

- 3.2.13** Any institution-related foundation not controlled by the institution has a contractual or other formal agreement that (1) accurately describes the relationship between the institution and the foundation, and (2) describes any liability associated with that relationship. In all cases, the institution ensures that the relationship is consistent with its mission. **(Institution Related Foundations)**

### Judgment of Compliance

Compliance

### Narrative

Albany State University (ASU) has contractual agreements with its corporate organizations that clearly define the relationship between the institution and the organizations and describe the liability associated with that relationship. In all cases, these relationships are entered into for the express purpose of supporting the university's mission [\[1\]](#) [\[2\]](#).

The Albany State University Foundation is a nonprofit corporation established as an institution-related charitable foundation (a non-profit tax-exempt cooperation organized under the laws of the State of Georgia and section 501(c) 3 organization recognized by the United States Internal Revenue Services). As a "cooperative organization" defined in Board of Regents (BOR) Policy Section 1905 on Cooperative Organizations [\[3\]](#), it must comply with Board of Regents policies designed to protect the interests and minimize the liability of ASU in its relationship with the Foundation (Board of Regents minutes, June 2004). Albany State University has a Memoranda of Understanding (MOU) with the ASU Foundation, which reads in part:

"Albany State University is a unit of higher learning of the University System of Georgia; and the foundation. The Cooperative Organization is a legal entity separate from the Institution that was formally designed as a cooperative organization by the president of the Institution who has determined it to be in the best interest of the Institution to do so".

The Foundation express purpose is serving the interests of the Institution in carrying out programs, activities and services and is authorized by the institution. It engages in activities, programs and services including solicitation of gifts, donations and grants for the purpose of supporting and enhancing ASU's mission. The foundation is precluded from engaging in activities, programs and services that are in conflict with or inconsistent with the policies, mission and goals of the Board of Regents, Albany State University or the Foundation [\[1\]](#) [\[4\]](#).

In order to avoid the appearance of impropriety and liability on the part of the University, the following agreement has been entered into between the ASU and the Foundation:

1. The Cooperative Organization agrees to abide by the Board of Regents policy section 1905 and the Institution System of Georgia Guiding Principles for Cooperative Organizations.
2. Neither the Cooperative Organization nor the Institution shall have any liability for the obligations, acts or omissions of the other party. The Cooperative

- Organization shall not accept any gift, donation, and grant or enter into any transaction that creates any liability for the Institution, without advance written approval by the President.
3. The Institution shall make available to the Cooperative Organization its facilities, programs and services, subject to any established policies or procedures applicable to such facilities, programs, activities and services. There shall be separate agreements between the institution and the Cooperative Organization concerning the use of each party's respective facilities by the other, and the programs activities and services to be provided by each party to the other.
  4. The Cooperative Organization may receive various administrative services from the Institution, which may enable it to provide a greater level of support to the Institution. If the Institution incurs expenses because of the Cooperative Organization's operations, then the Cooperative Organization shall reimburse the Institution for those expenses. This reimbursement shall not be required if the Institution would be conducting those operations and bearing the expense in the absence of the Cooperative Organization.
  5. The Cooperative Organization shall use generally accepted accounting principles in its financial record keeping and reporting. The Cooperative Organization will provide, or cause to be provided, added financial data in conformity with the reporting requirements of the State of Georgia. This data will be provided in a timely manner so that the reporting requirements will be met. The Cooperative Organization shall present annually to the President the annual independent audit opinion, which addresses the conformance of the operating procedures of the Cooperative Organization to the provisions of this agreement and Board of Regents cooperative organization policy.
  6. The Cooperative Organization shall be entitled to use the name, symbols and trademarks of the Institution during the term of this Agreement. Upon termination of this Agreement, the Cooperative Organization shall be prohibited from using the name, symbols or trademarks of the Institution.
  7. The Cooperative Organization shall clearly and conspicuously disclose that funds or other items of value donated are to be provided to the Cooperative Organization as distinct from the Institution shall establish a procedure to ensure that funds and other items of value donated to the Institution are properly deposited in Institution accounts or transferred properly.
  8. This agreement has a term of five (5) years. It may be terminated by either party upon 90 days written notice. If terminated, paragraph 11 of the Guiding Principles shall survive such termination. This agreement may be amended by mutual consent from time to time at the request of either party. All amendments must be in writing and executed by the parties. The Cooperative Organization agrees to and shall transfer requested records to the Institution and assist, as needed with any transition requirements, in the event the MOU is terminated.
  9. Another tax-exempt structure that has a cooperative arrangement with Albany State University is the Albany State University Alumni Association.

Overall, Albany State University and its cooperative organizations have contractual agreements that clearly define the relationship between the institution and the organizations and describe the liability associated with that relationship (see also [\[4\]](#), [\[5\]](#)).

**Supporting Documentation**

- [1] [ASU Foundation Support of University's Mission](#)
- [2] [ASU Foundation Board](#)
- [3] [BOR Policy on Foundations, section1905](#)
- [4] [Corporate Agreement between Foundation and ASU](#)
- [5] [ASU Foundation Policy and Procedures Manual](#)