

POLICY CONCEPT FORM

Name and UO Title/Affiliation:	Kathie Stanley, Associate VP & Chief of Staff, Student Life
Current Title/# (if applicable):	Incidental Fee Authorization
Submitted on Behalf Of:	ASUO
Responsible Executive Officer:	Vice President of Student Life

SELECT ONE: **New Policy** **Revision** **Repeal**

Click the box to select

HAS THE OFFICE OF GENERAL COUNSEL REVIEWED THIS CONCEPT: **Yes** **No**

If yes, which attorney(s): Doug Park

GENERAL SUBJECT MATTER

Include the policy name and number of any existing policies associated with this concept.

Incidental Fee Authorization

RELATED STATUTES, REGULATIONS, POLICIES, ETC.

List known statutes, regulations, policies (including unit level policies), or similar related to or impacted by the concept. Include hyperlinks where possible, excerpts when practical (e.g. a short statute), or attachments if necessary. Examples: statute that negates the need for or requires updates to an existing policy; unit level policy(ies) proposed for University-wide enactment; or existing policies used in a new, merged and updated policy.

Payment of Student Fees policy 580.010.0080-90 (slated for repeal)

STATEMENT OF NEED

What does this concept accomplish and why is it necessary?

This policy creates a comprehensive approach to how the incidental fee is allocated and authorized by the Associated Students of the University of Oregon. While the current Payment of Student Fees policy included some information about the incidental fee, it was outdated and did not reflect new governance structure, including current state law or Board of Trustee's role or delegation of authority.

AFFECTED PARTIES

Who is impacted by this change, and how?

Students, tuition and fees process: designates the ASUO as the student government of the University of Oregon for the incidental fee process. Aligns UO policy with state law.

CONSULTED STAKEHOLDERS

Which offices/departments have reviewed your concept and are they confirmed as supportive? (Please do not provide a list of every individual consulted. Remain focused on stakeholders (e.g. ASUO, Office of the Provost, Registrar, Title IX Coordinator, etc.).)

Name	Office	Date
Andrew Dunn/Quinn Haaga	ASUO	5/17/17
Angela Wilhelms	University Secretary	5/22/17
Kevin Marbury	Interim VPSL	

Incidental Fee Authorization Policy (formerly known as the Clark Document)

Introduction

The purpose of this policy is to establish the Associated Students of the University of Oregon ("ASUO") as the body which requests the amount of the Incidental Fee, recommends uses of the proceeds of the Incidental Fee, and recommends the modification of the existing Incidental Fee. The provisions outlined herein follow from state law, from the UO Board of Trustee's delegation of authority, and assignment of responsibility to the University of Oregon President ("University President") through its Policy on Retention and Delegation of Authority. Nothing herein is intended or may be construed to diminish the authority of the ASUO, University President, the Board of Trustees, or to conflict with applicable local, state, or federal law.

A. Authorization

1. The authority to request the amount of the Incidental Fee, recommend uses of the proceeds of the Incidental Fee, and to request modification of the Incidental Fee is delegated to the ASUO, as the University of Oregon's recognized student government association, per Oregon Revised Statutes (ORS).
2. ASUO shall provide its Incidental Fee request to the University President in writing for the President's transmittal to the Board of Trustees for approval.

B. Allocation Policies

1. The ASUO shall seek to maintain an efficient fee request, allocation, and establishment process in compliance with state/federal law and University policy.

2. In accordance with applicable law and University policy, Incidental Fee allocation decisions must comply with legal obligations and must not interfere with the University's ability to carry out its educational mission or with preexisting contractual financial commitments.
3. The incidental fee shall be allocated in accordance with the mission of the ASUO and as outlined in ORS 352.105.
4. The ASUO's Incidental Fee request shall be based on enrollment and fee revenue estimates provided by the University President (or designee).
5. ASUO Incidental Fee recommendations for allocation shall be organized by four Major Programs, including:
 - A. EMU Major Program, which shall include student union activities and services;
 - B. ASUO Major Program, which shall include student government programs and activities, ASUO-recognized student organizations, programs and activities, and all other non-EMU, non-intercollegiate athletics and non-department programs and services funded in whole or in part with Incidental Fees that contribute to the cultural and physical development of students.
 - C. Intercollegiate Athletics Major Program, which shall include student access to athletic events funded in whole or in part with Incidental Fees through agreement with the Athletic Department; and
 - D. Department-Based Programs Major Program, which shall include activities that are conducted with other University departments or programs that are provided on campus.
6. The ASUO President shall transmit the Incidental Fee request in writing to the University President (or designee) by the date specified by the University President (or designee). At a minimum, the Incidental Fee request must include:
 - A. The requested Incidental Fee with detail of the fee calculation by fee category;
 - B. The process by which the ASUO established such requested fees;
 - C. A statement regarding whether the requested fee amount is different than the previous year and, if so, by how much;
 - D. A summary of approved Incidental Fee budgets by Major Program, including a brief description of the use of the fees;

- E. Line item budgets for each student organization recommended for program funding; and,
 - F. If requested by the University President, an explanation of how the fees are advantageous to the cultural or physical development of students.
- 7. The University President will review the Incidental Fee request prior to transmittal to the Board of Trustees (Board) for consideration. The Incidental Fee request may be refused by the University President or the Board based on criteria articulated in ORS 352.105.
 - A. Nothing in this policy is intended to affect the ASUO's right to appeal to the Higher Education Coordinating Commission as outlined in ORS 352.105.
 - B. The mandatory incidental fee, allocation of the fee or decision to modify an existing fee may not be refused by the Board or the University President based on considerations about the point of view that the funding seeks to advance.
- 8. The University President shall notify the ASUO in writing within seven working days of approval or denial with any portion of the Incidental Fee request.
- 9. Except as required by law, University policy, or preexisting contractual financial commitments, a proposed funding decrease for any Major Program shall not exceed 10% of the preceding year's allocation unless the reduction is requested by all the affected programs within the Major Program. A recommendation to reduce a Major Program by more than 10% requires a two-thirds vote of the prescribed members of the Student Senate, and must be approved by the ASUO President.
- 10. Except as required by law, University policy, or preexisting contractual financial commitments, a proposed funding decrease for any traditionally funded program, which is a program within a Major Program that has been funded for four consecutive years, shall not exceed 25% of the preceding year's allocation unless the traditionally funded program specifically requests the reduction. Such a recommendation requires a unanimous vote of the traditionally funded program's designated finance committee, as well as a two-thirds vote of the prescribed membership of the Student Senate and approval by the ASUO president.
- 11. Incidental fee recommendations for contracted services must:
 - A. Comply with applicable law and University policy;
 - B. Require ASUO review and written approval of the ASUO President before any such contract is executed; and,

- C. In the event that the ASUO and the University Administration disagree on the final language of an ASUO contract, the ASUO President shall consult with the University President (or designee) to resolve the dispute.
 - a. Nothing in this section is intended to override or affect the authority granted to the Board of Trustees by state law or to the President as granted by the Board of Trustees.

C. Appeals

1. If the University President and ASUO President do not jointly agree to the Incidental Fee request and recommendations prior to the date the request and recommendations are to be submitted to the Board of Trustees, each party may separately submit the recommendations to which the parties agree and the recommendations to which the parties do not agree, along with the underlying bases for agreement and disagreement.
2. If the University President and ASUO President do not jointly agree to the Incidental Fee request and recommendations prior to the date the recommendations are to be submitted to the Board of Trustees, either party may submit their disagreement to a Hearings Board, in accordance with Hearings Board rules of procedure.
 - A. The Hearings Board shall be constituted pursuant to this policy.
 - B. The members of the Hearings Board shall be selected promptly upon receipt of a request for a hearing. Hearings Board members shall not be members of the Student Senate or its staff, members of the ASUO finance committees or their staff, the ASUO Executive or its staff, the staff or management of the affected program, or the immediate staff of the University President or of the Vice President for Student Life.
 - C. The Hearings Board shall be comprised of five members:
 - a. Two (2) appointed by the University President;
 - b. two (2) appointed by the ASUO President, and;
 - c. One (1) mutually agreed upon member who shall serve as the presiding officer of the Hearings Board.
 - d. Prior to November 1, both parties will compile a list of persons mutually acceptable to sit on the Hearings Board;
 - e. The ASUO President shall make this list available to the Student Senate and finance committees each year by November 1; and,
 - f. In the event a hearing is requested, the University President and ASUO President shall jointly select the fifth Hearings Board member from this list.
 - D. The Hearings Board shall establish its own rules of procedure subject to the requirements of applicable law and University policy.

- E. Any recommendations of the Hearings Board shall be considered by both the ASUO President and the University President prior to the transmittal of final incidental fee request and recommendations for allocations to the Board, provided that such consideration is possible prior to the date the request and recommendations are to be submitted to the Board.
 - F. Acceptance or rejection Both parties shall notify the Hearings Board and each other within five working days and in writing whether they accept or reject the recommendation(s) of the Hearings Board.
3. Nothing in this policy is intended to affect the ASUO's right to appeal to the Higher Education Coordinating Commission as outlined in ORS 352.105.
 4. The ASUO and the Board shall seek to reach agreement on any dispute involving mandatory incidental fees, if necessary with the aid of mediation (i.e. the Hearings Board or other body deemed appropriate), prior to a decision by the Board.
 5. If an agreement is not reached, the decision of the Board may be appealed to the Higher Education Coordinating Commission by the ASUO within seven days of the Board's decision. The Board shall submit its response within seven days of the appeal. The Commission shall render its decision within seven days of its receipt of the Board's response.
 6. If Oregon law is amended, this policy shall be amended by operation of law in accordance with those changes.

D. Incidental Fee Reserve Funds

The Incidental Fee budget shall include a number of reserve funds. These funds shall be divided among five separate accounts, including the Incidental Fee Clearing Account, the Prudent Reserve, the Surplus Fund, the Over Realized Fund, and the Building and Equipment Reserves, as outlined herein.

1. Unallocated Reserve. An appropriated Contingency or Surplus fund shall include an unallocated reserve budgeted by the Student Senate. This unallocated reserve shall be augmented each fiscal year with ASUO Programs funds which have been appropriated but unexpended during the prior fiscal year or carried over from the prior fiscal year.
2. EMU Building Reserve. The Erb Memorial Union (EMU) Building Reserve shall be established as a component of Incidental Fee calculation in the spring following conclusion of the ASUO budgeting process.
 - A. The EMU Building Reserve shall equal 3.5% of the total estimated incidental fee budget, and this reserve allocation shall be excluded from ASUO calculations determining compliance with EMU major program growth limits.

- B. Such appropriated reserve funds have the status of allocated monies that have been approved by student government, and to the extent approved by the University President, may be spent by the EMU director without further approval or authorization by the EMU Board or student government.
3. Prudent Reserve. An unappropriated Prudent Reserve shall be maintained with Incidental Fee income. The Prudent Reserve shall be created at the beginning of the fiscal year at a level equal to at least 5% of the current fiscal year's total Incidental Fee budget to ensure against shortfalls due to under-realized enrollment and/or other unforeseen contingencies.
- A. This fund may be used only to address emergency budgetary shortfalls, or other compelling prudent fiscal actions. In all cases, requests for use of the 5% Prudent Reserve should be identified in specific written transmittals to the President.
 - B. When the Prudent Reserve is used, the ASUO President shall consult with the President (or designee) by November 1st to assess the risk of a lower Prudent Reserve and to determine an appropriate course of action. The ASUO President shall inform the Student Senate of such a course of action.
 - C. An emergency allocation from the 5% Prudent Reserve funds must include certification of the unusual nature of the proposed expenditure(s) and have the recommendation of the Student Senate and the written approval of the ASUO President as well as the formal approval of the President or their designee.
4. Over-realized Fund. Revenue due to over-realized enrollment income remaining in the Incidental Fee Clearing Account in excess of the total appropriated Incidental Fee budget for that year shall be identified as over-realized funds.
- A. Over-realized funds accrued each academic year shall be held in the Over-realized Fund ("ORF") until the end of the fiscal year. After the fourth week of the subsequent fall term, all over-realized funds shall be available for expenditure by the ASUO in accordance with the guidelines set forth in this policy and in the rules of the ASUO, provided that the Prudent Reserve is not under-realized for that current year, in which case available over-realized funds shall be used first and foremost to cover the deficit in the Prudent Reserve.
 - B. The ASUO shall be responsible for developing its own processes for determining ORF allocations. In addition to determining a schedule for making allocations of available over-realized funds in accordance with the criteria below, the Student Senate and the ASUO President may agree to set aside a portion of available over-realized funds to be

awarded on an ongoing as needed basis throughout the year, in accordance with criteria agreed upon by the Student Senate and the ASUO President.

- C. No more than 90% of the available over-realized funds in an academic year shall be considered available for allocations that year, except to address issues of an emergency nature, in which case the Student Senate, by an affirmative vote of two-thirds of filled seats, and the ASUO President shall agree that such expenditure is warranted.
- D. In the event that the ASUO determines that over-realized funds may be best used to lower the Incidental Fee, a course of action hereon to be referred to as a "buy-down," the ASUO President and a representative of the Student Senate, to be designated by the Student Senate, shall consult with the University President (or designee) to discuss whether such a decision would be advantageous for students.
 - a. A proposal to use over-realized funds for the purposes of a buy-down must be submitted to the Student Senate as part of its normal ORF allocation process.
 - b. A buy-down proposal may only be submitted by the ASUO President, and a buy-down must be approved by an affirmative vote of two-thirds of the filled seats of the Student Senate, and approved by the ASUO President. Any buy-down must leave no less than 10% of the total over-realized funds in the ORF.
 - c. An allocation of over-realized funds must include certification of the unusual nature of the proposed expenditure(s) and have the recommendation of the Student Senate and the written approval of the ASUO President as well as the formal approval of the President or their designee.

Incidental Fee Timelines and Schedules

1. No later than September 1 of each year, the University President (or designee) will meet with the ASUO President (or designee) to review any legislation, Board or University policy changes related to the Incidental Fee, and determine if any changes to the policy are warranted.
2. No later than November 7 of each year, the President (or designee) and other administrators, as requested by the University President, will meet with the ASUO President and Vice President(s), the Student Senate President, members of finance committees, the ASUO Advisor and other elected or appointed members of the ASUO as requested by the ASUO President to review responsibilities, standards, and University policies for participating in the establishment of recommended Incidental Fee levels.
3. By November 15 of each year, the University President (or designee) shall notify the ASUO President of the date by which the ASUO must submit its annual Incidental Fee recommendation to the University President. This deadline shall take into account any analysis and feedback time

required by the Board. The notification will include the projected enrollment and fee revenue estimates to be used in determining the Incidental Fee.

4. The dates articulated in sections 1 through 3 above may be changed by mutual agreement between the ASUO President and University President (or designee).