COLLEGE AND FOUNDATION BOARD OPERATIONS
JUNE 2015

As consideration for the fiscal support and fundraising services provided by the Foundation, TCSG colleges typically provide support personnel (VP of Institutional Advancement, administrative staff, etc.) and the use of other public resources such as office space, technology equipment and support, utilities and telephone service, The State Board of the Technical College System of Georgia requires that all financial and operational arrangements between colleges and Foundations be consistent with state requirements pertaining to the use of public resources.

This document is intended to educate colleges on the appropriate use of state resources when used in supporting Foundations and to share with both the colleges and their Foundations, some best practices for maintaining the Foundation's status as a 501(c)(3) non-profit corporation.

ENSURING APPROPRIATE USE OF PUBLIC RESOURCES

- All colleges must have a Memorandum of Understanding with the Foundation using the template found in TCSG State Board Policy manual Section II. A. 2. g. iv. Cooperative Nonprofit Organizations. A copy of the existing Memorandum of Understanding must be submitted annually to the TCSG Resource Development Office together with a currently filed IRS-990 within 6 months of the end of foundation's fiscal year.

- State employees must avoid any appearance of impropriety or conflict of interest when performing their job duties. Employees who are assigned to provide support functions for the Foundations should take particular care in understanding the Governor's Executive Order on Ethics and TCSG Policies and Procedures including but not limited to: Standards of Business Conduct, Ethical Responsibilities, Gifts, Honoraria and Expenses, and Statewide Travel Regulations. College Presidents should be aware of and monitor support functions to ensure consistency with TCSG policies.

- College Presidents should attend Board meetings, participate in exit interviews with Foundation auditors, and ensure college employees are following internal control activities as recommended; (Attached is a detailed checklist for evaluating internal controls provided by De La Rosa Consulting)

- Colleges need to provide audit reports, Management Letters, and financial statements of the Foundation to TCSG's Administrative Division. This is necessary in determining if Foundation assets are material to the state and whether they need to be included in state consolidated annual financial report.

- Colleges must maintain an arms-length relationship with the Foundations with respect to governance and fiscal authority. The President of the college is responsible for assigning staff to support the Foundation and for communicating the college's strategic plans and funding priorities to the Foundation. The Foundation is responsible for authorizing the expenditure of Foundation funds in support of those priorities and for ensuring that funds are being used as directed by donors. The responsibilities must remain separate.

- The President may establish internal procedures for college employees to request Foundation funds to ensure requests are consistent with the strategic plan and funding priorities of the college. Additionally, the President may and should establish an internal procedure that will ensure that any Foundation awarded funds are utilized solely for the purposes approved by the Foundation. Establishing such processes will not breach the arms-length relationship between the college and the Foundation.

- College employees (including Presidents, administrative staff, and Foundation support staff) should not be authorized signatories on any Foundation bank accounts, credit or debit cards, or activity funds. However, it is recognized that some Foundations have by-laws appointing an Executive Director with signatory and fiscal authority. Should the Executive Director function be performed by a college employee, the maximum amount for which the employee may exercise signatory authority should be limited and must be included in the MOU between the College and the Foundation. It is recommended that any Foundation checks signed by a college employed Executive Director require a second signature of a Foundation Board member.

Foundations may employ an Executive Director independent of colleges in which case fiscal authority may be assigned to the individual as an employee of the Foundation. Reimbursement to the college for all or part of the salary of a college employee supporting the Foundation does not change the status of the individual as an employee of the college.

- Colleges may not hold Foundation monies in college accounts. Foundation monies must be held in the Foundation's name by an outside financial institution. Colleges must follow Statewide accounting policies and procedures when accepting any funds as reimbursement for appropriate college expenses.

- Colleges may not use their supporting foundation as a conduit for college funds or for the payment of college activities and /or personnel without express approval and intended sponsorship of that activity or event by the Foundation. Foundation sponsored activities /events should be paid for directly by the foundation.

- College employees may not be employed by and/or receive compensation directly by the foundation.

- Colleges may seek reimbursement for all or a portion of the salary paid to employees who are assigned to support the Foundation as part of their state job duties; provided such an arrangement is included in the annual MOU between the Foundation and the college. The Foundation's reimbursement of any portion of the salary does not alter the status of the individual as a college employee. Colleges may not seek reimbursement for any portion of the President's salary.

- An employee's actual and reasonable expenses for food, beverages, travel, lodging, registration, etc. to permit the employee's participation in a meeting/activity related to his/her official or professional duties may be paid by the Foundation; provided, however, that employees whose expenses are paid by the Foundation must submit a "Report of Expense Reimbursement by a Third Party Organization" as described in TCSG Procedure III.L.3: Procedure: Gifts, Honoraria, and Expenses. As referenced in the Governor's Executive Order on Ethics, the preferred practice is for a college and not the Foundation to pay for the business-related travel of employees. Colleges may seek reimbursement from the Foundations, provided the Foundation has a policy authorizing such reimbursement. Employees must comply with the Statewide Travel Regulations regardless of the source of the reimbursement.

- Generally, state employees are prohibited by the Governor's Executive Order on Ethics from accepting any gift from a third-party that has a value exceeding $25.00; however, college employees may be allowed to accept awards for recognition of outstanding accomplishments, years of service or in honor of retirement as part of a formal recognition program contained in the MOU between the college and the Foundation. Should the award be monetary in nature, both the college and Foundation must have a written procedure in place that ensures the program is applied consistently among college employees. The procedure should identify eligible employees, criteria to be used, the value and/or nature of the award and method of delivery. Employees receiving the award directly from the Foundation must be issued a 1099 form as required by IRS regulations. A preferred practice would be for the college to manage the recognition/awards program, provide the awarded amount consistent with statewide compensation policies and then seek funding for the program from the Foundation.

- With the exception of the President's execution of the MOU with the Foundation, college employees may not execute contracts, MOU's, leases or purchase agreements on behalf of or with the

Foundation as this constitutes a conflict of interest with their state employment. All such legally binding documents must be executed by the appropriate Board member or Officer on behalf of the Foundation; a college may not lease real property from the Foundation unless approved by the State Board and the State Properties Commission. Leases of equipment, etc. must be in compliance with the Georgia Department of Administrative Services rules pertaining to purchasing, leasing, and/or insuring said items.

- Members of the college's Local Board of Directors should not serve as a member of the Foundation Board of Trustees/Directors. Local Boards are appointed by the TCSG's State Board to assist the Board in carrying out its mission. Because Foundation Boards must maintain separate governance, it could be considered a conflict of interest for individuals to serve on both.
- College presidents and Advancement Officers or support staff may only serve as a non-voting ex-officio member of their college's supporting Foundation.
- Colleges must retain any records maintained by employees during the course of their employment in accordance with the State of Georgia's records retention schedules. This requirement would apply to Foundation records maintained by an employee of the college; in addition, these records would most likely be subject to public disclosure under Georgia's Open Records Act. Donor name and/or the amounts of individual donations are protected from disclosure under most circumstances.

FOUNDATION BEST PRACTICES

- Foundations should meet all IRS guidelines (i.e. Articles of Incorporation, By-Laws, tax liability on gifts given to donors) in compliance with their 501(c)(3) status as any compliance requirements as cited at http://www.irs.gov/Charities-&-Non-Profits/Search-for-Charities and http://www.stayexempt.irs.gov/.
- Foundations must operate in accordance with state laws that apply to non-profits, including annual registration with the Office of the Secretary of State. Foundations are also expected to adhere to the Donor Bill of Rights adopted by Council for Advancement and Support of Education (CASE) and the Association of Fundraising Professionals (AFP).
- Foundations should provide appropriate tax forms to individuals who donate or are awarded Foundation funds.
- Foundation monies, financial records, budget tracking documents and audit information should be held by the Foundation treasurer or a board member. Ideally, each Foundation should have member(s) who are qualified and willing to manage the Foundation's financial transactions and record-keeping (i.e. a CPA or Banker) or utilize a bookkeeping service.
- Checks issued from Foundation funds should always require two signatures: the Foundation Treasurer and Foundation President/Chair or other designee as authorized by the Foundation board. NOTE: designee should not be a college employee unless the Foundation has a fiscal controls policy and the authority granted to the college employee is for minimal dollar amounts outlined in the MOU with the college.
- It is recommended that Foundations only charge an Administrative Fee on donations that require ongoing account management.
- Foundations should obtain legal title to all donated real and personal property (i.e. buildings, boats, vehicles, etc.).

- Regarding donated real or personal property, Foundations must ensure that they are following IRS guidelines for valuing gifts:

    - Gifts of more than $5,000 should be counted at values placed on them by qualified independent appraisers as required by the IRS for valuing non-cash chartable contributions. It is the responsibility of the donor to obtain an appraisal when required.
    - Gifts of $5000 and less may be counted in a variety of ways including the values determined by a qualified expert on the faculty or staff of the institution, yet not an individual whose fundraising totals are directly affected by the gift.

- In cases where non-cash assets belonging to the Foundation are used by the college for educational and instructional purposes, the appropriate insurance coverage must be in place. In order to limit the liability of the Foundation, the TCSG-RD best practices recommendation is that ownership of non-cash assets being used by the college for educational and instructional purposes be transferred to the college. In cases where it is advantageous for the Foundation to retain ownership for future intended re-sale (and profit), a lease arrangement should be used. NOTE: colleges are subject to DOAS and State Properties Commission regulations when entering into any lease agreements.

- All local college Foundations should have by-laws and/or policies that provide requirements for board members regarding:
    - Term limits or a formal process to assess individual board member performance with consequences for non-performance on a biannual basis (from the date of their appointment)
    - Meeting Attendance
    - Roles and responsibilities including any service on committees
    - Activities/Events Participation

- Local Foundation boards should have policies and procedures that address:
    - Gift Acceptance
    - Conflict of Interest
    - Investment
    - Spending
    - Fiscal Controls/Responsibilities
    - Expense Reimbursement
    - Document Retention and Destruction
    - Minimum contribution requirements for submission of naming requests to the college
    - Non-Cash Gift (i.e. policy related to gifts that are items of real estate or personal property)
    - Joint Venture
    - Whistleblower
    - Gift Processing

  These policies should be reviewed and approved at the full board meeting and entered into the official board minutes. Individual board members should sign separate acknowledgements of the Conflict of Interest policy, a copy of which should be retained in Foundation records.

- In regard to board operations, it is recommended that a Foundation board:
    - Have a minimum of nine and a maximum of twenty-five voting members with a composition that reflects the diversity of the community served.
    - Hold a minimum of four (quarterly) meetings per year of the full governing body with a majority in attendance.
    - Have a five-year strategic plan and annual goals that align with the strategic plan of the local technical college that the Foundation supports.

- Have a board policy of assessing the organization's performance on its strategic plan/goals and determining future actions at least every two years.
- Spend at least 65% of its total expenses on program activities; that is, those activities that directly benefit local Foundation initiatives.
- Spend no more than 35% of contributions on the cost of administrative support and resources.
- Avoid accumulating funds in program accounts that are earmarked to be used for current program activities, while encouraging endowments and growth accounts ("rainy-day funds") as good investment strategies.
- Acknowledge all gifts to the Foundation on Foundation letterhead, signed by the Foundation Board Chair; encourage additional acknowledgements by the college President or other personnel on college letterhead.
- Provide informational materials that include: mission statement, past year's program service accomplishments, a roster of officers and board members, and financial data. Always present fund-raising and informational materials that are accurate, truthful, and not misleading.
- Require Board approval for the current fiscal year budget and projected and actual expenses associated with major program activities, fund-raising and administration.