

AUXILIARY ORGANIZATIONS ASSOCIATION

2018 ANNUAL LEGISLATIVE & COMPLIANCE REPORT

Legislative & Compliance Updates are reported regularly to the Executive Committee and periodically to AOA standing committees, as well as to the AOA Membership by postings on the AOA Web Site.

This **Annual Report** reaches back to significant 2017 California Legislature highlights, and new or continuing significant legislative, regulatory and compliance matters in 2018. The *Report* may include issue-analysis and commentary that should not be construed as legal advice or as a position taken by the Auxiliary Organizations Association. The bill summaries below may not completely reflect all features of a measure.

I. 2017 California Legislature Highlights

Assembly Bills

AB 214 (Weber). Postsecondary Education: Student Hunger. This bill would express the intent of the Legislature to enact legislation to reduce the incidence of hunger and homelessness among college students in California. This bill contains other related provisions and other existing laws. Enacted (7/24/2017).

AB 168 (Eggman). Employers: Salary Information. Existing law imposes various restrictions on employers with respect to applicants for employment. A violation of those restrictions is a misdemeanor.

This bill amends the Labor Code to prohibit an employer from relying on the salary history information of an applicant for employment as a factor in determining whether to offer an applicant employment or what salary to offer an applicant.

The bill also prohibits an employer from seeking salary history information about an applicant for employment and would require an employer, upon reasonable request, to provide the pay scale for a position to an applicant for employment.

The bill does not prohibit an applicant from voluntarily and without prompting disclosing salary history information and would not prohibit an employer from considering or relying on that voluntarily disclosed salary history information in determining salary, as specified.

The bill applies to all employers, including state and local government employers and the Legislature and would not apply to salary history information disclosable to the public under federal or state law. The bill specifies that a violation of its provisions would not be subject to the misdemeanor provision. Enacted and signed by the Governor (10/12/17).

See: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB168

AB 453 (Limon & Wiener). Postsecondary education: student hunger. This bill would require the trustees and the governing board of participating community college districts, and would encourage the regents, to designate as a “hunger free campus” each of its respective campuses that meet specified criteria. Upon appropriation by the Legislature, the bill would, commencing with the 2018–19 academic year, provide that each campus that receives the designation shall receive a funding incentive. The bill would repeal its provisions on January 1, 2022. Passed Assembly as amended; in Senate Ed Committee (6/14/17).

AB 522 (Cunningham). Alcoholic Beverage Temporary Permits – Charitable Organizations. This bill would provide that a charitable organization, as defined, that has obtained a raffle registration from the Department of Justice and to which has been issued a special temporary on-sale or off-sale beer or wine license, may hold a raffle involving a prize of alcoholic beverages without violating the Alcoholic Beverage Control Act. Enacted and signed by the Governor (10/3/17).

AB 819 (Medina). CSU – Regulations. Existing law establishes the California State University under the administration of the Trustees of the California State University. Existing law, to be repealed as of January 1, 2018, sets forth a procedure for the adoption, amendment, or repeal of regulations by the trustees, and requires the trustees to follow that procedure rather than the procedure set forth in the Administrative Procedure Act.

This provision includes requirements that notice of the proposed regulations be sent, at least 45 days before a public hearing at which the proposed regulations are to be considered, to those persons who have requested notices of the meetings. Existing law also requires that notice of the proposed regulations be available to the public in electronic format.

This amended bill would specify that, at least 45 days before the public hearing and before adoption of a proposed regulation, written notice of the proposed regulation shall be made available on the Internet Web site of the trustees. The bill would also delete the repeal-date of this provision, and therefore extend the operation of this provision indefinitely. Enacted and signed by Governor (10/12/17).

See: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB819

Senate Bills

SB 244 (Lara). Privacy: agencies: Personal Information. This bill would enact new statutory provisions that prohibit all state and local government agencies from collecting, recording, or using sensitive personal information, as defined, for any purpose other than assessing eligibility for public services or program for which an application has been submitted.

Additionally, this bill would exempt sensitive personal information, as defined, from the California Public Records Act (CPRA) unless disclosure is meets specified criteria.

Finally, this amended bill revises a number of statutes regarding specific government programs and services that currently collect, record, or use personal information, making it clear that such information may only be used for the purpose of administering the program, is exempt from CPRA, and cannot be disclosed absent the consent of the individual to whom the information relates or a court order, except when otherwise required by California law or court order or as part of aggregate data that does not reveal the identity of the people upon whom the data is based. Passed Senate; in Assembly Appropriations Committee [Inactive File] (9/14/17).

See: http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB244

SB 727 (Galgiani). Public postsecondary education: instructional materials: innovative pricing. This amended bill would add to the Donahoe Higher Education Act a provision authorizing public postsecondary educational institutions to adopt policies that allow for the use of innovative pricing techniques and payment options for textbooks and other instructional materials, as specified.

The bill would require that innovative pricing techniques and payment options adopted pursuant to the bill include an opt-out provision for students, and further would require that they be adopted only if there is documented evidence that the proposed options, if they are adopted, would actually reduce the cost of the textbooks or other instructional materials for students taking a course.

The bill would provide that nothing in its provisions, nor any policy adopted by a public postsecondary educational institution pursuant to this bill, shall violate, or be inconsistent with, the academic freedom of faculty as it relates to the assignment and use of instructional materials. Passed Senate; in Assembly Appropriations Committee [Inactive File] (9/13/17).

See: http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB727

II. 2018 Bills of Interest to Auxiliary Organizations

Sponsored, priority and measures of interest impacting the CSU may be tracked through the CSU *Advocacy & State Relations Office* reporting system.

See: <https://www2.calstate.edu/impact-of-the-csu/government/advocacy-and-state-relations/Pages/default.aspx>

Assembly Bills

AB 336 (Baker). Post Secondary Education (Ed Code §66010.95). (Spot Bill). **DIED**

AB 375 (Chau [A], Hertberg [S]). Privacy: Personal Information: Businesses (California Consumer Privacy Act of 2018). Enacted and effective Adds Title 1.81.5 to Civil Code, starting with Section 1798.100 relating to the privacy of personal information in commerce.

Effective January 1, 2020, companies around the world will have to comply with additional regulations related to processing of personal data of California residents. Under this Act, companies have to observe restrictions on data monetization business models, accommodate rights to access, deletion, and porting of personal data, update their privacy policies and brace for additional penalties and liquidated damages. The California Legislature and Governor rushed this bill through on June 28, 2018, in exchange for the withdrawal of a proposed initiative withdrawn from the ballot the same day.

See: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB375 and

<https://iapp.org/news/a/analysis-the-california-consumer-privacy-act-of-2018/>

AB 936 (Chavez). Education Code Changes. (Spot Bill - Still). **DIED**

AB 1754 (McCarty). State full-day preschool program: eligibility for enrollment: low income schools.

The *Child Care and Development Services Act*, administered by the State Department of Education, requires the Superintendent of Public Instruction to administer child care and development programs that offer a full range of services to eligible children from infancy to 13 years of age, inclusive.

Existing law requires the Superintendent to administer all California state preschool programs, which include part-day age and developmentally appropriate programs for 3- and 4-year-old children, as provided.

Existing law provides that 3- and 4-year-old children are eligible for the state part-day preschool program if the family meets one of several eligibility requirements, including income eligibility.

Existing law provides that “income eligible,” for purposes of the Child Care and Development Services Act, means that a family’s adjusted monthly income is at or below 70% of the state median income, adjusted for family size, and adjusted annually.

This bill would revise the eligibility requirements for full-day preschool programs operated at any California public school, including a charter school, that has at least 40% of its pupils being from low-income families, as specified pursuant to Title I of the federal Elementary and Secondary Act of 1965, or a community-based organization that contracts with the above-described school or school district.

This bill would require the State Department of Education to share participation data from the Medi-Cal program with local educational agencies. The bill would impose specified requirements on the State Department of Education and local educational agencies relating to the privacy and confidentiality of that participation data.

The bill would require a local educational agency participating in a full-day preschool program at a high poverty school, as defined, to use that participation data, commencing with the participation data of pupils in the 2019–20 school year, to directly certify pupils eligible for full-day preschool at a high poverty school, to the extent permitted under federal law.

The bill would authorize a school district or county superintendent of schools to determine a pupil's eligibility for full-day preschool at a high poverty school based on data including the direct certification match and alternative measures of poverty pursuant to specified state and federal law. This provision would become operative upon the receipt of federal funds to assist the state in implementing its provisions.

Passed Assembly as amended; in Senate Appropriations Committee (8/6/18). **Placed in Suspense File.** [A unique feature of the Appropriations Committee is the Suspense File, to which the committee sends any bill with an annual cost of more than \$150,000 (any fund). **Suspense File** bills are then considered at one hearing after the state budget has been prepared and the committee has a better sense of available revenue. No testimony is presented – author or witness – at the Suspense File hearing.]

Note: As amended, this bill has apparent, perhaps unintended negative consequences for community-based child care programs, including those operated by some campus auxiliary organizations.

See: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1754

AB 1961 (Choi). Postsecondary education: student housing and meal plans (with amendments shown).

Section 69503.6 would be added to the Education Code, to read:

Under existing law, the segments of postsecondary education in this state are the University of California, the California State University, the California Community Colleges, independent institutions of higher education, and private postsecondary educational institutions.

This bill requires each institution of higher education with a physical presence in this state to separately list the cost of institutionally operated housing and meal plans on all Internet Web sites and documents it provides to students for purposes of advertising or otherwise displaying the student costs associated with institutionally operated housing.

Pass the Legislature and signed by the Governor (9/10/18).

Now interpretation wags can head out to discover the intended scope of the term “institutionally operated housing and meal plans.” Any Chancellor’s Office takers?

See: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1961

AB 2070 (Reyes). Postsecondary education: sexual assault and sexual violence prevention training: intimate partner and dating violence.

Existing law requires California postsecondary institutions, in order to receive state funds for student financial assistance, to adopt, among other things, detailed and victim-centered policies and protocols, and outreach programs, regarding sexual assault, domestic violence, dating violence, and stalking involving a student that comport with best practices and current professional standards, covering specified topics, including a comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating sexual assault, domestic violence, dating violence, and stalking cases.

This bill would provide that the outreach programming required by this provision would include informing students about specified topics relating to intimate partner and dating violence, as specified.

Enacted by Legislature. **Vetoed** by the Governor. (7/5/18).

See: http://leginfo.legislature.ca.gov/faces/billVersionsCompareClient.xhtml?bill_id=201720180AB2070

AB 2075 (Quirk-Silva). Postsecondary Education: Bundled Textbooks.

This bill would prohibit California institutions of higher education from requiring their students to purchase bundled textbooks and would require faculty at these institutions to inform their students of the most economically viable options for purchasing textbooks. Re-referred to Assembly Rules Committee under Rule 96 (5/3/18). **Died.** Back next Session?

See: http://leginfo.legislature.ca.gov/faces/billVersionsCompareClient.xhtml?bill_id=201720180AB2075

AB 2178 (Limón). Limited service charitable feeding operation. This Bill expands the definition of a food facility to include a limited service charitable feeding operation whose purpose is to feed food-insecure individuals and requires limited service charitable feeding operations to register with the local enforcement agency.

Senate amendments clarify the registration process and best managements practices for limited service charitable feeding operations, deletes the authorization of the local enforcement agency to temporarily suspend the registration of limited service charitable feeding operations during a state of emergency, and clarifies certain functions of a limited charitable feeding operations and exempts operations that have a valid operating permit, as specified. Enacted by Legislature and signed by the Governor (9/18/18). See:

http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB2178

A number of member-organization have expressed concern about the regulatory and economic effect of this bill.

AB 2385 (Cunningham). Public postsecondary education: textbooks. Existing law urges textbook publishers to take specified actions aimed at informing students about, and reducing the amounts that students pay for, college textbooks. Among those actions, existing law urges textbook publishers to provide to faculty and departments considering textbook orders, and to post on their Internet Web sites, among other things, an explanation of how the newest edition is different from previous editions.

This bill urges textbook publishers to post in a prominent location on their Internet Web sites, among other things, a detailed description of how the newest edition differs from the previous edition, as specified. Enacted by Legislature and signed by the Governor (8/27/18). See:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2385

AB 2563 (Patterson). Student financial aid: Cal Grant B and Cal Grant C awards: financial aid book advance program (with amendments shown).

This bill, beginning with the 2019–20 academic year, would require each Cal Grant participating institution, as a condition of its voluntary participation in the Cal Grant Program, to implement a financial aid book advance program that would provide *a line of credit* at the institution's campus bookstore to students receiving Cal Grant ~~B or B~~, Cal Grant ~~C awards C~~, *federal Pell Grant, or other financial aid dispersed to the student for educational expenses* for the purchase of books and educational materials before the Cal Grant B or Cal Grant C funds are disbursed to the student.

The bill would provide for a reduction in the amount of *these* grant funds disbursed to a student based on the amount of credit expended by the student at the institution's campus bookstore and would provide for reimbursement to the institution's campus bookstore for the amount of the credit expended by the student. *The bill would exempt an institution that does not have a campus bookstore from these requirements.* In Appropriations Committee. Held under submission. (5/25/18). **Dead**

See: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2563

ACA 31 Public Executive Pay Reform Act of 2018. This resolution was introduced on May 23rd by Assemblyman Cervantes to cap the annual base salary or pay rate at the salary level received by California's Governor.

See: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180ACA31

ACA 31 would apply to all of the following public sectors:

- Cities, counties, special districts
- Public hospitals
- State and local engineers, public works directors
- Public schools
- Teaching and medical hospitals
- Commissions
- CalPERS, CalSTRS, 37 Act agencies
- Boards, state agencies, regulatory boards
- Joint powers authorities
- School boards and administrators
- And probably a few other areas (how about auxiliary organizations using CSU classifications?).

ACA 31 would not apply to anyone under an existing employment contract that was effective immediately prior to the passage of ACA 31, **BUT** it does apply to contracts up for renewal or extensions.

ACA 31 requires a two-thirds vote of the Legislature but does not require a Governor's signature. The fact that it is a constitutional amendment requires it to go before California voters. And in order to get qualified for the November ballot, it needs to pass the Assembly and Senate by the first week of July. There are some exceptions to that rule—they could convince the Secretary of State to extend the deadline - but waiting until the Legislature returns in August after their month-long summer recess in July seems unlikely since they will have until August 31st to finish up all legislative business before they officially close shop, go back to their districts, gear up for the November elections and return for the 2019-20 legislative session in December. In other words, timing is not on Assembly Member Cervantes' side.

Another potential roadblock is the fact that a handful of Republicans would be needed to vote for the passage of ACA 31.

In Assembly committee. **Died.**

Senate Bills

SB 1022 (Pan). CalPERS Contracting Agency Termination Process Shortened. This bill allows an agency contracting with the California Public Employees' Retirement System (CalPERS) to more rapidly terminate a contract with CalPERS. Specifically: revises the timeline for the voluntary termination of a contract that has been in effect for at least five years. Under this revised timeline, the agency's governing body must adopt a resolution of intent and then notify, in writing, past and present employees within 30 days of the adoption of the resolution of intent. The agency must then adopt an ordinance or resolution terminating the contract not less than 90 days after and not more than one year after CalPERS' receipt of the resolution of intent. Passed Senate; In Assembly Appropriations Committee, Hearing on 8/8/18.

SB 1166 (Pan). CalPERS: Contracting Agency Contributions Failure Notice. Under existing law, the Public Employees' Retirement Law (PERL) authorizes a public agency to contract to make its employees members of PERS and prescribes a process for this. PERL prohibits participating employers from failing or refusing to pay their contributions on time. PERL authorizes the board to charge interest on agency contributions due and unpaid.

This bill would require a contracting agency that fails to make its required employer contributions on time, and that fails to cure the delinquency within 7 days, to notify members and retired members who are current or past employees of that agency, or their beneficiaries, of the agency's delinquency by mail within 30 days of the payment having become delinquent. The bill would require the board to provide contact information in a specified format to contracting agencies for the purpose of providing notice to members and retired members who are current or past employees of that agency, or to their beneficiaries, and would prescribe a process in this regard. The bill would immunize contracting agencies for failure to provide notice if the contact information is incomplete or incorrect.

Passed Senate; In Assembly Appropriations Committee (Inactive File)(8/16/18) **Dead**. See:

https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB1166

SB 1275 (Stern). Public postsecondary education: Plan Against College Hunger Act of 2018.

The bill would establish a program under the administration of the commission for the purpose of reimbursing public postsecondary educational institutions, as defined, that provide student meal plans at no cost to students attending more than part time and who are Cal Grant recipients.

The bill would impose requirements on the student meal plans that may be reimbursed under the program. The act would create the Plan Against College Hunger Fund in the State Treasury, and would provide that moneys in the fund are required to be expended by the commission, upon appropriation by the Legislature, for the purposes of the program and to reimburse the commission for its administrative costs related to administering the program.

The bill would authorize the commission to seek grants and accept donations from private and public organizations and agencies for the purposes of the program for deposit in the fund.

The bill would require the commission to inform, to the extent possible, Cal Grant award recipients of public postsecondary educational institutions electing to participate in the program and of their eligibility under the program.

The bill, notwithstanding any other law, would prohibit a student meal plan received pursuant to these provisions from being considered as income for the purpose of determining eligibility in any state needs-tested financial aid or public benefit. Passed Education Committee; amended and back to Appropriations Committee (4/23/18) Suspense File. **Dead**.

See: https://leginfo.legislature.ca.gov/faces/billVersionsCompareClient.xhtml?bill_id=201720180SB1275

III. Other State Matters

CalPERS Developments

New Regulations Defining “Full-Time Employment. A new definition has been proposed by the CalPERS Board of Administration: 34 hours per calendar week or an equivalent as determined by CalPERS (not the contracting agency).

The new regulations also require the employer to notify CalPERS of the established “normal work weeks” of all employees by group or class. See:

<https://www.calpers.ca.gov/docs/text-proposed-regulation-definition-full-time-employment.pdf>

Dynamex Operations West, Inc. v. The Superior Court of Los Angeles County

In a landmark, unanimous decision, the California Supreme Court established a three-part (“ABC”) test required to overcome the presumption that workers are employees in the context of regulatory work orders. While the decision’s scope may be in doubt, the impact on auxiliary organization independent contractor relationships should be closely scrutinized in terms of documentation and practices.

See: <http://www.courts.ca.gov/opinions/documents/S222732.PDF>

Follow on cases are now contending with the issue of whether the decision was retroactive or only prospective.

In mid-July, the federal government has also stepped into the IC vs employee issue by withdrawing a prior administrative interpretation on independent contracting, not replacing it, and issuing a DOL Field Assistance Bulletin that includes a radical shift of DOL and departure from IRS standards. See:

https://www.dol.gov/whd/FieldBulletins/fab2018_4.htm

IV. Federal Matters

New Help Divining the *Tax Cuts & Jobs Act* for your Auxiliary Organization

The IRS has launched an easy-to-use webpage, [IRS.gov/taxreform](https://www.irs.gov/taxreform), with information about how the Tax Cuts and Jobs Act affects your taxes, with a special section focused on tax exempt entities.

Public Sector Unions Lose in *Janus v. AFSCME* US Supreme Court Decision

The Supreme Court ruled 5-4 in *Janus v. AFSCME* that nonunion workers cannot be forced to pay fees to public sector unions.

Fall out and “next steps” in California will be numerous and ongoing. Stay tuned. See:

https://www.supremecourt.gov/opinions/17pdf/16-1466_2b3j.pdf

Final IRS Rules on Gift Substantiation Requirements

The IRS issued final regulations for substantiating and reporting charitable contribution deductions. The regulations:

- describe how to record cash, check, and other monetary gifts;
- provide substantiation requirements for noncash contributions; and
- define “qualified appraisal” and “qualified appraiser.”

These new regulations largely adopt existing guidance and proposed regulations. Rules apply to gifts made after July 30, 2018. See:

<https://www.federalregister.gov/documents/2018/07/30/2018-15734/substantiation-and-reporting-requirements-for-cash-and-noncash-charitable-contribution-deductions>

New IRS Rules Weakening Donor Disclosures Do Not Apply to 501(c)3s

The US Treasury Department adopted new regulations that tax-exempt organizations (except Section 501(c)3 charities or Section 527 political action committees) will no longer have to disclose their donors on the IRS Form 990. The change takes effect with information on returns for taxable years ending on or after December 31, 2018. See: <https://www.irs.gov/pub/irs-drop/rp-18-38.pdf>

From a *Wall Street Journal* editorial: “Congress required the IRS to collect 501(c)(3) information in the 1960s, but in 1971 the Nixon Administration extended the reporting requirement to other nonprofits.” Thus, for other types of nonprofits the disclosure requirement is set in regulation which can be set or changed by the executive branch without Congressional action.

The change affects more than 300,000 labor unions, chambers of commerce, recreation clubs, black lung benefit trusts, and other nonprofit organizations that do not offer donors the benefit of donation deductibility. However, it’s an open secret that the intent is to aid in concealing the donors to 501c4 social welfare groups often involved in significant political activity, sometimes referred to as “dark money” groups. In addition to further shrouding the identities of donors from the IRS, the rule change also makes it more difficult for states seeking to regulate political expenditures on elections held within their borders.

Rather than simply requiring 501(c)4 entities to file copies of their Form 990 Schedule B donor list with state regulators, states will now have to come up with their own reporting forms and requirements, promulgate administrative rules and/or enact legislation, and prepare to withstand court challenges from objecting organizations. This adds time and expense to an already difficult effort to identify the sources and extent of “dark money” in state political campaigns.

I’m betting California will take a lead on this development. Montana has already filed suit against the IRS. More on this follow, I’m sure.

OMB 2018 Single Audit Compliance Supplement Issued

On May 18, the 2018 Office of Management and Budget (OMB) *Compliance Supplement* was issued in a different format than prior years. OMB only provided the significant updates and changes. Therefore, auditors should be using the 2018 and 2017 Supplements together to perform single audits of fiscal years beginning after June 30, 2017

See: <https://www.whitehouse.gov/wp-content/uploads/2018/05/2018-Compliance-Supplement.pdf>

The Federal ‘Tax Cuts & Jobs Act’ Impacts Higher Education and Exempt Organizations

A few notable provisions likely to affect auxiliary organizations:

- **Unrelated business income separately computed for each trade or business (“basketing”).**

For an organization with more than one unrelated trade or business, the proposal requires that unrelated business taxable income (UBTI) first be computed separately with respect to each trade or business and without regard to the specific deduction generally allowed under section 512(b)(12). The organization's UBTI for a taxable year is the sum of the amounts (not less than zero) computed for each separate trade or business, less the specific deduction allowed under section 512(b)(12). A net operating loss (NOL) deduction is allowed only with respect to a trade or business from which the loss arose.

The final bill tightened the deduction limitation to 80 percent of taxable income for losses arising in tax years beginning after 2017. We anticipate that this provision will cause many colleges and universities to incur a tax liability in spite of overwhelming NOLs, because of the combined effect of “basketing” and the new NOL limitation. The tax will be at the 21 percent corporate rate.

- **New UBI taxes on fringe benefits provided to employees.** An organization's unrelated business income (UBI) will be increased by the amount of certain fringe expenses. Tax-exempt entities will be taxed on the value of providing their employees with transportation fringe benefits, and on-premises gyms and other athletic facilities, by treating the funds used to pay for such benefits as UBI, thus subjecting the values of those employee benefits to a tax at the 21 percent corporate tax rate.

Update: IR-2018-247, December 10, 2018. The Internal Revenue Service today issued interim guidance regarding the treatment of qualified transportation fringe benefit expenses paid or incurred after Dec. 31, 2017. The new rules assist taxpayers in determining the amount of parking expenses that are no longer tax deductible. They also help tax-exempt organizations determine how these nondeductible parking expenses create or increase unrelated business taxable income (UBTI). See:

<https://www.irs.gov/newsroom/irs-issues-guidance-for-determining-nondeductible-amount-of-parking-fringe-expenses-and-unrelated-business-taxable-income-provides-penalty-relief-to-tax-exempt-organizations>

- **Charitable deductions.** The standard deduction would be increased to \$24,000 for joint filers and \$12,000 for individuals. The bill estimates that that this would reduce the number of taxpayers who itemize deductions from approximately one-third under current law to fewer than 10 percent. The Joint Committee on Taxation has estimated that the Act will spur a dramatic drop in the amount of charitable giving in the U.S. with 32 million fewer people eligible to claim the deduction. This dramatic change, combined with the doubling of the estate tax exclusion from \$5.49 million to \$10.98 million could significantly affect donor behavior. The estate tax expansion expires after 2025.

Act implementation details will emerge over time. 2018 Updates will track these developments.
See: http://www.nacubo.org/Initiatives/Tax_Reform.html Source: NACUBO

IRS uses Specific Audit Technique Guides (ATGs) Examiners use these guides during audits of specific types of exempt organizations. Good preparation info.

See: <https://www.irs.gov/charities-non-profits/audit-technique-guides-atgs-for-exempt-organizations>

New IRS Podcast: When are Commercial-Type Activities a Substantial Nonexempt Purpose for an IRS 501(c)(3) Organization?

See: <https://www.stayexempt.irs.gov/Resource-Library/Issue-Podcasts>

IRS Produces New Form 990 Overview Course

The IRS recently added an online *Form 990* overview course to its web presence.

It is common for auxiliary organizations to use an outside audit firm for Form 990/990T preparation. But this should not replace or obviate the need for management to have a clear and up-to-date understanding of the basics associated with these forms. All too often, critical entries come back to bite because form information has been entered improperly or incorrectly (and management has not done a simple preview of the report before it is signed and filed).

. See: <https://www.stayexempt.irs.gov/Existing-Organizations/Form-990-Overview>

V. CSU (several references via CSYou – employee access required)

System-wide Student Organizations Audit Report (17-130)

This past April, the *Office of Audit and Advisory Services* issued a system-wide report on issues relating to campus student organizations.

See: <https://www2.calstate.edu/csu-system/transparency-accountability/audit-reports/Documents/student-organizations/2017/17130StudentOrganizationsSystemwide.pdf>

While the report did take issue with the adequacy of EO 1068, *Student Activities*, and highlighted the nature and impact of ICSUAM 3141.01, *Administration of Student Organization Funds*, it appears that other compelling issues affecting the involvement of auxiliary organizations in student organization activities and funds, were not taken up. These other matters have been analyzed in an *Issue Brief* available from the undersigned.

ICSUAM New or Proposed Revised Policies:

See generally: <https://csyou.calstate.edu/Policies/icsuam/Pages/New-Revised-Policies.aspx>

ICSUAM 1301-00 Hospitality (FINAL – Effective 9/14/18)

ICSUAM 3601-01 Travel Policy (Adds compliance requirements re: AB 1887, State Discrimination)
Effective: 1/17/18.

ICSUAM 5236.00 CSU Policy Manual for Contracting and Procurement- Final

This policy articulates the CSU's requirements related to single-use plastics to ensure procurement and contracting activities are in compliance with CSU's sustainability goals and applicable regulations.

CSU sustainability policies, including but not limited to 5236.00 and 5235.00, apply to Auxiliary Organizations incorporated to support the California State University.

ICSUAM 2002-00 Budget Oversight. Adds to existing policy by more specific requirements for minimum level and frequency of campus CFO budget performance monitoring written policies and procedures. Effective 10/12/17:

ICSUAM 11001-01 Sponsored Programs Definitions (Adopted, effective 9/1/18)

ICSUAM 1102-01 Pre-Award General Policy Standards & Requirements (Final draft, effective 7/1/19)

ICSUAM 11002-03 Pre-Award Proposal Review & Approval (Adopted, effective 7/1/18)

ICSUAM 11002-04 Award Acceptance & Negotiations (Draft – comment by 9/1/18) effective 11/1/18)

ICSUAM 11002-05 Sponsored Program Management (Adopted; New & Revised from 11002.01 -- formally EO 890 -- effective 11/1/18)

ICSUAM 11002-06 Sub-recipient Monitoring (Adopted, effective 9/1/18)

ICSUAM 11002-07 Reporting & Records Management (Adopted, effective 11/1/18)

ICSUAM 11003-03 Indirect Cost/F&A Rate Agreements (Adopted, effective 7/1/18)

ICSUAM 11003-04 Proposal Costing (Adopted, effective 11/1/18)

ICSUAM 11003-05 Allowable Costs (Adopted, effective 9/1/18)

ICSUAM 11003-06 Compensated Effort (Adopted, effective 9/1/18)

ICSUAM 11003-07 Cost Sharing (Adopted, effective 9/1/18)

ICSUAM 11003-11 Project Closeout (Adopted, effective 11/1/18)

ICSUAM 11003-012 Federally Funded Procurement (Adopted, effective 7/1/18)

ICSUAM 11003-13 Externally Funded Equipment & Property Management (Adopted, effective 9/1/18)

ICSUAM 11005-00 Audit Monitoring & Resolution [Renumbered from 11008.00 (Adopted, effective 9/1/18)

ICSUAM 11010-02 Financial Conflict of Interest for Investigators (Adopted, effective 9/1/18)

Version 2 of Auxiliary Organization Compliance Guide. Now posted in ICSUAM 13000. No commentary on changes. An internal review/update of this guide in progress by CO.

See: <http://www.calstate.edu/icsuam/documents/Section13000.pdf>

Official List of Auxiliary Organizations “in Good Standing” (June 2017). Watch out for duplications on this list by virtue of identifying more than a single contact for each entity. There are now 86 auxiliary organizations after a merger at San Marcos and a new student union entity formed at Monterey Bay. There are two more in the works – one philanthropic foundation at an early formation stage, and another proposed commercial-function auxiliary at the concept stage. Another consolidation is also being considered.

See: <http://auxiliary.calstate.edu/wp-content/uploads/GoodStandingAuxiliaryList.pdf>

Revised Auxiliary Organization Operating Agreement Model (May 2017) & Student Union Lease Supplemental Clauses (June 2017)

See: <https://csyou.calstate.edu/Divisions-Orgs/bus-fin/csp/Lists/Model%20Agreements/AllItems.aspx>

Executive Order 1109 - Sales and Service of Alcoholic Beverages at or in Conjunction with University Intercollegiate Athletic Events, and Advertising of Alcoholic Beverages on Campus and at University Athletic Facilities (6/30/17) Replaces EO 966.

See: <http://www.calstate.edu/EO/EO-1109.pdf>

Executive Order 1108 – Policy on System-wide Smoke & Tobacco Free Environment (4/7/17)
Replaces EO 599. See: <http://www.calstate.edu/EO/EO-1108.html>

CSU Conflict of Interest Handbook (Office of General Counsel Revision 2/17)

See: <https://csyou.calstate.edu/Divisions-Orgs/OGC/Documents/Conflict%20of%20Interest%20Manual%20FINAL%202002-07-2017.pdf>

CO Issues Guidance on Campus & Auxiliary Organization Staffing Arrangements Based upon recent CO memorandum-guidance, auxiliary management should contact the campus CFO to confirm that auxiliary organization staffing arrangements are supported by adequate documentation and practices (3/3/17).

VI. Miscellaneous

California Public Records Act Recodification at Hand

The California Law Revision Commission is wrapping up its recommendations – requested by the Legislature – to “clean up” and recodify the CPRA. The Commission’s cumulative draft material is available at: <http://www.clrc.ca.gov/pub/2018/MM18-40.pdf>

The Nonprofit Quarterly – “Promoting Spirited Nonprofit Management”

Are you into progressive networking in your profession? Try the *Nonprofit Information Networking Association*, its quarterly magazine and timely online updates. Stay “tuned into” your profession!

See: <https://nonprofitquarterly.org/>

CalPERS Resource

AOA is a member of the *Public Agency Coalition (PAC)* and AOA member-organizations belonging to the CalPERS retirement and/or health insurance programs may access the PAC website for the latest developments and discussion of current issues affecting CalPERS and its miscellaneous contracting agencies. Contact Robert Griffin for access username and password.

Go to: <http://publicretirementjournal.org/pers-pac/about-pers-pac/>

California Legislative Calendar 2017-18 *The End.*

Nov. 30 Adjournment *sine die* at midnight.

Dec. 3 2019-20 Regular Session convenes for Organizational Session at 12 noon.

Compliance Resource Catalogue on AOA Website

The 2017 edition of this compilation is posted on the home page of the AOA website. It includes the monograph series began in 1998, plus several practical checklists, issue briefs and guides on governance, management and compliance issues faced by auxiliary organizations.

See: <https://www.csuaoa.org/>

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