

**ENDORSED  
FILED**In the office of the Secretary of State  
of the State of California

JUN 2 - 1982

MARCH FONG ~~BB~~, Secretary of StateCarmelle M. Guy  
Deputy

## ARTICLES OF INCORPORATION

OF

SAN JOSE COMMUNITY COLLEGE DISTRICT FOUNDATION

## Article I

## Name

The name of this Corporation is:

SAN JOSE COMMUNITY COLLEGE DISTRICT FOUNDATION

## Article II

## Purposes

This Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes. The charitable purposes of this Corporation are to promote and assist the educational program of San Jose Community College District, and to apply the funds and properties coming into its hands toward furthering the educational program carried on or approved by the administrative officers of the District. This Corporation shall not carry on any activities not approved by the Superintendent of the District.

## Article III

## Conformity with Regulations

This Corporation shall conduct its operations in conformity with general regulations established by the Board of Governors of The California Community Colleges and the implementing regulations

established by the San Jose Community College District as required by the Education Code, Section 72672(c).

#### Article IV

##### Exempt Status and Limitations on Activities

This Corporation is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

Notwithstanding any other provision of these Articles, this Corporation shall not carry on any other activities not permitted to be carried on (1) by a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code, or (2) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

No substantial part of the activities of this Corporation shall consist of the carrying on of propaganda or otherwise attempting to influence legislation, and this Corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

#### Article V

##### Directors

The number of Directors, the method of their selection and the terms of their office shall be as specified by the Bylaws of this Corporation. The Chancellor of the District or his or her designated representative shall be a member of the Board of Directors of this Corporation to insure that this Corporation operates in conformity with District policy

This Corporation shall have no members other than the persons constituting its Board of Directors. The persons constituting its Board of Directors shall, for the purpose of any statutory provisions or rule of law relating to nonprofit corporations or otherwise, be taken to be the members of such Corporation and exercise all the rights and powers of members thereof.

#### Article VI

##### Dedication and Dissolution

The property of this Corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this Corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private individual. Upon the dissolution of this Corporation, net assets, other than trust funds, shall be distributed to the San Jose Community College District to be used exclusively for charitable purposes. If, upon dissolution, this Corporation holds any assets in trust, such assets shall be disposed of in such manner as may be directed by decree of the Superior Court of the county in which this Corporation's principal office is located upon petition therefore by the Attorney General of the State of California or by any person concerned in the liquidation in a proceeding to which the Attorney General is a party.

#### Article VII

##### Initial Agent for Service of Process

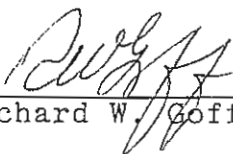
The name and address in the State of California of this Corporation's initial agent for service of process is: Michael E. Hill, Assistant Superintendent, San Jose Community College District, 4750 San Felipe Road, San Jose, CA 95135.

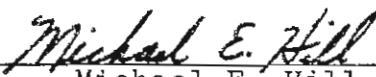
## Article VIII

## Amendment of Articles

The Articles of Incorporation of this Corporation shall not be amended except with the vote of two-thirds (2/3) of the total voting membership of the Board of Directors.

IN WITNESS WHEREOF, for the purpose of forming this nonprofit corporation under the laws of the State of California, we, the undersigned, constituting the incorporators of this corporation, have executed these Articles of Incorporation this 18th day of May, 1982.

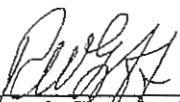
  
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 Richard W. Goff

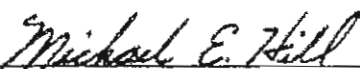
  
 \_\_\_\_\_  
 Michael E. Hill

## DECLARATION

We are the persons whose names are subscribed below. We are the incorporators of the San Jose Community College District Foundation, and we have executed these Articles of Incorporation. The foregoing Articles of Incorporation are our acts and deeds. Executed on May 18, 1982, at San Jose, California.

We declare that the foregoing is true and correct.

  
 \_\_\_\_\_  
 Richard W. Goff

  
 \_\_\_\_\_  
 Michael E. Hill

SAN JOSE COMMUNITY COLLEGE DISTRICT  
IMPLEMENTING REGULATIONS  
AUXILIARY ORGANIZATIONS

1.0 RECOGNITION AND ESTABLISHMENT OF AUXILIARY ORGANIZATIONS.

Recognition of the establishment of an auxiliary organization by the Board of Trustees pursuant to Education Code Section 72672(c) and California Administrative Code, Title 5, Sections 59255 and 59257(a) shall require:

- 1.1 That a recommendation is submitted to the Board of Trustees by the Chancellor when the organization will serve the District.
- 1.2 A public hearing on the recommendation to be held at a time, place and in the manner determined by the Board of Trustees;
- 1.3 The approval of the establishment of the auxiliary organization by the Board of Trustees. Approval by the Board of Trustees shall include a designation of the recognized services, programs and functions and an identification of the number and category or categories of members of the Board of Directors of the auxiliary organization; and
- 1.4 The approval of a written agreement between the District and the auxiliary organization under which one or more of the services, programs or functions described in Section 59259 are to be performed.

2.0 RECOGNIZED SERVICES, PROGRAMS AND FUNCTIONS. Auxiliary

organizations may be recognized and established for the purpose of providing supportive services and specialized programs for the benefit of the San Jose Community College District. The services, programs and functions which may be undertaken by auxiliary organizations and which have been determined by the Board of Trustees and the Board of Governors to be appropriate include:

Student association or organization activities;  
Bookstores;  
Food and campus services;  
Student union programs;  
Facilities and equipment, including parking;  
Loans, scholarships, grants-in-aid;  
Workshops, conferences, institutes and federal projects;  
Alumni activities;  
Supplementary health services;  
Gifts, bequests, devises, endowments, and trusts;  
Public relations programs.

No auxiliary organization shall be authorized by the Board of Trustees to engage in any other function unless the Board of Governors amends Section 59259 of Title 5 by adding said function to the list of approved functions of auxiliary organizations; or unless said function is essential to satisfy the non-profit corporation or tax laws of the State of California or the Federal tax laws.

In accordance with Education Code Section 72671 the services, programs, and functions may be performed by any auxiliary organization as part of a joint powers agreement.

3.0 COMPOSITION OF BOARDS OF DIRECTORS. The Board of Directors of the auxiliary organization shall have the following composition:

3.1 Auxiliary Organizations. Any District approved auxiliary organization that is established pursuant to Section 72670 et seq. of the Education Code shall have a board of directors appointed in accordance with the organization's articles of incorporation or bylaws and consisting of voting membership from one or more of the following categories:

Administration;  
Board of Trustees;  
Staff;  
Members of the Community.

3.2 Size of Board of Directors. The size of the board of directors of an auxiliary organization shall be at least large enough to accommodate the one or more categories from which board members are selected.

Attachment #1

- 3.3 Professional Assistance. Each auxiliary organization formed pursuant to Section 72670 et seq. of the Education Code shall have the benefit of the advice and counsel of at least one attorney admitted to practice in the State of California and at least one licensed certified public accountant; however, neither the attorney nor the certified public accountant need be a member of the board of directors.
- 4.0 BUSINESS MEETINGS. The board of directors of each auxiliary organization shall conduct its business in public meetings in accordance with Section 54940 et seq. of the Government Code, and shall, during each fiscal year, hold at least one business meeting each quarter.
- 5.0 SALARIES, WORKING CONDITIONS AND BENEFITS OF FULL-TIME EMPLOYEES.
- 5.1 Except as otherwise provided in this Procedure, the board of directors of each auxiliary organization shall, pursuant to Education Code Section 72672, provide salaries, working conditions and benefits for its full-time employees that are comparable to those provided District employees performing substantially similar services. For those full-time employees who perform services that are not substantially similar to the services performed by District employees, the salaries established shall be comparable to the salaries prevailing in other educational institutions in the area or commercial operations of like nature in the area.
- 5.2 The board of directors of each auxiliary organization may provide retirement benefits different from those provided comparable District employees and may withhold retirement benefits or permanent status benefits or both from temporary employees. For the purposes of this Procedure, a temporary employee is:

- (a) An employee employed for a specific research project, workshop, institute or other special project funded by any grant, contract or gift; or
- (b) An employee whose contract of employment is for a fixed term not exceeding three years.

5.3 The board of directors of each auxiliary organization may withhold permanent status benefits from executive employees. For the purposes of this Procedure, an executive employee is any management employee with responsibility for the development and execution of the auxiliary organization's policies and includes, but is not limited to, general managers, managers, directors, and the like, as determined by the board of directors of each auxiliary organization.

5.4 Should retirement benefits be provided, they may but need not be provided by the Public Employees' Retirement System. Any newly created auxiliary organization is exempted from the requirement of providing retirement benefits for a period not to exceed three years from the date on which the Board of Trustees recognizes the establishment of such auxiliary organization.

6.0 EXPENDITURES AND FUND APPROPRIATION. The board of directors of an auxiliary organization shall approve all expenditure authorizations. Appropriations of funds for use outside of the normal business operations of the auxiliary organization shall be approved in accordance with Board of Trustee policy and further consistent regulations adopted by the Chancellor.

7.0 ACCOUNTING AND REPORTING. The boards of directors of all auxiliary organizations except those exempted in Section 72673 of the Education Code, shall

7.1 Utilize a standard accounting and reporting system established by the Chancellor in consultation with representatives of the Board of Governors.



7.2 Implement financial standards which will assure the fiscal viability of such various auxiliary organizations. Such standards shall include proper provision for professional management, adequate working capital, adequate reserve funds for current operations, capital replacements, contingencies and adequate provisions for new business requirements.

Each auxiliary organization serving the District shall submit its programs and budgets for review at a time and in a manner specified by the Chancellor.

Should the Chancellor or designee, as appropriate, determine that any program or appropriation planned by an auxiliary organization is not consistent with District or college policy, he or she shall make a recommendation to the Board of Trustees as to whether or not the program or appropriation shall be implemented. Further, should a program or appropriation which has received approval, upon review, be determined by the Chancellor or designee to be operating outside the acceptable policy of the Board of Governors, or the District, then that program or appropriation shall be discontinued until further review is accomplished and an appropriate adjustment is made.

#### 8.0 FUNDS.

8.1 Trust funds shall be used specifically for the purpose designated in the instrument creating the trust.

8.2 Funds of an auxiliary organization shall be used for purposes consistent with District and college policy where applicable, and shall not be used:

- (a) To support or oppose any candidate for public office, whether partisan or not, or to support or oppose any issue before the voters of this state or any subdivision thereof or any city, municipality, or local governmental entity of any kind.

(b) To make personal loans for non-educationally related purposes, except that such loans be made when specifically authorized by a trust instrument under which the funds were received.

- 8.3 An indemnity bond shall be obtained by an auxiliary organization for its fiscal officer who is responsible for handling funds of the auxiliary organization.
- 8.4 Grants, bequests, trusts, donations and gifts accepted by an auxiliary organization shall be maintained in accordance with policies and regulations established by the Chancellor.
- 8.5 Funds derived by an auxiliary organization from indirect cost payments and which are not needed to provide adequate working capital, reserve funds for current operations, capital replacements, contingencies and adequate provisions for new business requirements shall be appropriated in a manner consistent with policies established by the District; uses of such funds shall be regularly reported to the Board of Trustees through the Chancellor.
- 8.6 No funds or resources, other than funds or resources derived from gifts or bequests, shall be transferred by the District to any of its auxiliary organizations for the purpose of either avoiding laws or regulations which constrain community college districts or providing the District with an unfair advantage with respect to the application of any state funding mechanism. Such state funding mechanisms include, but are not limited to, general apportionment funding, capital outlay funding, Extended Opportunity Programs and Services funding, and funding for programs and services for handicapped students.

9.0 AUTHORITY AND RESPONSIBILITY OF AUXILIARY ORGANIZATIONS.

9.1 Auxiliary organizations shall not offer courses or programs for which State funding is received.

9.2 All services, programs and activities that may be undertaken by an auxiliary organization shall be maintained for the general benefit of the educational program of the District and its colleges. Upon Board of Trustee approval an auxiliary organization may assume any of the services, programs and activities listed in Procedure 2.0 in order:

- (a) To provide the fiscal means and the management procedures that allow the college and/or District to carry on educationally related activities not normally funded by the State;
- (b) To eliminate the undue difficulty that would otherwise arise under the usual governmental budgetary, purchasing and other fiscal controls; or
- (c) To provide fiscal procedures and management systems that allow effective coordination of the auxiliary activities with the college and/or District in accordance with sound business practices.

9.3 The Chancellor shall decide, after consulting with the donor, whether a donor's proposed gift to the District should be accepted by the District or referred to an auxiliary organization. Gifts to the District or any college thereof shall be accepted under the provisions of Education Code Section 72241 or 72303. Gifts to an auxiliary organization shall be accepted as authorized by these Procedures.

9.4 An auxiliary organization may not enter into any contract or other business arrangement involving real property either by lease involving payments of more than \$25,000 per annum and duration terms of more than one year, or by purchase without prior notification and consultation with the Chancellor.

- 9.5 Student loans, scholarships, stipends, and grants-in-aid shall only be given to currently admitted students. In no case shall the scholarship, stipend, or grant-in-aid exceed the amount necessary to cover books, school fees, and living expense, except as provided under Procedure 8.1. A record of such financial assistance shall be forwarded on a timely basis to the campus financial aids office and shall be documented on student financial aid recipient records kept in that office. All such financial assistance provided from student body organization funds shall be approved by the campus financial aids office before such funds are expended, and shall not exceed amounts to be provided under regulations of federal and state financial aid programs.
- 9.6 The District shall maintain a list of all auxiliary organizations in good standing.
- (a) All auxiliary organizations which, after periodic review in the manner specified by Procedure 10.2, are found to be in compliance with applicable laws and regulations, shall be included in this list.
  - (b) When the Chancellor has reason to believe that a particular organization should be removed from this list, he or she shall give the board of directors of such organization reasonable notice that a conference will be held to determine whether grounds for removal do in fact exist, and representatives of said board shall be entitled to be present at such conference and to be heard. Based upon such conference, the Chancellor shall recommend to the Board of Trustees whether or not a particular organization should be removed from the list. The Chancellor with Board of Trustee approval may remove such an auxiliary organization from said list, and may make such other provisions consistent with law as may be appropriate with respect to an auxiliary organization not included on said list. Such actions shall be reported to the Board of Trustees.

10.0 RECORD KEEPING.

- 10.1 Records and Annual Audit. An auxiliary organization shall maintain adequate records and shall prepare an annual report showing its operations and financial status as may be required by the Board of Governors or District.
- 10.2 Compliance Review by Chancellor. For an auxiliary organization serving the District, the Chancellor's designee shall inspect and review all auxiliary organization procedures and practices to determine compliance with policies, rules and regulations of the Board of Governors and the District, Education Code Sections 72670 - 72682, and make his/her recommendations to the Chancellor and the board of directors of the auxiliary organization regarding said procedures and practices. This shall be done at the end of the first complete year after approval and at least every three years thereafter. The decision of the Chancellor shall be made after he/she has invited comments from the board of directors of the auxiliary organization. Reports and statements shall cover all activities of the organization. This review shall also determine compliance with any written agreement with the District and the auxiliary organization's articles of incorporation and bylaws.
- 10.3 Audit. Each auxiliary organization shall have an annual fiscal audit of any and all funds. The audit shall be performed by a certified public accountant in accordance with procedures prescribed by the Board of Governors, as contained in the California Community College Auxiliary Organization Accounting and Reporting System. Copies of the annual audit report shall be submitted to the Board of Trustees and to the Board of Governor's Office within

30 days after it is received by the auxiliary organization. Thereafter it shall be a public record, except as otherwise provided by law. Such audits may be conducted as part of a fiscal audit of the District itself. Auxiliary organizations shall annually publish an audited statement of their financial condition which shall be disseminated as widely as feasible and be available to any person on request. A reasonable fee may be charged to cover the costs of providing a copy. When an auxiliary organization primarily serves a single college of the District, the auxiliary organization shall comply with this requirement by:

- (a) Publishing the audited financial statement in a campus newspaper; or
- (b) Publishing a notice in a campus newspaper indicating the on-campus location where copies of the financial statement may be obtained or reviewed; or
- (c) Publishing or noticing the audited statement in accordance with Procedures 10.1 and 10.2 in a campus bulletin or other appropriate medium if a campus newspaper is unavailable.

11.0 WRITTEN AGREEMENT. A written agreement between the San Jose Community College District and each auxiliary organization is required for the performance by such auxiliary organization of any of the services, programs and functions listed in Procedure 2.0. If any auxiliary organization performs more than a single service, program or function, then the written agreement may cover any number of the functions it performs or a separate agreement may cover each function performed.

The written agreement shall, among other things, provide for the following:

- (a) The services, programs, or functions the auxiliary organization is to manage, operate or administer.
- (b) A statement of the reasons for administration of the functions by the auxiliary organization instead of by the District under usual District procedures.
- (c) The areas of authority and responsibility of the auxiliary organization and the District.
- (d) The facilities and services to be made available by the District to permit the auxiliary organization to perform the services, programs or functions specified in the written agreement.
- (e) The charge or rental to be paid, if any, to the District by the auxiliary organization for the facilities used or services provided in connection with the performance of its function. The charge or rental specified shall not require involved methods of computation, and should be identified in sufficient time before it is incurred so that the organization may determine to what extent it shall be liable therefore.
- (f) Full reimbursement, if required, to the District for services performed by the District or by District employees under the direction of or in support of the auxiliary organization. Methods of proration where services are performed by District employees for the organization shall be simple and equitable.
- (g) A simple but equitable method of determining in advance to what extent the organization shall be liable for indirect costs relating to federally-sponsored programs.
- (h) The responsibility for maintenance and payment of operating expenses.
- (i) Proposed expenditures for public relations or other purposes which would serve to augment District appropriations for operation of the District. With respect to

expenditures for public relations or other purposes which would serve to augment District appropriations for operation of the District, the auxiliary organization may expend funds in such amount and for such purposes as are approved by the board of directors of the auxiliary organization.

The board of directors shall file with the Chancellor a statement of such policy on accumulation and use of public relations funds for all auxiliary organizations. The statement shall include the policy and procedure on solicitation of funds, source of funds, amounts, and purpose for which the funds will be used, allowable expenditures, and procedures of control.

- (j) The disposition to be made of net earnings derived from the operation of the auxiliary organization, including earnings derived from facilities owned or leased by the auxiliary organization, and provisions for reserves.
- (k) The disposition to be made of net assets and liabilities on dissolution of the auxiliary organization or cessation of the operations under the agreement.
- (l) The covenant of the auxiliary organization to maintain its organization and to operate in accordance with Sections 72670 through 72682 of the Education Code and with the regulations contained in Chapter 5 (commencing with Section 59250) of Division 10, Part IV of Title 5 of the California Administrative Code, as well as District Procedures.

12.0 USE OF COLLEGE OR DISTRICT NAME. Except for student body associations organized and operating under Education Code Section 76060 et seq., no organization may use the name of the San Jose Community College District or a community college of the District or otherwise represent a relationship



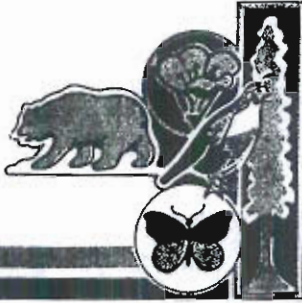
with the San Jose Community College District or a college of the District unless it has been recognized and established as an auxiliary organization by the Board of Trustees and is in good standing with the District.

13.0 The Chancellor or his/her designee shall provide, and may from time to time revise rules and procedures for the administration of and in conformance with these Procedures.

14.0 DEFINITIONS:

- (a) Board of Directors. The term Board of Directors as used herein means the governing board of an auxiliary organization.
- (b) Board of Trustees. The term Board of Trustees as used herein means the Board of Trustees of the San Jose Community College District.
- (c) Board of Governors. The term Board of Governors as used herein means the Board of Governors of the California Community Colleges.
- (d) Chancellor. The term Chancellor as used herein means the Chancellor of the San Jose Community College District or designee.
- (e) District. The term District as used herein means the San Jose Community College District.

Background. This is the District's initial Board action towards establishing District auxiliary organizations. These Procedures constitute the "implementing regulations" required by Title 5 of the California Administrative Code. The Procedures must be approved by the State Chancellor's Office and will be used by the District as the basis for the completion of Administrative Procedures and Regulations.



State  
of  
California  
OFFICE OF THE SECRETARY OF STATE

I, *MARCH FONG EU*, Secretary of State of the State of California, hereby certify:

That the annexed transcript has been compared with the record on file in this office, of which it purports to be a copy, and that same is full, true and correct.

IN WITNESS WHEREOF, I execute  
this certificate and affix the Great  
Seal of the State of California this

MAY 16 1986



*March Fong Eu*

Secretary of State

CERTIFICATE OF AMENDMENT  
OF  
ARTICLES OF INCORPORATION

RICHARD A. BOWERS and MICHAEL E. HILL certify that:

1. They are the Chairman and the Secretary respectively, of the SAN JOSE COMMUNITY COLLEGE DISTRICT FOUNDATION, a California nonprofit public benefit corporation.
2. Article I of the Articles of Incorporation of this Corporation is amended to read as follows:

The name of this Corporations is:


SAN JOSE/EVERGREEN COMMUNITY  
COLLEGE DISTRICT FOUNDATION

3. The foregoing amendment of the Articles of Incorporation has been duly approved by the Board of Directors.
4. The Corporation has no members.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: April 28, 1986

  
RICHARD A. BOWERS  
Chairman

  
MICHAEL E. HILL  
Secretary