Sarbanes Oxley Practices
University of Louisville
2006

Section	Sarbanes-Oxley Act of 2002	NACUBO Recommendations	U of L Practice
Title I	**Public Company Accounting Oversight Board**		
101 – 109	Describes public company accounting oversight board duties	*Not Applicable*	*Not Applicable*
201	Public accounting firms are prohibited from performing these non-audit services to financial statement audit clients: 1. Bookkeeping or other services related to the accounting records or financial statements; 2. Financial system design and implementation; 3. Appraisal or valuation services, fairness opinions, or opinions contribution in kind reports; 4. Actuarial services; 5. Internal auditing outsourcing services; 6. Management or human resource functions; 7. Broker or dealer, investment adviser, or investment banking services; 8. Legal services and expert services unrelated to the audit; 9. Any other service the Accounting Oversight Board determines, by regulation, is permissible.	Institutions should prohibit their independent auditors from providing the non-audit services prohibited by the Act unless extenuating circumstances exist and the audit committee approves the work in advance.	Currently the external auditor provides only audit services. A policy has been developed that requires non-audit services to be approved by the Audit Committee.

Section	Sarbanes-Oxley Act of 2002	NACUBO Recommendations	U of L Practice
	10. A registered public accounting firm may engage in any other service, including tax services for an audit client, but only if the audit committee approves the activity in advance.		
202	The audit committee must pre-approve all services provided by the auditor.	Institutions should require pre-approval by the audit committee for all prohibited, non-audit services performed by the independent auditor.	This is currently done.
203	The lead (or coordinating) audit partner and the reviewing audit partner of the public accounting firm must rotate off the audit every five years.	Institutions should require a rotation of the lead partner every seven years with a timeout of two years.	A policy has been developed that requires rotation at least every 7 years.
204	The public accounting firm must report to the audit committee: 1. All critical accounting policies and practices used by the client that have been discussed with management; 2. All alternative treatments of financial information, ramifications of such use, and the treatment preferred by the public accounting firm; 3. Other material written communication between the public accounting firm and management, such as the management letter or schedule of unadjusted differences.	Audit committee oversight is critical to ensure the independence of the audit decisions. The audit engagement letter should be addressed to the audit committee rather than internal management.	The annual SAS 61 letter issued by BKD adequately addresses this.
205	Conforming amendments to the SEC Act of 1934	*Not Applicable*	*Not Applicable*
206	The public accounting firm cannot have employed the CEO, Controller, CFO, chief accounting officer, or any person in an	Institutions should carefully consider the benefits of employing a CFO or controller who has worked for the auditing firm within the last	A policy has been developed to consider the benefits of employing a CFO or controller who worked for the auditing firm within the last year.

Section	Sarbanes-Oxley Act of 2002	NACUBO Recommendations	U of L Practice
	equivalent position, during the one-year period preceding the audit.	year and consider how the position may relate to the institution's external audit. To forego the one-year waiting period, institutions should document the benefits and risks and seek board approval.	
207	The U.S. Governmental Accounting Office will do a study on the potential effects of mandatory rotation of public accounting firms.	The current emphasis is on rotation of audit partners (section 203) rather than rotation of firms. The audit committee should annually evaluate the performance of the external auditor. In addition, the committee should consider periodically recompeting the selection of the external audit firm.	The audit committee reviews the evaluations of auditors by an internal committee subsequent to the request for proposal process. This occurs at least every 5 years. The auditors meet with the audit committee at least annually to discuss the financial audit.
208 – 209	SEC final authority for Section 10A and considerations by appropriate State regulatory authorities.	*Not Applicable*	*Not Applicable*
Title III	**Corporate Responsibility**		
301	1. The Commission may prohibit the listing of securities of any firm found not to be incompliance with paragraphs 2-6 of this section. 2. The audit committee shall be directly responsible for the appointment, compensation, and oversight of the work of any registered public accounting firm employed by its company and the public accounting firm shall report directly to the audit committee. 3. Each member of the audit committee	Institutions that do not have an audit committee should assign the audit function to another committee of the board of trustees, for example, the finance committee, or to the board as a whole. Institutions that assign audit committee functions to another committee should add "audit" to the committee title, for example, "Finance and Audit" committee. (1) Not applicable (2) Audit committee involvement is critical in selection of auditors and the performance of the audit. (3) Independence of the audit committee members is important. Management representatives should no be voting	Item 1 is not applicable at U of L. Items 2, 3, 5, and 6 are done at U of L. The Compliance Oversight Council is evaluating a "hotline" that addresses item 4.

Section	Sarbanes-Oxley Act of 2002	NACUBO Recommendations	U of L Practice
	shall be a member of the Board of Directors and shall otherwise be independent. Independent is defined as not receiving, other than for service on the Board of Directors, any consulting, advisory, or other compensatory fee from the company, and not being affiliated person of the company. 4. The audit committee shall establish procedures for; (a) The receipt, retention, and treatment of complaints received by the company regarding accounting, internal controls and auditing matters. (b) The confidential, anonymous submission by employees of questionable accounting or auditing matters. 5. The Audit Committee shall have the authority to engage independent counsel or other advisors, as necessary to carry out its duties. 6. Each company shall provide appropriate funding as determined by the Audit Committee for payment to the public accounting firm and any advisors employed by the Audit Committee under paragraph 5 above.	members of the committee. (4) A good practice would be the establishment of confidential complaint mechanisms for employees; for example, a hotline, anonymous e-mail/voice meal, secure complaint boxes, or extending existing employee grievance processes or communication channels to the institution's internal auditors. The audit committee should review the nature and disposition of reported matters. (5) The audit committee should have all necessary authority contained in its charter. 11. The charter should also specify that appropriate funding be available for the audit committee.	
302	The CEO and CFO shall certify along with the annual audit report that:	The provisions of the act extend the current audit representation letter responsibilities. If the	U of L performs items 1 – 3.

Section	Sarbanes-Oxley Act of 2002	NACUBO Recommendations	U of L Practice
	1. They have reviewed the report; 2. Based on their knowledge, the report does not contain any untrue statement of a material fact or omission of a material fact that makes the statements misleading; 3. Based on their knowledge, the financial statements present in all material respects the financial condition of operations; 4. They are responsible for establishing and maintaining internal controls, ensuring that material information relating to the company and its consolidated subsidiaries is made known to officers and others within those entities; have evaluated the effectiveness of internal controls within 90 days prior to the report; and have presented their conclusions about the effectiveness of their internal controls based on their evaluation as of that date; 5. They disclosed to the auditors and the audit committee all significant deficiencies and material weaknesses in the internal controls that could adversely affect the company's ability to record, process, summarize, and report financial data;	institutions publicly disclose financial statements, they should consider these assertions. However, assertion 4 includes new and complex affirmations on the adequacy of internal controls over both financial reporting and financial disclosure. The degree of decentralization of financial operations is an important consideration for higher education Business units' responsibility for financial reporting should be clearly defined including policies for those activities. Institutions that are decentralized should consider implementing "sub-certification" requirements from financial leaders responsible for the financial results of units, departments, or schools. The sub-certification provides assurance on the underlying numbers and controls. Institutions should start documenting their financial reporting process; and identifying and evaluating the adequacy of controls over financial reporting and other financial disclosures. The audit committee should consider periodic inquiries of financial executives on the adequacy of controls.	Items 4, 5 and 6 require considerable effort and will be deferred, pending required activity for non-profits under section 404. These potential requirements will be closely monitored.

Section	Sarbanes-Oxley Act of 2002	NACUBO Recommendations	U of L Practice
	6. They have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions. Reincorporating outside of the United States does not lessen the requirements of section 302.		
303	It is unlawful for any officer or director of a company to take an action to fraudulently influence, coerce, manipulate, or mislead an auditor engaged in the performance of an audit for the purpose of rendering the financial statements materially misleading.	This should be addressed in the institutions code of conduct/code of ethics.	The Compliance Oversight Council is developing a code of conduct.
304	If an accounting restatement is necessary due to misconduct, the CEO and CFO shall reimburse the company for any bonus or other incentive or equity-based compensation received by that person during the 12 month period following the issuance of the financial statements, as well as reimburse the company for any profits realized from the sale of securities of the company during the same 12 month period.	*Not applicable*. However, the audit committee may want to review compensation arrangements for the CEO and CFO. Incentives related to financial results should be disclosed to the audit committee.	*Not Applicable*
305	The SEC may issue an order to prohibit, conditionally or unconditionally, permanently or temporary, any person who has violated section 10(b) of the 1934 Act from acting as an officer or director of a company if the SEC has found that such person is unfit.	*Not applicable*. However, institutions should consider any SEC action in connection with hiring officers and nominating trustees; and ensure that employment contracts of senior officers allow removal for financial impropriety.	*Not Applicable*
306 – 308	Concerns sales of stock, fair funds for investors and attorneys practicing before the SEC.	*Not Applicable*	*Not Applicable*

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Title IV	**Enhanced Financial Disclosures**		
401	SEC shall study off-balance sheet disclosures to determine their extent and whether GAAP results reflect the economics of such transactions	Higher education should follow current and appropriate accounting standard guidance (i.e. FASB, GASB).	The University follows GASB requirements. ULF follows FASB requirements.
402	In general, it shall be unlawful for a company to extend personal loans to any director or executive officer	The audit committee should be aware of and review policies on personal loans and understand that housing assistance included as part of compensation is not a personal loan.	State constitution prohibits this activity.
403	Directors, officers, and 10%+ owners must report designated equity security transactions by the end of the second business day following the day the transaction was executed.	The audit committee should be aware of and review policies on ownership interests in related ventures of start-ups. Existing conflict of interest policies can be leveraged and should be reviewed by the audit committee.	The current personnel policies and the Redbook address this issue.
404	Each annual report shall contain an internal control report, which: 1. States the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and 2. Contains an assessment, as of the end of the fiscal year, of the effectiveness of the internal control structure and procedures of the company for financial reporting. The public accounting firm shall attest to and report on the internal control assessment made by management.	Identifying, designing and maintaining controls and procedures that safeguard assets and minimize risk is sound business practice. A good business practice would be to start planning how an internal control assessment might be conducted. A few institutions have started doing risk assessments and documenting key financial processes. The audit committee should consider independence issues if contemplating using the external auditor for this review function. For reference, institutions can obtain a copy of the Committee of Sponsoring Organizations (COSO) model of an internal control framework. The COSO model is considered the most widely accepted model for controls. Institutions with internal audit departments	U of L will monitor the need for this internal control report.

Section	Sarbanes-Oxley Act of 2002	NACUBO Recommendations	U of L Practice
		should consider using them to periodically report on internal controls to the audit committee in addition to reporting to management. These activities should be coordinated with the risk assessment and internal control initiatives described above. The results of the internal control assessment should be tested to ensure compliance. A positive assertion on controls would require a large sustained effort and would require the external auditor to perform an attestation on internal controls, which would be expensive and time consuming. NACUBO does not recommend external auditor attestation or audit of internal controls. An alternative would be for management to provide the assertions and testing without the external audit attestation. NACUBO encourages institutions to take this topic seriously and start planning how an external control assessment might be conducted. NACUBO will monitor the actions of institutions and communicate discoveries. At this point NACUBO and the APC are not aware of any Institutions that have committed to this positive assertion on controls.	
405	Sections 401, 402, and 404 do not apply to any investment company registered under section 8 of the Investment Company Act of 1940	*Not Applicable*	*Not Applicable*
406	Requires each company to disclose whether it has adopted a code of ethics for its senior financial officers and the contents of the code of	A best practice is the adoption of a code of ethics for senior financial officers. Subsequently, the audit committee should	This is addressed in section 303.

Section	Sarbanes-Oxley Act of 2002	NACUBO Recommendations	U of L Practice
	ethics.	review the adequacy of the code and periodically review how compliance is assured.	
407	Companies are required to disclose whether at least one member of the audit committee is a "financial expert." The final rule also provides a definition of a financial expert. In the final rule, recognition was given that an audit committee financial expert can acquire the requisite attributes of an expert in many different ways and that experience, in addition to education, is an important consideration.	A best practice would be the inclusion of at least one financial expert on the audit committee. Institutions should consider the following in defining financial expertise: • familiarity with estimates, accruals, and reserves relevant to higher education • longevity and experience with a given institution can be considered "other relevant experience" Colleges and universities should also consider rotating the financial expert and begin planning for the process and cost of recruiting, training and retaining financial expertise. The recruitment and retention of a financial expert by public institutions might be limited when alumni or elected officials appoint the board. The Board of Regents should determine who its designated financial experts are based on NACUBO's recommended qualifications and ensure at least one is a member of the Finance and Audit Committee.	Financial expertise will be considered in the appointment of the Audit Committee. In addition, the Audit Committee will receive training from the external auditor regarding estimates, accruals, and reserves relative to higher education institutions.