

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Recognition and Funding of Student Organizations

NUMBER: 3.8.1

A. PURPOSE

To establish policy regarding the recognition of student organizations on campus and the provision of funding thereto.

B. DEFINITIONS

None

C. POLICY

1. Recognition of Student Organizations

1.1. Each institution will develop and publish criteria for recognition of student organizations. These recognition criteria will require student organizations to operate under a formal set of articles that define the powers of the organization and describe how those powers may be exercised, just as articles of incorporation or constitutions define the powers of commercial, nonprofit or governmental entities and describe how these powers may be exercised. Each institution will establish rules for budgeting, custody, expenditure and audit of organization funds, and the recognition criteria will require that recognized student organizations abide by such rules. No such rules or criteria may discriminate against any student or student organization based on the content or viewpoint of their expressive activity.

Such criteria will require student organizations to operate in a nondiscriminatory manner as provided in Board Policy No. 1.4.3. In compliance with Board Policy No. 1.4.3(5) institutions will recognize two limited exceptions to the general requirement that organizations not restrict membership or participation on the basis of race, color, creed, religion, national origin, ancestry, citizenship, gender, transgender, sexual orientation, age, disability, genetic information, military service membership or veteran's status. Consistently with rights guaranteed under state and federal constitutions, Board Policy No. 1.4.3(5) accommodates the distinctive characteristics of intimate associations or expressive associations. In keeping with these guarantees, an institution may not prohibit an ideological, political or religious student organization from requiring its leaders or members of the organization affirm and adhere to the organization's sincerely held beliefs, comply with the organization's standards of conduct, or further the organization's mission or purpose, as defined by the organization.

- 1.1.1. Intimate associations involve distinctively personal aspects of life. Factors that suggest that an organization should be treated as intimate association include: (a) the relative smallness of the organization; (b) a high degree of selectivity in choosing and maintaining members of the organization; (c) the personal nature of the organization's purpose; and (d) the exclusion of nonmembers from the central activities of the organization.
 - 1.1.1.1. A student organization that operates a residential facility for its membership would illustrate the kind of organization that might be classified as an intimate association, at least insofar as relates to limiting membership on the basis of gender.
- 1.1.2. Expressive associations are created for specific expressive purposes, and they would be significantly inhibited in advocating their desired viewpoints if they could not restrict their membership based on race, color, creed, religion, national origin, ancestry, citizenship, gender, transgender, sexual orientation, age, disability, genetic information or military service membership or veteran's status.
 - 1.1.2.1. A student organization dedicated to the practice of a particular religious faith would illustrate the kind of organization that might be classified as an expressive association, at least insofar as relates to limiting membership on the basis of adherence to the tenants of that faith.
- 1.1.3. Exceptions from the nondiscrimination policy will be made only to the extent necessary to accommodate the particular circumstance that warrants an exception; the overarching purpose of supporting student organization activities is to prepare students to act as citizens and leaders of a republican form of government, which by its nature permits discrimination against none.
 - 1.1.3.1. By way of illustration, but not limitation, a student organization operating a residential facility for its membership may be allowed to limit membership on the basis of gender, but not on the basis of religion; a student organization dedicated to the practice of a particular religious faith may be allowed to limit membership on the basis of religion, but, absent any contrary doctrine of faith, not on the basis of gender.
- 1.1.4. Each institution will establish a process that student groups may follow to secure recognition as student organizations. The chief executive officer of the institution will designate an administrator who will be responsible for determining whether a group of students satisfies the criteria for recognition as a student organization. Institutions with student government organizations may request that such organizations review applications for recognition as student organizations and make recommendations to the designated administrator whether a particular group of students satisfies the institutional criteria for recognition.

- 1.2. Recognized student organizations are to exist independent of, and outside of the direct control of the institution. Recognized student organizations are not agents of the institution and are not to be endorsed or directed by the institution. Recognition of, or the provision of funding to, student organization consistent with this policy should not be construed to conflict with or alter the foregoing. Recognized student organizations are entirely responsible for the actions, activities and liabilities incurred in the name of the recognized student organization and its members acting in their capacity as members of the recognized student organization. The provisions of this section should not be construed or applied to adversely impact or diminish the role of recognized student organizations on campus, but rather to ensure recognized student organizations enjoy the necessary autonomy to protect their right to engage in expressive activity to fullest extent permitted by law, while also maintaining the applicable accountability and responsibility associated with their status.

2. Funding of Recognized Student Organizations

In order to reduce the economic barriers to forming and operating student organizations or to accessing means of communication, institutions may grant subsidies, pursuant to this section, from funds apportioned from the general activity fee.

Only recognized student organizations may receive disbursements from the fund to finance the organizations' general operational expenses and to subsidize cultural, social, recreational and informational activities and events sponsored by the organizations.

Funding allocated to student organizations shall be distributed in a nondiscriminatory manner in accordance with applicable state and federal authority, and consistent with the institution's interests as outlined herein; provided that

- 2.1. No student organization will be eligible for fee subsidies:
 - 2.1.1. If the funding is prohibited by Article 6, § 3 of the SD Constitution because it will be used for sectarian ceremonies or exercises;
 - 2.1.2. If the funding is prohibited by SDCL § 12-27-20 because it will be used for the promotion or opposition of particular candidates for public office or ballot issues in elections, or financing off-campus lobbying or political activities of non-students;
 - 2.1.3. If the organization operates a residential facility for its membership or otherwise generates income from commercial activities for the personal use and benefit of members or on behalf of for-profit entities;
 - 2.1.4. If the organization generates income for the personal use and benefit of the sponsoring organization members or on behalf of for-profit entities; or
 - 2.1.5. If the funding is to be used to support obscene live conduct as defined by SDCL § 22-24-27.

This section does not prohibit a student governance body, recognized by the institution, whose leadership is popularly elected by the students, from using funding to communicate its position on behalf of all students, either through lobbying efforts before legislative bodies.

3. Procedures for Requesting Funding and Allocating Funds

- 3.1. Each institution will develop and publish instructions outlining the procedure that recognized student organizations may use to request funding from the general activity fee levied pursuant to Board Policy No. 5.5.4(1)(B).
- 3.2. The chief executive officer of the institution will designate an administrator who will be responsible for determining how funds will be allocated. Institutions with student government organizations may request that such organizations review applications for funding and make recommendations to the designated administrator.
- 3.3. Each institution will develop and publish viewpoint-neutral standards and/or criteria used to guide the review of funding requests submitted by recognized student organizations. Subject to the limitations stated herein, these standards will require that decisions be made on grounds unrelated to the exercise by students through the organization of their rights to free expression, to the free exercise of religion, to the freedom of association or to the freedom to petition government. Such rights-neutral mechanisms shall be created and administered in a consistent and non-discriminatory fashion, and may include, without limitation, random selection from among student proposals or prioritization based upon frequency of funding or other objective factors unrelated to the exercise of protected rights.

4. Advisors for Recognized Student Organizations

- 4.1. Each recognized student organization shall have a faculty or staff advisor from the institution. The role of the advisor is to provide guidance to the recognized student organization on the applicable rules, policies and processes of the institution.
- 4.2. Each institution shall develop standards to guide advisors in the fulfillment of their duties, which shall include, without limitation, establishing and enforcing the necessary parameters to prohibit advisors from directing or controlling the expressive activity of recognized student organizations.

FORMS / APPENDICES:

None

SOURCE:

BOR October 1994; BOR October 1996; BOR December 2000; BOR April 2013; BOR December 2018; BOR August 2019; BOR December 2021; October 2023 (Clerical); BOR June 2024.