>2</sup>
- *Statutory Authority.* S&A fees are for the purposes of supporting student activities and programs.<sup>3</sup> Students must propose budgetary recommendations to the college or university administration and governing board. The boards of trustees of the state’s colleges and universities have the express and exclusive authority to approve funding for bona fide student activities.<sup>4</sup> In its ordinary and usual meaning, “student

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<sup>1</sup> Updated by AGO Education Division with assistance of CUSP and BAR. Note: This document is intended to be guidance to college administrators and therefore is not intended to be a substitute for a Student Financial Code.

<sup>2</sup> Consistent with AGLO 1971 No. 98, there are two analytical guideposts for use of public funds: (1) a statutory basis to authorize the activity must be found and (2) some basis for avoidance of a collision with the gift of public funds restrictions of Article VIII, § 5 must be demonstrated.

<sup>3</sup> RCW 28B.15.041. “Services and activities fees” are defined as: “fees, other than tuition fees, charged to all students registering at the state’s community colleges, regional universities, The Evergreen State College, and state universities. Services and activities fees shall be used as otherwise provided by law or by rule or regulation of the board of trustees or regents of each of the state’s community colleges, The Evergreen State College, the regional universities, or the state universities for the express purpose of funding student activities and programs of their particular institution.”

<sup>4</sup> RCW 28B.15.045. “The boards of trustees and the boards of regents of the respective institutions of higher education shall adopt guidelines governing the establishment and funding of programs supported by services and activities fees.”

activities” refers to any college co-curricular or extracurricular activity participated in by students in the furtherance of their education.<sup>5</sup>

- *Expenditure Authority*: Ultimate authority for S&A expenditures resides with the college board of trustees,<sup>6</sup> but students should have a great deal of input. Students propose expenditures through the S&A budget process, make up the majority of the S&A fee committee,<sup>7</sup> and make recommendations to the board of trustees.<sup>8</sup> Students are expected to have a “strong voice” in recommending budgets for S&A fees. “Members of the governing boards shall adhere to the principle that services and activities fee committee desires be given priority consideration on funding items that do not fall into the categories of preexisting contractual obligations, bond covenant agreements, or stability for programs affecting students.”<sup>9</sup>
- *Constitutional Prohibition on Gifts*. The state constitution prohibits the gifting of public money or property to private parties. The State Supreme Court has defined a gift as a transfer of public property without consideration<sup>10</sup> and with a donative intent. By statute, S&A fees, plus any revenues generated by S&A funded activities, must be deposited in college accounts and expended through the college’s chief fiscal officer. Thus, once collected from the students and deposited, the funds become state funds subject to all constitutional and statutory restraints on use of state funds.<sup>11</sup>

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<sup>5</sup> House Journal, 42<sup>nd</sup> Leg., 1<sup>st</sup> Ex. Sess., at 1537 (Wash. 1971). In response to a question concerning the meaning and scope of “student activities and programs,” Representative King said: “[i]t would include such things as their athletic programs (if they want to), their intercollegiate debate, their school dances -- all the things that students do as a part of their activity programs. In addition to that, I would believe that this amendment would cover the things necessary for the activities. I think it would be possible if the student government decided to build an intramural building, for example, as part of their activities program, and they were involved in it, that this would cover that also. I think the key thing is that it be related to a decision made by the students.” *Id.*

<sup>6</sup> See, *Good v. Associated Students of the University of Washington*, 86 Wn.2d 94, 542 P.2d 762 (1975).

<sup>7</sup> Individual institutions may have a different name for the committee, such as the “S&A Budget Committee.” The legislature uses the term “services and activities fee committee.” “Responsibility for proposing to the administration and the governing board program priorities and budget levels for that portion of program budgets that derive from services and activities fees *shall reside with a services and activities fee committee*, on which students shall hold at least a majority of the voting memberships, such student members shall represent diverse student interests, and shall be recommended by the student government association or its equivalent. The chairperson of the services and activities fee committee shall be selected by the members of that committee. The governing board shall insure that the services and activities fee committee provides an opportunity for all viewpoints to be heard at a public meeting during its consideration of the funding of student programs and activities.” RCW 28B.15.045(3).

<sup>8</sup> See RCW 28B.15.044 (“It is the intent of the legislature that students will propose budgetary recommendations for consideration by the college or university administration and governing board to the extent that such budget recommendations are intended to be funded by services and activities fees.”).

<sup>9</sup> RCW 28B.15.045(2). Best practice is to identify preexisting obligations to the S&A Fee Committee, particularly any items identified as necessary for stability of programs affecting students. There is also a detailed dispute resolution process when the S&A fee committee and the administration disagree on budget recommendations. The Board must consider the results of any dispute resolution process.

<sup>10</sup> “Consideration” is a legal term for receiving reciprocal value. To avoid a gift, there must be an exchange of value, e.g., money for goods or services.

<sup>11</sup> Const. art. VIII, §§ 5 & 7.

- *Tuition-funded Programs.* As a general principle, S&A fees should not be used to supplant tuition (building fee and operating fee) support for employees and facilities supporting the academic programs and business operations of the institution.<sup>12</sup>

## **II. Distinguishing S&A Fees from Voluntary Student Fees**

There are actually two separate sources of statutory authority for raising funds for student purposes. These are often conflated and confused. As stated above, student and activities fees are authorized and described with guidelines and budgeting procedures in RCW 28B.15.041 through .045. A separate authority exists in RCW 28B.15.610 for “voluntary student fees” (VSF). The VSF is a charge which the students voluntarily maintain upon themselves for student purposes only. Students are authorized to create or increase VSF for each academic year when passed by a majority vote of the student government or its equivalent, or referendum presented to the student body. There is little else in the statute concerning these fees. The grant of authority to students to create or increase a fee also implies the same authority to abolish or decrease a fee by the same process. Provided, if the students vote VSF to support a bond or other binding contractual obligation, they may not subsequently breach that obligation by removing that pledge. Note, the VSF is the only authorized vehicle, aside from tuition and S&A fees, for assessing across-the-board fees on all students (as distinguished from special user fees).<sup>13</sup>

## **III. Examples of Permissible Uses of S&A Fees.**

There is no way to capture every conceivable use of S&A fees. One should always go through the steps of analyzing whether the proposed use is for authorized student activities and programs rather than for general college operations and whether the S&A fee budgeting process was followed. The following examples have been determined over time to be appropriate uses of S&A fees, *provided that* they are approved as bona fide student activities by the board of trustees through the budget approval process:

- S&A funds may be used for expenses associated with traditional and time-honored activities such as student government, clubs, or activities of other official student organizations, student health and wellness programs, retreats, conferences, musical, dramatic, artistic, debate, and other presentations, events, and activities of an extra-curricular nature, student publications and other mass media initiatives. Permissible expenses may include meals and lodging during group travel. These costs may be paid as a return for participation.
- Awards in the form of trophies, certificates, plaques, attire, etc. may be provided to students who have served or are serving as members of athletic teams, student leadership teams, cheer leaders, outstanding scholars, outstanding participants in drama,

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<sup>12</sup> Narrow exceptions to this principle allow for S&A support for staff engaged in supporting student activities and programs as discussed in Section III below.

<sup>13</sup> Some community and technical colleges assess a “technology fee.” This must be assessed as a VSF. The technology fee authorized under RCW 28B.15.051 is only applicable to the state universities, regional universities and TESC.

- debate, student government, and others who have earned them, *provided that* they are a result of participation, are personal in nature, and are of nominal value.<sup>14</sup>
- Support for college employees in student programs operations. S&A fees may be used only to the extent that they support employees engaged in student activities and programs--as opposed to normal maintenance and operation functions of the college.<sup>15</sup>
  - Premiums for liability and casualty insurance coverage for the college for actions taken by students serving in official student program capacities or participating in such activities and programs.
  - Food and refreshments for student attendees at approved student programs as incidental thereof. Examples include: graduation ceremonies, vocational certificate awards programs, scholarship convocations or receptions, student activity or club meetings, student awards, student work sessions, new student orientations, honor society initiations, scholarship donors receptions, etc.<sup>16</sup>
  - Food and beverages may be provided at an “open house” hosted by a student club aimed at promoting awareness of that club’s activities on campus, provided, the club provides the college students who attend that open house with written or oral information about the club's function and mission.
  - Costs associated with childcare centers for the children of students.
  - Dues for institutional memberships in officially recognized student leadership, governmental or programming organizations.
  - Special tutorial or co-curriculum programs provided they are not to sustain a critical operation of the college.
  - A legal aid program that provides services to individual students, provided that the program is not used to institute legal action against the college or university.<sup>17</sup>
  - Furniture and equipment for informal or non-instructional student spaces as approved by the associated student association or student governmental organization.
  - Partial subsidization of a student food bank or food pantry operations, provided that the food bank benefits are reserved for students.
  - Scholarships. RCW 28B.10.825 expressly provides for a limited amount of S&A fees (\$1.00 per student quarter or \$1.50 per student per semester) to be used for an institutional student loan fund for needy students. In light of the specific statutory authority and cap, the authority to devote any additional amount of S&A fees to any type of loan program is doubtful. It also makes authority for scholarships uncertain. A

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<sup>14</sup> AGLO 1971, No. 98, dated Aug. 23, 1971 (addressing permissible use under const. article VIII, §§ 5 & 7 gift of public funds restrictions).

<sup>15</sup> AGLO 1971 No. 93, dated July 26, 1971 (addressing newly enacted S&A Fee statute).

<sup>16</sup> There are always questions concerning the scope of who may partake of the light refreshments served at various types of award ceremonies and celebrations. Often, graduation and awards ceremonies are meaningful only if the recipient students may share the experience with families and close friends. Sometimes, certain staff would be meaningful to the occasion. There are many possible scenarios that could include some individuals who are not S&A fee payers—too many to try to address. But, there are some safeguards that could support allowing personal guests to participate fully. First, the institution should be able to identify some additional benefit that third parties bring to the students who are the primary beneficiaries of the activity. Donative intent is lacking where the benefit is primarily to the student participant and only incidentally to others. Second, the institution should be able to distinguish between invited guests of students and the general public or college staff at large.

<sup>17</sup> Note: The associated student body, as an entity, must use the services of the Attorney General's Office.

student-initiated scholarship program would certainly have to be directed at enrolled students with economic need or be supported by some sort of consideration, such as employment, participation or contribution to an extracurricular program by the recipient.

#### **IV. Examples of *Impermissible* Uses of S&A Fees**

The following are some examples of inappropriate S&A fee expenditures either because they involve “gifting” or because they are not “student activities”:

- Salaries of professional employees in teaching, administrative or clerical positions not directly related to the student programs’ operations.
- Curriculum development activities or other personnel, facilities, equipment and maintenance considered part of the fundamental educational objective of, and basic services provided by the college.<sup>18</sup>
- Free meals and/or lodging for anyone without consideration and with a donative intent.
- Gifts of appreciation or concern for anyone (farewell gifts, flowers for bereavement, etc.) unless in return for participation or as an award for which one has competed and won.
- Tips or gratuities for services rendered by anyone unless authorized by OFM.<sup>19</sup>
- Meals, lodging, coffee hours, receptions, or teas for a guest entertainer, lecturer, etc., unless required by the contract made for their services.
- Promotional hosting. Promotional hosting entails offering gifts to others in hopes of attracting their business or favorable public relations. For example, paying for complimentary tickets or admissions as a gift or for public relations purposes.<sup>20</sup> Promotional hosting may also include paying for refreshments for prospective students at an event intended to bring potential students to campus to learn about the educational offerings of the college.<sup>21</sup>

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<sup>18</sup> AGLO 1971 No. 93 (the legislature intended to establish separate operating expenditures and student activity expenditures). Clearly, questions will continue to arise over where a student activity or program crosses the line to become a curricular/operational expense and vice versa. It is impossible to draw a bright line. Conceivably, students could determine that they want to fund additional academic or curricular supports not traditionally offered by the college, or fund existing supports in greater degree than offered by the college. If it is clearly a student priority proposed by students through the budgeting process, it should likely receive deference in any audit of appropriate use of funds. In contrast, were a college administration to unilaterally shift a historically college-supported program to S&A support, it would be less likely to be viewed favorably by an auditor.

<sup>19</sup> See State Administrative and Accounting Manual (SAAM), for example, sections 10.20 and 10.40 (<https://www.ofm.wa.gov/accounting/saam>)

<sup>20</sup> The exception to this rule is that free admission may be granted to a news media person who is attending the function in his or her news reporting capacity, or to persons performing their assigned duties, since the granting of admission in these instances is in return for participation (and therefore supported by consideration).

<sup>21</sup> See *State ex rel. O’Connell v. Port of Seattle*, 65 Wn2d 801 (1965) (promotional hosting raises prohibited gift of public funds issues because there is no exchange of consideration where the Port had only the prospect of new business in exchange for promotional expenditures).

## V. Fundraising Using S&A Funds

- Where fundraising projects have used S&A funds as “seed money,” all resulting revenues are considered to have been commingled with state funds and are under college and state spending restrictions pertaining to public funds.
- Funds raised without the use of state property or money may be considered private funds and may be used without restriction. Provided, in order to retain their private character, any such funds raised must be held in a segregated account, separately accounted for, and must not be commingled with any other public funds.”
- Privately raised funds may retain their private character even if state facilities are used where (a) fair market value is paid for rental of state facilities; or (b) fundraising activities occur in public areas consistent with the institution’s facilities use policy for all users.

## VI. Use of S&A Fees for Student Political Clubs and Lobbying Activities

- *Recognition and Allocation of Funds.* S&A fees may be used to fund officially recognized student political clubs or organizations.<sup>22</sup> Allocation of funds to student political groups (as well as religiously affiliated groups) must be neutral with respect to the viewpoint of the groups.<sup>23</sup>
- *Use of Funds.* S&A fees may be used to support political speakers, provided, the opportunities are not limited to one particular viewpoint.<sup>24</sup>
- *Lobbying.*<sup>25</sup> Use of S&A fees for lobbying by student government is expressly authorized by statute. RCW 28B.15.610, pertaining to voluntary student fees, provides in pertinent part, “. . . Notwithstanding RCW [42.17A.635](#) (2) and (3),<sup>26</sup> voluntary student fees imposed under this section and *services and activities fees may be used for lobbying by a student government association* or its equivalent and may also be used to support a statewide or national student organization or its equivalent that may engage in lobbying.” (emphasis added).

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<sup>22</sup> See *Board of Regents of the University of Wisconsin System v. Southworth*, 528 U.S. 217, 233, 120 S.Ct. 1356 (2000) (“The University may determine that its mission is well served if students have the means to engage in dynamic discussions of philosophical, religious, scientific, social, and political subjects in their extracurricular campus life outside the lecture hall. If the University reaches this conclusion, it is entitled to impose a mandatory fee to sustain an open dialogue to these ends.”).

<sup>23</sup> *Good v. Associated Students of the University of Washington*, 86 Wn.2d 94, 542 P.2d 762 (1975).

<sup>24</sup> RCW 28B.15.044 (“It is also the intent of the legislature that services and activities fee expenditures for programs devoted to political or economic philosophies shall result in the presentation of a spectrum of ideas.”);

<sup>25</sup> “*Lobbying*” means to attempt to influence the passage or defeat of any state legislation. “*Legislation*” means matters pending or proposed in either house or matters that may be the subject of action. “*Attempt to influence*” includes legislative staff as well as legislators.

<sup>26</sup> RCW 42.17A.635 is the statute pertaining to legislative activities of state agencies. It generally prohibits agencies from expending public funds for lobbying, subject to certain reporting requirements.

- Use of S&A fees for lobbying activities other than by or through the student government association, is still governed by the constraints on public agencies and reporting requirements in RCW 42.17A.635.<sup>27</sup>
- Campaign contributions. Under no circumstances may public funds be used as a gift or campaign contribution to any elected official or officer or employee of a public agency.<sup>28</sup> Nor may any public employee authorize the use of any facilities of a public agency (employees, stationary, postage, machines, etc.) to be used for the purpose of assisting a campaign for election or for the promotion or opposition to any ballot proposition.<sup>29</sup>
- S&A funds may support a student newspaper even if the newspaper engages in traditional journalistic role of editorial opinions and endorsements concerning candidates. See RCW 28B.10.037.

## VII. Use of S&A Fees on Student Religious Clubs and Activities

- *Recognition and Allocation of Funds.* S&A fees may be used to fund officially recognized student religious clubs or organizations. Allocation of funds to religiously affiliated student groups must be neutral with respect to the viewpoint of the group. Colleges and universities must officially recognize student religious groups on the same basis as other student groups.<sup>30</sup>
- *Provision of Facilities, Goods, and Services.* Colleges and universities must provide officially recognized student groups equal access to facilities, goods, and services. If a college or university opts to provide facilities, equipment, or even a faculty advisor to

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<sup>27</sup> Orchestrated grassroots lobbying or other indirect forms of lobbying, i.e., mailing campaigns; mobilizing non-state employees to action; rallying public support; organizing rallies in Olympia; and creating citizen action groups, remain regulated by lobbying restrictions regulated by the Public Disclosure Commission. See Public Disclosure Commission website (<https://www.pdc.wa.gov/learn/publications/lobbyist-instructions/grass-roots-lobbying>); *Board of Regents of the University of Wisconsin System v. Southworth*, 528 U.S. 217; *Rounds v. Oregon State Board of Higher Education*, 166 F.3d 1032, 1040 (9<sup>th</sup> Cir. 1999) (upholding the provision of mandatory student activity fees to student groups, such as OSPIRG-EF, that do “not engage in activities utilizing professional lobbyists, door to door fundraising . . . and do not “incur administrative costs associated with such programs.”).

<sup>28</sup> RCW 42.17A.550 (“Public funds, whether derived through taxes, fees, penalties, or any other sources, shall not be used to finance political campaigns for state or local office.”) For example, S&A funds may *not* be used for flyers or advertisements endorsing a political candidate, such as “Vote for so-and-so for U.S. Senate.” Similarly, S&A funds may *not* be used for yard signs endorsing a political candidate. However, S&A funds *may* be used for a student newspaper even if it includes endorsements and express opinions on political candidates via editorials. This is permissible due to the historical and traditional role of newspapers.

<sup>29</sup> RCW 42.17A.555 (“No . . . agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.”); See also, State Ethics Law at RCW 42.52.180.

<sup>30</sup> *Healy v. James*, 408 U.S. 169 (1972).



student groups, then it must make such resources available on an equal basis to student religious groups.<sup>31</sup>

- *Freedom of Speech and the Establishment Clause.* Under cases construing the First Amendment to the U.S. Constitution, it is clear (1) that religious speech is protected to the same degree as non-religious speech,<sup>32</sup> and that (2) making college facilities equally accessible to all student groups on a nondiscriminatory basis is a secular purpose, insulating the college from claims that allowing such use violates the Establishment Clause.<sup>33</sup>
  - Colleges may continue to employ reasonable time, place and manner restrictions on the use of public fora. Such restrictions must apply equally to *all* student groups.<sup>34</sup>
  - The Establishment Clause of the Washington State Constitution<sup>35</sup> has been interpreted consistent with the First Amendment to permit state funds to support a program having primarily a secular purpose or objective, even if some individuals were to engage in religious conduct incidental to the secular purpose.<sup>36</sup> This would be particularly true for conduct that is also protected speech.
- *Nondiscrimination.* The U. S. Supreme Court has ruled that colleges may condition official recognition to religious student groups, as with all student groups, on welcoming all students on a nondiscriminatory basis.<sup>37</sup>

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<sup>31</sup> *Widmar v. Vincent*, 454 U.S. 263 (1981). University may not close its facilities to a recognized student group desiring to use facilities for religious worship or discussion. The Court's reasoning was that (1) the "purpose" of an equal access to facilities policy is a secular purpose, *Widmar* at 275-76, and (2); the denying access was impermissible discrimination based on speech content, *Id.* at 273; and (3) the religious student group was receiving only incidental benefit from equal access to facilities, thereby defeating any argument that access would advance religion under the *Lemon* test. *Id.* at 273.

<sup>32</sup> "If school facilities may be used to discuss anticlerical doctrine, it seems to me that comparable use by a group desiring to express a belief in God must also be permitted." *Widmar v. Vincent*, at 281, (Justice Stevens concurring).

<sup>33</sup> The *Widmar* court also cautioned that college administrators could risk entangling government and religion by trying to sort religious speech from religious worship.

<sup>34</sup> For example, if the college or university places a limit on the number of times a particular group may use a particular room, that limit must apply equally to all groups. Similarly, if a college or university charges a fee for use of particular facilities, that fee must apply equally to all groups.

<sup>35</sup> "No public money shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment . . ." Washington Constitution, article I, section 11

<sup>36</sup> *Gallwey v. Grimm*, 146 Wn.2d 445, 466-67 (2002); *Malyon v. Pierce Cy.*, 131 Wn.2d 779, 804 (1997).

<sup>37</sup> *Christian Legal Society v. Martinez*, 561 U.S. 661 (2010)