

Notice of Proposed Rule

UNIVERSITY OF WEST FLORIDA BOARD OF TRUSTEES

RULE NO.: RULE TITLE:
6C6-5.016 Direct Support Organizations

PURPOSE AND EFFECT: The proposed rule repeal is intended to remove language no longer in use that has been made obsolete by amendments to section 1004.28, Florida Statutes and Florida Board of Governors Regulation 9.011, and UWF DSO Regulation 5.016.

SUMMARY: The current rule is obsolete and is being repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: this is to repeal a rule not supported or required under current statute and therefore to which no funding is currently attached. Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1001.706(2)(b), F.S.

LAW IMPLEMENTED: 1004.28, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Friday, March 29, 2019 at 9:00 AM CST.

PLACE: University of West Florida, 11000 University Parkway, Bldg. 10, Room 131 (downstairs conference room) Pensacola, FL 32514.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. Langham, Esquire, General Counsel, University of West Florida, 11000 University Parkway, Bldg. 10, Room 116, Pensacola, FL 32514, (850) 474-3420, plangham@uwf.edu.

THE FULL TEXT OF THE PROPOSED RULE CAN BE FOUND AT: <https://uwf.edu/offices/board-of-trustees/regulations/>

NAME OF PERSON ORIGINATING PROPOSED RULE: Pamela E. Langham, Esquire, General Counsel .

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: President Martha D. Saunders, University of West Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 15, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE *PENSACOLA NEWS JOURNAL*, A NEWSPAPER OF GENERAL CIRCULATION IN THE AFFECTED AREA: February 25, 2019

6C6-5.016 Direct Support Organizations.

~~(1) The President shall recommend to the University of West Florida Board of Trustees that an organization meeting the requirements of Section 1004.28, F.S., be certified as a University of West Florida Direct Support Organization (“DSO”).~~

~~(2) To be considered for certification, the Articles of Incorporation and Bylaws of the proposed DSO together must provide:~~

~~(a) The DSO is a Florida not for profit corporation under the provisions of Chapter 617, F.S., or the DSO will, upon certification by the UWF Board of Trustees, file for such incorporation with the Department of State.~~

~~(b) Any person employed by the DSO shall not be considered to be an employee of the University by virtue of employment by the DSO.~~

~~(c) The chief executive officer or director of the DSO shall be selected by the President and shall report to the President or a designee reporting directly to the President.~~

~~(d) Any amendments to the Articles of Incorporation or Bylaws shall be submitted by the President to the UWF Board of Trustees for approval prior to becoming effective.~~

~~(e) The President or designee(s) shall have the following authority and duties:~~

~~1. Monitor and control the use of University resources by the DSO.~~

~~2. Establish fundraising priorities that are consistent with the University’s mission and ensure coordination of fundraising activities among all DSO’s.~~

~~3. Control the use of the University name by the DSO.~~

~~4. Monitor compliance of the DSO with federal and state laws.~~

~~5. Recommend to the governing board of the DSO an annual budget.~~

~~6. Review and approve quarterly expenditure plans.~~

~~7. Approve contributions of funds or supplements to support intercollegiate athletics.~~

~~(f) If the DSO is decertified, all assets revert to the University.~~

~~(3) Upon approval by the UWF Board of Trustees, a DSO is certified and authorized to use the property, facilities and personal services of the University, to receive, hold, invest or administer assets or property and to make expenditures for the benefit of the University. A DSO is further authorized to issue revenue bonds or other forms of indebtedness upon approval of the UWF Board of Trustees in accordance with Section 1010.60, F.S., and to enter into agreements to finance, design and construct, lease, lease-purchase, purchase, or operate facilities necessary and desirable to serve the needs and purposes of the University.~~

~~(4) The Chair of the UWF Board of Trustees shall appoint a representative to the governing body and the executive committee of each DSO. The President or designee shall also serve on the governing body and executive committee of each DSO.~~

~~(5) Each DSO shall prepare and submit to the President or designee no later than the first day of each quarter of the DSO’s fiscal year a quarterly expenditure plan that delineates planned actions which would cause a commitment of University resources or represent a significant commitment of the resources of the DSO, including, but not limited to:~~

~~(a) Major fund raising events and campaigns and their purpose.~~

~~(b) Compensation and benefits to University employees and employees of the DSO.~~

~~(c) Capital projects, including land acquisition, construction, renovation or repair.~~

~~(6) Each DSO shall conduct its financial operation observing a fiscal year ending on June 30 of each year and shall cause a financial audit of its accounts and records to be conducted by an independent certified public accountant within 180 days of the close of each fiscal year as follows:~~

~~(a) Audits shall be conducted pursuant to Section 1004.28, F.S., and in accordance with rules adopted by the Auditor General pursuant to Section 11.45, F.S.~~

~~(b) The President of the University shall submit the annual audit report to the UWF Board of Trustees and the Auditor General within nine months after the end of the fiscal year.~~

~~(7) The President of the University shall recommend to the UWF Board of Trustees that a DSO be decertified if the President determines that the organization is no longer serving the best interests of the University. In the event that a DSO is decertified, all assets shall revert to the University. The recommendation for decertification shall include a plan for disposition of the organization’s assets and liabilities.~~

~~(8) Notwithstanding the above, the West Florida Historical Preservation, Inc. DSO of UWF is also governed by Section 267.173 or 267.1732, F.S. To the extent the requirements above are in conflict with such statutes, West Florida Historical Preservation, Inc. is exempt from complying with those requirements.~~

*Rulemaking Authority 267.1732(5), 1001.74(4), 1004.28(2) FS. Law Implemented 267.173, 267.1732, 1001.74(37), 1004.28 FS. History—New
3-8-04. Repealed, _____.*