




MEMORANDUM

August 6, 2020

To: CSU Presidents
CSU Vice Presidents for Student Affairs
CSU Vice Presidents for Business and Finance

From: G. Andrew Jones, Executive Vice Chancellor and General Counsel 
Loren Blanchard, Executive Vice Chancellor of Academic and Student Affairs 
Steve Relyea, Executive Vice Chancellor of Business and Finance and Chief
Financial Officer 
SR

Re: **Allocation of Mandatory Student Association Fees: Viewpoint Neutrality Policy Requirement**

This memo relates to the mandatory student body fee that CSU imposes on all students and a legal mandate that flows from the collection of this mandatory fee. Each CSU campus should take the necessary steps to review its applicable policies, including outreach by the campus administration to its assigned attorney within the CSU Office of General Counsel.

Viewpoint Neutrality is a Responsibility Inherent in the Expenditure of These Funds

With this mandatory fee comes a mandatory responsibility to ensure that the fees are disbursed in a neutral manner, meaning that no one viewpoint is favored over another, and that is the focus of this memo.

Currently CSU students at each CSU campus are charged a mandatory Student Association Fee or Associated Student Body Fee (“fee”) which is utilized and administered by the Associated Students Incorporated or similar organization (“ASI”) at each campus. Among other things, the fee may be used by ASI to support and fund various student programs, activities, and organizations. Some of the funded events involve *expressive activities*, including but not limited to speeches, expression of ideas, or viewpoints on issues of public concern. *Expressive activities* may also include expression of viewpoints by individuals or small groups on issues of more limited local or personal concern.

The First Amendment of the U.S. Constitution requires that, to the extent the fee is used to fund programs, activities, or organizations involving *expressive activities*, fee allocation decisions *must* be guided by and follow procedures and criteria which are *viewpoint neutral* in nature. All such decisions must be reached in a viewpoint neutral fashion. Funding decisions made using any viewpoint neutral process or criteria are acceptable so long as the criteria are applied objectively, consistently, and transparently.

Viewpoint neutrality means that fee allocation decisions *cannot* be based upon the approval or disapproval of the viewpoint of the student organization or its related programs and activities. Fee allocation decisions cannot be based on whether the decision maker likes or dislikes what a group or an organization stands for.

Each campus and each ASI have the responsibility to ensure that fee allocation decisions are made in accordance with procedures and criteria that are viewpoint neutral.

Action Step Required of Each CSU Campus

Each campus and each ASI should review their current policies and procedures and take any actions necessary to ensure that fee allocation decisions made by ASI comply with the following viewpoint neutrality requirements:

(1) all policies and procedures must be in writing and must require viewpoint neutrality in all funding or allocation decisions where student fees are allocated to student organizations, events, or programs involving expressive activity;

(2) the policies must ensure that all funding or allocation decisions are made pursuant to narrow, objective, and definite standards, and which do not involve the exercise of judgment or formation of an opinion concerning the content of the event, or are otherwise affected in any way by the viewpoint of a student organization or the proposed event;

(3) the policies and procedures must be made available to, and easily accessible by, all students and student organizations; and

(4) the policies must include an appeal process which allows for a method of prompt review by a university official of any contested decision to deny or restrict funding.

It is essential that every campus and ASI undertake a self-assessment examination and review of its viewpoint neutrality policies and procedures. Recently, one ASI agreed to revise and update its policies and procedures in response to a lawsuit challenging their adequacy.

Conclusion

There are various acceptable ways to comply with viewpoint neutrality in funding policies and procedures, and the most suitable method for a particular campus and its ASI will depend on a variety of factors. Campuses are encouraged to and should confer with their University Counsel assigned to their campus to determine what method is best suited for their campus. Additional guidance will be provided in the next day or two.

Thank you for your careful consideration of and response to this request. Questions should be directed to your campus counsel.