



## **Guidelines on the Use and Reporting of Non-Tax Levy Funds**

### **Introduction**

The City University of New York (CUNY) receives funds from a variety of sources. Many of the funds received are for specific, limited purposes or are subject to restrictions; however, some of the funds received are of a discretionary nature and considered unrestricted non-tax levy funds. The University and its colleges shall use all funds, regardless of type, in a manner consistent with applicable laws and regulations, policies, and other restrictions or designations governing their use.

### **Purpose**

The purpose of this document is to provide guidance on the use of unrestricted non-tax levy funds and the annual reporting of such use.

### **Non-Tax Levy Funds Defined**

The following are examples of non-tax levy funds:

- Gifts to the college, its affiliated foundation(s) or its related entities;
- Commissions and royalties from service contracts such as pouring rights, food service, vending, and bookstore operations (including virtual);
- Revenue from the licensing of CUNY facilities, such as classrooms, gyms, theatres, conference centers and other spaces;
- Royalties from the licensing or other commercialization of CUNY intellectual property, including trademarks, copyright, patents and technology;
- Admission fees and revenues from ticket sales, such as for athletic and entertainment events;
- Membership fees, such as for alumni and community memberships to athletic and wellness facilities;
- Revenues from parking lots and garages, including sale of parking permits;
- Revenues from sales of publications and subscriptions;
- Child care center tuition and fees;
- Indirect cost recoveries on grants and contracts administered through The Research Foundation of the City University of New York (RFCUNY) or elsewhere; and
- Other miscellaneous revenues such as interest income, forfeited bond deposits, and insurance proceeds, regardless of where the funds are held or who administers them.

The following are examples of what are considered tax-levy funds:

- Funds appropriated by the State and City of New York, including funds appropriated for tuition and fee revenue;
- Federal, State and City financial aid;

- Funds held by New York State Treasury in income fund reimbursable accounts or deposited with New York City as non-miscellaneous income (such as technology fees); and
- Reimbursements of tax-levy expenditures such as vendor refunds or summary salary reimbursements from RFCUNY.

For purposes of these Procedures, “Non-Tax Levy Funds” also include student activity fees; however, the use of student activities fees should follow the CUNY Fiscal Handbook for the Control and Accountability of Student Activity Fees and the Financial Management Guidelines related to the College Associations, both of which are currently being updated and which have been and will continued to be closely aligned with New York State’s Procurement policies.

### **Unrestricted and Restricted Non-Tax Levy Funds**

Non-Tax Levy Funds can be either unrestricted or restricted. Restricted non-tax levy funds must be administered and spent in accordance with the associated grant document, contract or gift agreement

Unrestricted Non-Tax Levy Funds are funds that are not government appropriated and do not carry restrictions as to usage or purpose. These funds can generally be used for any legal purpose that will advance the mission of the University; however, there are several overarching principles governing the use of these funds.

Expenditures:

1. Must be for a valid and necessary business purpose;
2. Should not be for a personal benefit;
3. Should not be neither lavish or excessive;
4. Must advance the University’s mission; and
5. May not support a political party or the campaign of any particular candidate for public office
6. May not support any organization that restricts membership by race, creed, sex, religion or sexual orientation.

For purpose of these Procedures, Restricted Non-Tax Levy Funds refers to funds that are restricted because of the terms of a grant document, gift agreement or other contract, and must be administered and spent in accordance with terms of such document.

Other Non-Tax Levy Funds are “restricted” in the sense that the entity generating the revenue is organized with a specific, limited purpose (i.e., operating a childcare center, performing arts center, etc. rather than more generally benefitting the University) and any revenues must be used in support of that specific purpose. Or, in the case of student activity fees, the funds are restricted in that they may be spent only for the purposes set forth in the eleven expenditure categories described in Section 16.2 of the CUNY Board of Trustees Bylaws (“CUNY Bylaws”). For purposes of these Procedures, these types of funds are deemed to be Unrestricted Non-Tax Levy Funds.

### **Types of Non-Tax Levy Funds**

There are two types of Non-Tax Levy Funds: College Non-Tax Levy Funds and Related Entity Non-Tax Levy Funds, each of which is described below.

### College Non-Tax Levy Funds

College Non-Tax Levy Funds are held in local college bank accounts. The source of these funds are not tax levy in nature and include things such as interest income; commissions, royalties, fees and other payments that are not otherwise generated or held by a separately-incorporated related entity. They may also include revenues from unincorporated college associations.

### Related Entity Non-Tax Levy Funds

Related Entity Non-Tax Levy Funds are controlled by separately incorporated entities that are related to CUNY or the colleges, and are held in the entities' own bank accounts. Related Entity Non-Tax Levy Funds can become College Non-Tax Levy Funds when, for example, a college foundation transfers funds to the college for college expenditure.

Examples of sources of Related Entity Non-Tax Levy Funds include:

*Auxiliary Enterprise Corporations ("Auxiliaries").* These are separately incorporated tax-exempt entities that support the colleges by providing non-instructional auxiliary services. Examples of auxiliary services include: food service, catering and vending operations; "pouring rights" contracts; bookstores; printing shops; student housing; sports, health and recreation facilities; parking operations; shuttle buses; and performing arts centers. Auxiliaries provide auxiliary services through: (i) direct operation (e.g., child care centers), (ii) subcontracts with other vendors (e.g., transportation services), and (iii) by acting as a college's fiscal agent in connection with a college or University contract or facility (e.g., pouring rights, theater operations) or asset licensing program (e.g., short-term facility use, trademarks). Auxiliary funds include royalties, commissions, and other payments received through their contracts with vendors, licensees, and others. The Auxiliaries use these funds pursuant to their board-approved budgets to support their operations, directly support college activities, and provide discretionary support for the college or the college president.

*College Associations ("Associations").* These are separately incorporated<sup>1</sup> tax-exempt entities that support the colleges by administering student activity fee-supported budgets and otherwise supporting the student body. Association funds consist of student activity fees held by the Associations, revenues generated from student activity fee-supported activities (e.g., ticket revenues from concerts, advertising revenue from student publications, fundraising by student clubs, etc. ), and such other revenues that an Association may from time-to-time generate or receive. The Associations adopt budgets and use these funds pursuant to the CUNY Fiscal Handbook for the Control and Accountability of Student Activity Fees and other University policies and procedures. Student activity fee funds (including revenues generated from student activity fee-supported activities) must be expended in accordance with the categories set forth in Section 16.2 of the CUNY Bylaws. Student activity fees may not be used to provide discretionary support for the college or the college president except as permitted by Section 16.9 of the CUNY Bylaws regarding a college purposes fund.

*Student Services Corporations ("SSCs").* These are separately incorporated tax exempt entities that support the colleges by operating the student union/center on campus or otherwise providing student

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<sup>1</sup> Some college associations are not separately incorporated but are instead operated as fund groups of a particular college. Monies held by these unincorporated college associations are College Non-Tax Levy Funds.

support services). SSC funds consist of a portion of the college student activity fee earmarked for use by the SSC, revenues from licensing their facilities, and such other revenues that an SSC may from time-to-time generate or receive. SSCs are restricted in the same manner as Associations regarding their use of student activity fees and their operations generally.

*College Foundations ("Foundations").* These separately incorporated tax-exempt entities support the colleges by soliciting donors and gifts, and related activities. Foundation funds consist primarily of restricted and unrestricted donations to the Foundations. The Foundations use these funds pursuant to their board-approved budgets to, among other things, support their operations, directly support college activities, provide scholarships, and provide discretionary support for the college president. Discretionary support may take the form of the transfer of funds to the college president (in which case the funds become College Non-Tax Levy Funds) or direct payment of expenses at the college president's request. Any discretionary support for the college president must be in accordance with the memorandum of understanding between the Foundation and its supported college, as well as any University policies and procedures regarding such support. A Foundation's use of donor-restricted funds must be consistent with the purpose and other restrictions set forth in any written agreement with the donor.

*The Research Foundation of the City University of New York ("RFCUNY").* The RFCUNY is a private, not-for-profit educational corporation that manages private and government sponsored programs and grants on behalf of CUNY. The RFCUNY supports CUNY faculty and staff in identifying and obtaining external support (pre-award) from government and private sponsors and is CUNY's fiscal agent, responsible for the administration of all such funded programs (post-award). The Non-Tax Levy Funds held and administered by the RFCUNY include federal, state, city, and private grants, as well other non-grant funds such as Overhead Receipts and other Non-Grant or Institutional Funds. "Overhead Receipts" are generated by charging a predetermined percentage, often known as the Facilities and Administrative Rate, to externally sponsored projects. Each college is responsible for determining who has authority over the use of those funds. "Non-Grant/Institutional Funds" are other non-tax levy funds that are deposited at the RFCUNY and spent from the RFCUNY. Examples include Adult and Continuing Education funds per the University's Standard Operating Procedures for use of such funds and other institutional funds.

*Child Care Centers, Performing Arts Centers and Other Separately Incorporated Related Entities:* These separately incorporated tax-exempt entities benefit the colleges typically by providing specific support services. Non-Tax Levy Funds generated or held by these entities include childcare fees, federal, state and local grant funds, ticket revenues, gifts from donors and other fundraising revenues. These entities use these funds pursuant to their board-approved budgets to support their operations.

## **Procurement and Approvals**

Purchasing using College Non-Tax Levy Funds is governed by CUNY's Procurement Policy and Procedures, adopted by the CUNY Board of Trustees on February 21, 2017. Purchasing using Related Entity Non-Tax Levy Funds is governed by the New York Not-for-Profit Corporation Law; the related entity's own policies and procedures; and any policies, guidelines, and procedures issued by the University with respect to any or all related entities, including Financial Management Guidelines and the CUNY Fiscal Handbook for the Control and Accountability of Student Activity Fees.

### **Reporting the Use of Unrestricted Non-Tax Levy Funds**

Beginning for FY 2017 (July 1, 2016 to June 30, 2017), each college is required to report the College Non-Tax Levy Funds it has expended, as well as the Related Entity Non-Tax Levy Funds expended by the related entities that support the college.

Reports shall be prepared by each college's Business Office and certified by the college's Chief Fiscal Officer prior to their submission to the University's Office of Internal Audit (OIA). OIA may request additional information and support from the colleges.

Reports are due within 60 days of the year-end.

## Appendix – Non-Tax Levy Fund Cost Categories

All salary and related costs (PS costs) shall be reported in categories 22 to 24. All other costs should be recorded in the other categories as other than personal services (OTPS) costs.

**Student Services/Support:** Non-Tax Levy Funds may be used for student-oriented activities such as new student receptions, graduation, scholarship presentations, student government activities and for supporting student clubs, organizations and programs, and for supporting the operations of student centers/unions and health and wellness centers. Associations and SSCs (through administration of student activity fees) play a large role in funding student programs and activities, while Foundations play a large role in providing scholarships and other awards to students. The costs in this category include:

1. **Student Government, Organizations and Programs:** includes expenses from all student government, club and organization budgets as well as other costs to support these activities. This category also includes Non-Tax Levy Fund costs for yearbooks, graduation and other student event photographers, operation and maintenance of student centers/unions, student health and wellness centers, student counseling centers and programs, and other costs of student affairs offices paid through Non-Tax Levy Funds, software, and expenses associated with student attendance at workshops, conferences, and similar events. Staff costs should be included in categories 22 to 24.
2. **Athletics and Recreation:** includes all costs associated with providing athletic and recreation programs, including equipment, uniforms.
3. **Student Events:** includes the annual, semi-annual, or occasional functions with students that are intended to serve either as student cohort building (i.e., prospective major receptions, speakers, etc.) or as recognition of individual or group achievements. It also includes expenses associated with student orientation (including space rental, speakers' fees, catering, etc.). Costs listed in this category relate generally to events sponsored by the college (or the Association on behalf of the college), as opposed to student government, club and organization events, which are listed in category 1.
4. **Commencement Expenses:** includes all costs related to commencement ceremonies, including but not limited to space rentals, diplomas, printing, postage and mailings, caps and gowns, speakers' fees and travel costs.
5. **Scholarships and Awards:** includes all the scholarships, fellowships and other awards paid to students from unrestricted Non-Tax Levy Funds, whether from a college, Foundation, student related entity or individual student government or club. Amounts paid from Restricted Non-Tax Levy Funds should not be included.
6. **Student Recruitment:** this category includes all costs associated with student recruitment that are not paid from tax levy funds. This may include costs for student recruitment events, advertising, promotional items, and travel.
7. **Faculty and Staff Recruitment, Relations and Support:** this category includes costs related to both the recruitment of faculty and staff and support for faculty and staff. The majority of costs related to faculty and staff recruitment should be paid with tax-levy funds, if available and allowable. Any

costs paid with Non-Tax Levy Funds that relates to the recruitment, relations and support of faculty and staff should be including in this category and may include:

- Executive Search Consultants: includes the costs of hiring executive recruitment firms to assist with the search for an ideal candidate. These firms are typically used for Presidential/University Dean searches as well as other executive administrative searches.
- Recruitment Travel and Meals: includes the costs of travel and meals for faculty and staff recruitment purposes. Recruitment meals must include the participation of the candidate being interviewed and may include more than one University employee.
- Moving and Relocation Costs: includes relocation and moving expenses incurred by an employee for relocation of their personal residence due to a work-related event, whether payment for such expenses is made or reimbursed to an employee or paid directly to a vendor. Colleges shall comply with the relevant IRS rules on the taxability of this benefit.
- Employee Recognition Events and Social Receptions: includes the costs of annual, semi-annual, or occasional functions that recognize CUNY employees either individually or as a group (e.g., employee longevity events). It also includes the cost of retirement or other employee social receptions, such as holiday parties. If a retirement/holiday party is combined with a fundraiser, then the costs should be included in Category #8 below.
- Research and Other Awards: includes the costs of research and other awards.
- Retreats, Seminars, College Conferences (internal or external): includes the costs of faculty and staff attending on-campus, local or out of town conferences, seminars, or training sessions and any related meals and travel costs such as airfare, train fare, and hotels.
- Other: includes the expenses associated with recruitment and support of faculty and staff that are not included in the other categories above. It may include any furniture, equipment, computer hardware and software purchased for the faculty or staff, or any professional fees or memberships purchased directly for the benefit of the faculty and staff member; or advertising for vacant positions.

**8. Research:** this category includes all the costs related to supporting research that are paid from Non-Tax Levy Funds. Costs include items such as laboratory renovations, furniture, equipment, supplies, consultants and independent contractors, professional services, etc. Any staff costs paid with unrestricted Non-Tax Levy Funds should be included in the relevant personnel service categories as noted above.

**9. Cultivation of Donors (including Alumni), and Development of Community and Institutional Relationships:** Foundation funds, if available, and whether expended directly by the Foundation or transferred to the college for the college's expenditure, are the primary type of funds used for cultivation of donors and potential donors and development of community and institutional relationships. The costs of these activities under this category may include following costs:

- Special Events: includes all the costs related to special events for the solicitation or cultivation of a donor, or hosting of receptions where participation serves to enhance the University's relationship with the community. Costs may include space (use of CUNY facilities is strongly encouraged), event management, food and catering services, entertainment, audiovisual and IT equipment, security, cleaning services (prior and after an official event), etc.
- Sponsorship of Community Events and Community Service Programs/Activities: includes the costs of supporting community organizations and may include the costs of sponsorship of an

organization through the purchase of tables or places at seats at community fundraising events or similar type activities.

- **Promotional Materials and Amenities:** includes the purchase of promotional items for a valid business purpose such as promoting the University to the external community.
- **Business Meals and Travel:** includes the costs related to the cultivation of donors and/or the cultivation of community and institutional relationships and includes business meals (defined as a meal that includes more than one person and has substantive and bona fide business purpose deemed essential to the University's mission); and any relevant business travel.
- **Other:** includes the costs of all other items related to the cultivation of donors (including alumni) and development of community and institutional relationships such as costs related to alumni/donor databases and fundraising software, production of alumni directories, contracts with alumni search firms, hiring of fundraising consultants, fees paid for the acceptance or credit cards from donors, direct mail solicitations, etc.

**10. Adult and Continuing Education:** includes the costs of running the college ACE programs. This category should only include the OTPS costs; PS costs should be included in Categories 22 to 24 below. College shall follow the Standard Operating Procedures issued in July 2011.

**11. Auxiliary Operations:** the following are some of the activities that are considered Auxiliary Enterprise activities regardless of where (e.g. which entity or local account) the activities are financially recorded Parking, Dining: Vending, Residence/Dormitory and Bookstore. This category should include all the costs of providing these operations including product costs, management expenses, security, consultants and independent contractors, repairs and maintenance, and equipment and supplies.

**12. Performing Arts Operations:** includes all OTPS costs of operating a performing arts center including, professional/artistic services, management expenses, security, repairs and maintenance, supplies and materials, janitorial and cleaning services, etc.

**13. Child Care Center Operations:** includes all OTPS costs of operating a childcare center including food supplies and other materials, management expenses, repairs and maintenance, cleaning services, equipment, etc.

**Other Operating and Administrative Expenses:** the costs in this category are those that directly relate to operating a campus or related entity and are not included in any of the categories above.

**14. Facilities including Rent and Utilities:** this category includes the costs of any maintenance and improvements made to the campus as well as any rent, license fees or utilities paid.

**15. Equipment and Supplies:** this category includes furniture, equipment, computer hardware, software, and supplies not included in the above categories and necessary for the operations of the campus or related entity.

**16. Food Service and Catering:** this category includes any costs for business meals or meals at meetings that are not covered in any of the categories above.

**17. Services, Professional and Other Contractual:** this category includes the cost of professional services and other contractual services not included in the above activities.

**18. Advertising (non-student) and Public Relations:** this category includes cost of advertising, branding, website design and development and Public Relations, including payments to consultants, not included in the above categories.



19. **Transfer:** this category includes funds transferred from one bank account in one entity to another entity or local college account to be used to pay for salaries, benefits or for OTPS purchases, the expenditure should be reflected in the entity that the funds were transferred to and a Transfer should be recorded in the entity/account from which the transfer was made.
20. **Vehicles:** this category includes the full costs of ownership for each vehicle purchased and/or maintained using unrestricted Non-Tax Levy Funds. This includes the costs to purchase or lease the vehicle, gas, tolls, parking, insurance, registration and inspection fees, and vehicle care (e.g. car washes) and maintenance costs. The use of all vehicles by CUNY employees is governed by the University's Vehicle Use Policy. A detailed list of all vehicles, the total costs of ownership for the fiscal year and whom the vehicle is assigned to, must be included in the report.
21. **Other Than Personal Services (OTPS) not included in above categories:** this category should include any other costs that do not fit in the categories above. If the value of this category is 5% or more of the column, add a row to the template and specify the costs.

The following categories relate to salaries and benefits.

22. **Administrative Salaries (including benefits):** this category includes any administrative staff that are paid (in full) with unrestricted Non-Tax Levy Funds, including staff paid from the overhead recoveries held by the RFCUNY, and full-time, part-time and temporary staff. Fringe benefits are included in this category. A detailed list of all staff, with their titles, major function (Student Services, Academic Support, Research, Information Technology, Public Relations, Association, Auxiliary, Adult and Continuing Education, Performing Arts, Child Care Centers, etc.) salary and benefits and funding source must be attached to the report. Salary supplements should be included in Category 24.
23. **Faculty Salaries (including benefits):** this category includes any faculty that are paid (in full) with unrestricted Non-Tax Levy Funds, including staff paid from the overhead recoveries held by the RFCUNY. Fringe benefits are included in this column. A detailed list of all staff, with their titles, salary and benefits, and funding source must be attached to the report. Salary supplements should be included in Category 24.
24. **Salary and Benefit Supplements:** this category includes salary supplements paid from unrestricted Non-Tax Levy Funds for both administrative staff and faculty and includes any benefits that are paid to a CUNY employee beyond the offerings included in the standard benefit packet offered by CUNY, or in union agreements or the Executive Compensation Plan Benefit (including health, pension, housing allowances). All salary supplements paid from non-tax-levy funds require the prior, appropriate approvals and may not circumvent applicable collective bargaining restrictions. A detailed list of all salary supplements and supplemental benefits should be included with the submission.
25. **Presidential Housing** - The college presidents and Deans (e.g. Deans of the Law School, School of Journalism, School of Professional Studies, Macaulay Honors College, and Graduate School of Public Health and Health Policy) are provided with housing benefits in addition to salary as outlined in the University's Executive Compensation Plan. Where CUNY-provided housing (owned or leased) is not available, the benefit may be in the form of a Housing Allowance. The costs included in this category include the cost of the housing allowance, security deposits, maintenance and renovation costs, rent, utilities, essential furniture and equipment, standard appliances and fixtures (such as lighting), paid for using unrestricted Non-Tax Levy Funds. All items purchased with and all deposits made from the University funds are the property of the University.