

**UNIVERSITY OF CALIFORNIA GUIDELINES FOR FUNDING REGISTERED
CAMPUS ORGANIZATIONS AND RELATED PROGRAMMATIC ACTIVITIES BY
COMPULSORY STUDENT FEES**

I. INTRODUCTION

A. Purpose

These *Guidelines* are provided to assist campuses in complying with the parameters established in the decisions of the California Supreme Court in *Smith v. Regents* (1993) and the United States Supreme Court in *Rosenberger v. Rector and Visitors of the University of Virginia* (1995), and the University's *Policies Applying to Campus Activities, Organizations, and Students* as revised to reflect the content of these *Guidelines*.

B. Overview

Compulsory student fees allocated to student government, currently comprising campus-based fees established following a student referendum, may be reallocated to support registered campus organizations and related programmatic activities consistent with the University's legitimate purposes in providing such support. These purposes are: (1) to provide opportunities for the educational benefits and personal and social enrichment which derive from participation in extracurricular activities; or (2) to stimulate on-campus discussion and debate on a variety of issues. As affirmed by the United States Supreme Court in *Rosenberger v. Rector and Visitors of the University of Virginia*, use of compulsory student fees to support registered campus organizations and related programmatic activities reflects ". . . the reality that student life in its many dimensions includes the necessity of wide-ranging speech and inquiry and that student expression is an integral part of the University's educational mission." Campuses also may develop policies further defining these purposes.

In fulfilling these purposes consistent with the *Smith*, *Rosenberger*, and other applicable decisions, the University must assure that allocations to registered campus organizations and related programmatic activities are made on a content-neutral basis, and that no such organization is discriminated against based on its views, nor is any related programmatic activity discriminated against based on the views of its sponsors or participants. In addition, where the funded registered campus organization or related programmatic activity is predominantly political, religious, or ideological in nature as defined in Section II.B of these *Guidelines*, the University must provide an opportunity for students objecting to such contributions to seek a pro rata refund.

Under current University policy (Section 95.00 of the *Policy on Campus-based Student Fees*), all registered campus organizations and related programmatic activities also may be funded through the collection of voluntary student fees. For additional statements on the permissible scope of funding of the activities of registered campus organizations, see the University's *Policy on Registered Campus Organizations* and *Policy on Campus-based Student Fees* as revised to reflect these *Guidelines*.

C. Applicability to Lobbying Activities of Student Government

Official student government lobbying activities on student-related matters may be funded by compulsory student fees available to such student governments, provided that any student is entitled to a pro rata refund under the procedures outlined in Section III.A of these *Guidelines*.

D. Summary

1. Registered campus organizations and related programmatic activities that are predominantly educational, recreational, or social in nature (as defined in Section II.A, below) *may* be funded, on a content- and viewpoint-neutral basis, by compulsory student fees, and objecting students are *not* entitled to a pro rata refund. Such organizations and related programmatic activities also may be funded by voluntary student fees.
2. Registered campus organizations and related programmatic activities that are predominantly political, religious, or ideological in nature (as defined in Section II.B, below) *may* be funded, on a content- and viewpoint-neutral basis, by compulsory student fees in support of the University's purposes, and objecting students *are* entitled to a pro rata refund (under the procedures outlined in III.A, below). Such organizations and related programmatic activities also may be funded by voluntary student fees.
3. Official student government lobbying activities on student-related matters may be funded by compulsory student fees available to such student governments, provided that any student is entitled to a pro rata refund under the procedures outlined in Section III.A of these *Guidelines*.

II. DEFINITIONS AND CRITERIA

The following definitions and criteria are provided to assist campuses in determining whether a student is entitled to a pro rata refund of compulsory student fees allocated (1) for the general support of a registered campus organization that is predominantly political, religious, or ideological in nature, or (2) to support a separate activity that is predominantly political, religious, or ideological in nature.

A. Registered Campus Organizations and Related Programmatic Activities that are Predominantly Educational, Recreational, or Social in Nature

No refund is required for fees used to support a registered campus organization (or any activity of any such organization funded by a separate allocation) that is predominantly educational, recreational, or social in nature. Subject to additional campus-based criteria, a registered campus organization (or any activity of any such organization funded by a separate allocation) is considered to be educational, recreational, or social in nature if any one or more of the following characteristics predominates:

- it supplements or enhances academic preparation and development;
- it promotes or recognizes academic performance and excellence;
- it promotes an awareness and understanding of the ideas, customs, arts, languages, and social contributions of a culture or cultures;
- it promotes, sponsors, or provides community service;
- it promotes discussion, debate, or awareness of public issues from a variety of perspectives or viewpoints;
- it promotes participation in voter registration and similar nonpartisan civic activities;
- it develops personal, professional, or career-related skills; or
- it is recreational or social in nature.

B. Registered Campus Organizations and Related Programmatic Activities that are Predominantly Political, Religious, or Ideological in Nature

For the purpose of determining whether an objecting student is entitled to a refund, a registered campus organization (or any activity of any such organization that is funded by a separate allocation) is considered to be political, religious, or ideological in nature if any one or more of the following characteristics predominates:

- it supports or sponsors ballot initiatives, candidates seeking election, or other political purposes;
- it supports or sponsors lobbying;
- it supports or sponsors religious rites or services;
- it co-sponsors activities in connection with one or more off-campus organizations whose principal purposes are political, religious, or ideological as here defined, and the registered campus organization either provides substantial financial support to, or receives such support from, the off-campus organization; or
- it is principally dedicated to effecting political, religious, or ideological purposes presented from a single perspective, as distinguished from educational purposes such as promoting discussion or debate from different perspectives.

C. Conditions for Allocation

The University's legitimate purposes are served by providing support to registered campus

organizations and related programmatic activities either for general organizational expenses or for communicative purposes. The University's legitimate purposes are not served by supporting any particular organization, its interests, activities, or viewpoints *per se*. Thus, allocation decisions in connection with providing such support must be made without regard to the content or viewpoint of a particular organization or activity and be balanced in relation to support provided to other organizations or activities in similar circumstances.

In order to assure that allocations from compulsory student fees to support registered campus organizations and related programmatic activities serve and appear to serve the University's legitimate purposes, the following conditions must be met:

1. Allocations should be made for the University's legitimate purposes only, and direct entanglement with political, religious, or ideological activities should be avoided. Thus, for instance, an allocation, without regard to content or viewpoint and balanced in relation to support provided to other organizations in similar circumstances, may legitimately be made to a registered campus organization that is predominantly political in nature such as the Young Democrats or the Young Republicans in support of such expenses as telephone, postage, office overhead, photocopying and printing, as may an allocation to cover expenses associated with inviting a guest speaker to address the campus community for educational purposes, so long as care is taken to avoid direct subsidies to partisan political activities. However, an allocation to the same organization for purposes unrelated to the University's legitimate purposes (for example, an allocation specifically earmarked for direct financial support of a particular political party, candidate or election campaign) would be impermissible.

Similarly, an allocation, without regard to content or viewpoint and balanced in relation to support for other organizations in similar circumstances, to a registered campus organization that is predominantly religious in nature to support the publication expenses of a monthly informational newsletter would be acceptable, but an allocation for the specific purpose of purchasing supplies for religious services, or of making a financial contribution to a national or international religious organization, would not.

2. All allocations from compulsory student fees to support registered campus organizations and related programmatic activities must be content-neutral in nature and made for reasons other than the viewpoints expressed. That is, any differences in treatment provided to competing organizations and related programmatic activities must be based upon considerations which do not include approval or disapproval of content or viewpoint. When supporting a registered campus organization and its related programmatic activities, appropriate considerations might include, but are not limited to, particular organizational needs based on membership size; office or other equipment requirements; the extent of financial support the organization receives from other sources; or the production costs associated with a particular event or series of events the organization typically sponsors. Such sponsored events supported in whole or in part by compulsory

student fees need not and should not avoid controversial political, religious, or ideological content, subject to the understanding that, under current University policy (Section 30.20 of the *Policy on Speech and Advocacy*), campuses have a responsibility to assure an ongoing opportunity for the expression of a variety of viewpoints.

3. Any student who objects to a portion of his or her compulsory student fees being used to support a registered campus organization or a related programmatic activity that is predominantly political, religious, or ideological in nature as defined in Section II.B, above, is entitled to a pro rata refund as set forth in Section III.A, below.

D. Summary

1. Registered campus organizations and related programmatic activities entitled to support from compulsory student fees are either (a) predominantly educational, recreational, or social in nature, or (b) predominantly political, religious, or ideological in nature, according to criteria specified in Sections II.A and B of these *Guidelines*.
2. In order to assure that the University's legitimate purposes are served: (a) allocations to registered campus organizations and related programmatic activities from compulsory student fees should be made only for purposes of general organizational support or for communicative purposes, and direct entanglement with political, religious, or ideological activities should be avoided; and (b) such allocations should be content-neutral in nature and made for reasons other than the viewpoints expressed.
3. A student is entitled to a pro rata refund of that portion of his or her compulsory student fees that would otherwise go to support a particular organization or a related programmatic activity that is predominantly political, religious, or ideological in nature, and to which he or she has successfully filed an objection under review procedures outlined in Section III.A.4, below.

III. IMPLEMENTATION

A. Steps for Campus Implementation

In consultation with or by delegation to student government representatives, campuses shall put into place a comprehensive refund process that:

1. a. For any student who successfully asserts that a registered student organization or any activity of any such organization funded by a separate allocation is predominantly political, religious, or ideological in nature (under the review procedure outlined in 4., immediately below), provides for a pro rata refund directly from the organization to the student of that portion of his or her

compulsory student fees that has been allocated to support the organization or separately funded activity under challenge;

OR

- 1.b. Sets aside in escrow or similar accounts or by other appropriate means a portion of the allocations to all registered campus organizations and related programmatic activities, against any future claim by a student to a pro rata refund in an amount equivalent to that portion of his or her compulsory student fees that has been allocated to support the organization or separately funded activity under challenge. If this set-aside is in any other form than that of escrow or similar accounts, it must be reviewed and approved by the Office of General Counsel for compliance with the law and these *Guidelines*. Campuses that choose to establish escrow or similar accounts may determine, based on local considerations, the exact amount or percentage set aside and procedures to account for amounts not refunded;

AND

2. Either through publication in the campus newspaper, by posting to an electronic bulletin board, or by other appropriate means, provides students with timely notice, to the extent feasible, of all allocations from compulsory student fees for the general support of registered campus organizations, and of separate allocations for related programmatic activities;
3. Following publication of notice, provides students with a reasonable time to request consideration for a refund;
4. Establishes a review procedure (based on criteria set forth in Sections II.A and B of these *Guidelines*) to evaluate challenges by students seeking a pro rata refund of that portion of their compulsory student fees allocated to support a registered campus organization or separately funded activity of any such organization asserted to be predominantly political, religious, or ideological in nature; and
5. Provides for a prompt pro rata refund to any student whose challenge is sustained by the review procedure.

B. Legal Review of Campus Implementation Plans and Legal Consultation with Campuses

Campus implementation plans must be reviewed by the Office of the General Counsel to ensure that the plans are consistent with the cited court decisions and University policy. In addition, campuses are advised to consult with the Office of General Counsel should a question arise about whether a particular allocation is content- and viewpoint-neutral in nature, meets the University's legitimate purposes, or is otherwise appropriate within the meaning of these *Guidelines*.