

5.3.c

Institution-Related Entities: Control of Fund-raising Activities

For any entity organized separately from the institution and formed primarily for the purpose of supporting the institution or its programs:

- c. The institution demonstrates that (1) the chief executive officer control any fund-raising activities of that entity, or (2) the fund-raising activities of that entity are defined in a formal, written manner which assures that those activities further the mission of the institution.

Judgment

Compliant Non-Compliant Not Applicable

Narrative

The University of South Carolina has authorized and is supported by six (6) independent, separately incorporated entities formed primarily for the purpose of supporting the University of South Carolina and its programs. These entities are:

1. the University of South Carolina [Educational Foundation](#);
2. the University of South Carolina [Development Foundation](#);
3. the University of South Carolina [Business Partnership Foundation](#);
4. the South Carolina [Research Foundation](#);
5. the [Educational Foundation of the University of South Carolina Lancaster](#);
6. the University of South Carolina [Alumni Association](#); and
7. the University of South Carolina Upstate Foundation

(These entities are collectively referred to herein as the "Support Foundations" and individually referred to herein as the "Support Foundation.")

Each Support Foundation is a non-profit corporation incorporated under the laws of the State of South Carolina.

The relationship between the University of South Carolina and each Support Foundation is defined by a written affiliation agreement ("Affiliation Agreement") approved by the University of South Carolina Board of Trustees ("Board of Trustees") and the Support Foundation's Board of Directors or Trustees. The Affiliation Agreements are reviewed and updated periodically; most recently, the Affiliation Agreements for the University of South Carolina Educational Foundation, the University of South Carolina Development Foundation and the University of South Carolina Business Partnership Foundation were reviewed and approved by the Board of Trustees on July 19, 2020, and the Affiliation Agreements for the South Carolina Research Foundation, the Educational Foundation of the University of South Carolina Lancaster, the University of South Carolina Alumni Association, and the University of South Carolina Upstate Foundation were reviewed and approved by the Board of Trustees on August 14, 2020.

Each Affiliation Agreement expressly recognizes the Southern Association of Colleges and Schools Commission on Colleges ("SACSCOC") accreditation standards ("SACSCOC Accreditation Standards") and commits both the University of South Carolina and the Support Foundation to perform its respective activities under the Affiliation Agreement in full compliance with SACSCOC Accreditation Standards. Each Affiliation Agreement provides:

The Parties agree to work together to comply with the principles of institutional control and other regulations of the Southern Association of Colleges and Schools Commission on Colleges ("SACSCOC") (or other equivalent body or association that may provide accreditation or similar rating standards upon USC, and to which USC is subject) applicable to the accreditation of USC ("SACSCOC Accreditation Standards"). In the event that any provision of this Agreement violates the SACSCOC Accreditation Standards, such provision of this Agreement shall be automatically reformed and construed so as to be valid, operative, and compliant with SACSCOC Accreditation Standards while preserving its original intent to the maximum extent possible."

[See Article II (or Article VIII with respect to the University of South Carolina Upstate Foundation) of the Affiliation Agreements.]

SACSCOC Standard 5.3. Article I of each Affiliation Agreement addresses directly the requirements of SACSCOC Standard 5.3, as follows:

The purpose of this Agreement is to (i) define the relationship of the Foundation to USC as a separate and independent organization formed primarily for the purpose of supporting USC, (ii) formally delineate any liability exposure between the Parties arising out of such relationship, and (iii) assure that the activities of the Foundation, on behalf of and for the benefit of USC, shall at all times further the mission of USC."

SACSCOC Standard 5.3(c). SACSCOC Standard 5.3(c) requires that "The institution demonstrates that (1) the chief executive office controls any fund-raising activities of that entity or (2) the fund-raising activities of that entity are defined in a formal, written manner which assures that those activities further the mission of the institution."

The Affiliation Agreements confirm that fund-raising activities of each Support Foundation are designed to further the mission of the University of South Carolina. Article I of each Affiliation Agreement provides in part: "The purpose of this Agreement is to ... assure that the activities of the Foundation, on behalf of and for the benefit of USC, shall at all times further the mission of USC."

Each Affiliation Agreement states that the primary purpose of the Support Foundation is to support the mission of the University of South Carolina.

[See the preamble provisions in each Affiliation Agreement; See Article III of the Affiliation Agreements for the University of South Carolina Educational Foundation, the University of South Carolina Development Foundation, the University of South Carolina Business Partnership Foundation, and the Educational Foundation of the University of South Carolina Lancaster; See Article IV of the South Carolina Research Foundation; See Article VI of the University of South Carolina Alumni Association.]

Each Affiliation Agreement contains a provision describing the role of the Foundation in fundraising on behalf of or otherwise supporting the mission of the University of South Carolina. See, for example, Article III, Section 3.1 of the Affiliation Agreement with the University of South Carolina Educational Foundation which provides:

USC hereby acknowledges the role of the Foundation, and the Foundation hereby accepts its acknowledge role, to create an environment conducive to increasing levels of private support for the mission and priorities of USC, to receive, manage and administer certain private philanthropy for the benefit of USC as described herein, and to do and to undertake such other activities as contemplated herein. USC authorizes the Foundation to receive, directly and indirectly, gifts, grants, pledges, commitments, and other aid and support from donors and grant-makers for the benefit of and support of USC, its programs and mission. The Foundation will establish, adhere to and periodically assess their gift acceptance and administrative policies. The Foundation will work with the USC Office of University Development (or its success office) to provide appropriate recognition and stewardship of such gifts.

Section 3.5 of the Affiliation Agreements with the University of South Carolina Educational Foundation, the University of South Carolina Development Foundation, the University of South Carolina Business Partnership Foundation, the Educational Foundation of the University of South Carolina Lancaster provides:

Exclusivity of Support. In further connection with and consideration of the foregoing acknowledgement, the Foundation agrees that it shall provide [the University of South Carolina], its programs, mission, and, as determined by [the University of South Carolina] in its sole discretion, affiliates and beneficiaries with the sole benefit of all private gifts and net income received by the Foundation.

Section 4.3 of the Affiliation Agreement with the South Carolina Research Foundation provides:

Support of USC. The Foundation shall support USC in accordance with its corporate purpose. The Foundation shall create an environment conducive to encouraging, enhancing and expanding scientific investigation and research at USC and increasing levels of support for the mission and priorities of USC. The Foundation agrees that it shall provide USC sit the sole benefit of all private gifts and net income received by the Foundation on behalf of USC.

To protect funds raised by the Support Foundations for the benefit of the University of South Carolina, each Affiliation Agreement contains an asset management provision pursuant to which the Support Foundation must establish asset investment, disbursement and spending policies that adhere to applicable federal and state laws, including the South

[See Section 3.2 of the Affiliation Agreements for the University of South Carolina Educational Foundation, the University of South Carolina Development Foundation, the University of South Carolina Business Partnership Foundation, the Educational Foundation of the University of South Carolina Lancaster; See Section 7.1 of the Affiliation Agreement with the University of South Carolina Alumni Association; See Section 4.5 of the Affiliation Agreement with the South Carolina Research Foundation.]

The financial activities of each Support Foundation are subject to an annual audit, a copy of which is provided to the University of South Carolina.

[See Section 3.6 of the Affiliation Agreements for the University of South Carolina Educational Foundation, the University of South Carolina Development Foundation, the University of South Carolina Business Partnership Foundation, and the Educational Foundation of the University of South Carolina Lancaster; See Section 7.2 of the Affiliation Agreement with the University of South Carolina Alumni Association; See Section 4.8 of the Affiliation Agreement with the South Carolina Research Foundation.]

Finally, to ensure that the fund-raising activities of the Support Foundations align with the mission and priorities of the University of South Carolina, the Affiliation Agreements provide that appropriate representatives of the University of South Carolina and the Support Foundation shall hold periodic meetings to foster and maintain productive relationships, to ensure open and continuing communications and alignment of priorities, and to ensure the Support Foundation is aware of the current and long-range strategic planning, mission, objectives and programmatic goals of the University of South Carolina.

[See Section 4.1 of the Affiliation Agreements for the University of South Carolina Educational Foundation, the University of South Carolina Development Foundation, the University of South Carolina Business Partnership Foundation, and the Educational Foundation of the University of South Carolina Lancaster; See Sections 5.1 and 6.2 of the Affiliation Agreement with the South Carolina Research Foundation; See Section 9.2 of the Affiliation Agreement with the University of South Carolina Alumni Association.]

Sources

-  [Business Partnership Foundation](#)
-  [Development Foundation Agreement](#)
-  [SC Research Foundation Agreement](#)
-  [USC Alumni Association Agreement](#)
-  [USC Educational Foundation Agreement](#)
-  [USC Lancaster Educational Foundation](#)