

DATE: August 15, 2017

TO: Vice Presidents, Deans, Department Heads, Vice Provosts, Associate Provosts, and Directors

FROM: Maureen Redeker, Assistant General Counsel
Office of General Counsel

RE: Student Organization Policy – DSO and ISO Distinctions

As you are aware from the Division of Student Life's Center for Student Involvement's August 15, 2017 K-State Today article, the University recently adopted a [Student Organization Policy](#). I am writing this memorandum in follow up to that article to provide further explanation and information related to the new policy.

Historically, the University followed an event-by-event approach to determining whether student organization activities were university-sponsored for legal liability purposes. If University employees were substantially involved in facilitating and supervising the particular event, then it generally was considered a University-sponsored event and one for which the University could have legal responsibility and potential liability. Otherwise, the groups' activities were considered legally distinct and independent from the University.

The new policy aims to simplify that approach. The policy makes distinctions up-front on a group-by-group basis (instead of event-by-event). To do so, the policy classifies two different types of student organizations: (1) a departmental student organizations (DSO), and (2) independent student organizations (ISO). Each is discussed in turn.

Departmental Student Organizations

A DSO is the University itself.

DSOs are legally the same as the University itself. Therefore, DSOs shall follow all University policies that apply to University operations. For example, all funds of the DSO must be maintained by the department and in University accounts, and all DSO contracts must be processed in accordance with [PPM Chapter 3070](#).

DSO activities must be supervised.

The DSO's operations and activities must be adequately supervised by University personnel. What adequate supervision looks like depends on the circumstances, including the risks presented. Generally, University administrators must act reasonably under the circumstances.

A department has approval authority for what group(s) is/are a DSO.

A sponsoring department (or college or other applicable University unit) decides whether to sponsor an organization. If the organization otherwise meets the criteria and key indicators of a DSO (found in the policy), then that DSO classification will be granted to the group. Therefore, your department/unit has approval authority for whether an organization will be an official part of your department/unit and the University.

Students providing service to the University through a DSO might have protections available.

If students are providing services on behalf of the University through a DSO, it may be prudent to have them sign a volunteer agreement (or potentially another agreement if they are receiving payment from the University). An agreement provides clarity about the person's relationship with the University if there are any liability or worker's compensation concerns—volunteers of the University are generally covered and having a written document up front helps if any issues arise. For example, if students are recruiting potential students on behalf of your college or department, it would be appropriate to have them sign volunteer agreements.

Waivers may be appropriate.

For completely voluntary events involving a DSO, it may be appropriate to have participants sign a waiver. Generally, if transportation or other risk is involved, a liability waiver including an assumption of risk is useful. Each event needs a separate waiver that is tailored to the risks of the particular event.

Independent Student Organizations

ISOs are not the University. While a potentially valuable experience for students, ISOs' activities must be kept separate from the University's operations.

ISOs, on the other hand, are private organizations completely separate and distinct from the University. An ISO's activities and operations should remain that group's only, and not the University's. Except pursuant to a written contract approved by the Office of General Counsel, the University's operations should not involve any collaboration with the operations or activities of ISOs. This rare circumstance might occur, for example, if an ISO and an academic department want to co-sponsor a campus speaker.

A few practical examples reflecting an ISO's independence include that University administrators shall not: (1) sign contracts on behalf of an ISO; (2) maintain funds of an ISO other than a specified safe-keeping account with Division of Financial Services pursuant to state statute; (3) arrange for transportation to events, conference attendance, or similar events that are a part of an ISO's operations; or (4) give credit for service to ISOs as credit for service to the University.

Service to ISOs is outside the scope of University employment.

The main difference for University administrators under the new approach is that volunteering for or otherwise providing advice to an ISO shall not be a part of that University employee's job duties or description. Employees can participate as members of groups or otherwise generally engage in activities outside their employment (such as providing advice to third-party persons or groups). But for any such activity involving an ISO, please make clear to your employees that: (1) such activity is not part of their employment with the University; (2) if they are involved with an ISO, they do so at their own risk, without liability protection from state law or the University; and (3) proposals for outside activity would still be subject to the conflict of interest and time rules, which should be examined by the applicable supervisors/department heads to determine whether a conflict exists, such as if an employee's involvement in an outside activity creates a

misperception about a private organization's independence in a manner adverse to the University's interests.

Of course, employees of the Center for Student Involvement will provide general leadership development training and opportunities to both DSOs and ISOs. But no University employees (within the context of their employment) will be involved in the day-to-day operations of the ISOs.

Questions and Additional Information

I am available to discuss any questions you may have regarding the new policy and structure, including any agreements, waivers, or other legal documents that I reference above (or otherwise). You can reach me at redeker@ksu.edu or 785-532-5730. You can also contact the Center for Student Involvement with non-legal questions about the policy and DSO/ISO classifications.