

# Public University Foundations: More Problems

07.31.18 | Linda J. Rosenthal, JD



In [Another Public University Foundation Under Fire](#), we wrote:

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*Sometimes called “slush funds” and “shadow corporations,” the foundations that support the nation’s public universities have been grabbing headlines recently: ones they would rather avoid. We highlighted some developments in “Foundations of Public Universities: Too Secretive?”*

There must be something in the coffee served in the offices of foundations that are connected to public universities. On a fairly regular basis, yet another set of these 501(c)(3)s is revealed to be enmeshed in questionable practices and scandals. Most recently, the whistle has been blown about at least one-third of the foundations that support state-run colleges and universities of the State of New York (SUNY). The whistleblower: An agency of New York State.

## *SUNY Foundations In the Spotlight*

There are thirty private nonprofits with 501(c)(3) tax-exempt status that were created to provide a variety of assistance to the public educational institutions in the SUNY system.

Each institution has authority to make contracts with its supporting organization “to support fundraising efforts, real property management, or other activities and functions that are not specifically vested with the campus.” These organizations are funded by donations from a variety of sources: foundations, corporations, and government along with alumni, parents, faculty, and staff.

They manage huge amounts of money: As of 6/30/15, SUNY’s 30 campus-related foundations had

net assets totaling \$2.1 billion.

SUNY's Board of Trustees grants oversight responsibility of the campus foundations to the University Controller's Office (UCO) and the Office of the University Auditor (OUA). Together, they are referred to as SUNY's System Administration (SSA).

## *Audit Report Released*

In February 2018, the New York State Office of the State Comptroller issued an audit and report by Thomas P. DiNapoli, Division of State Government Accountability. Titled *Oversight of Campus Foundations*, the 37-page report ([full text here](#)) covers the period from mid-2013 through October 1, 2017.

The stated purpose was “[t]o determine if the State University of New York’s System Administration is providing sufficient oversight of campus foundations to make certain the campus foundations conduct their activities in accordance with applicable laws, rules, and regulations.”

The conclusion in a nutshell: No.

The findings revealed “conflicts, breaks in fiscal control, and a lack of governance” in ten of these organizations as well as deficiencies in the oversight by SUNY’s System Administration. There were “more serious problems” in connection with two of them which – in a troubling twist – “controlled \$1.1 billion, more than half of the total” assets of the thirty SUNY-related organizations.

From the [Executive Summary](#), the “key findings” included:

- Ten of the 30 foundations managed donations and resources without having required contracts with those campuses in place.
- Sixteen foundations had not been audited since at least 2007 by SUNY oversight offices, which also did not “routinely obtain or review certain available documentation that could be used to assess risk, such as the foundations’ policies and IRS Form 990...”
- “Certain foundations” lacked “required policies and procedures for key business functions, or their policies are inadequate or contain questionable provisions.”

## *Reaction to Foundations Audit*

“Arguably, ..., the worst part” of this situation is – according to Marion Conway, writing in *The Nonprofit Quarterly* – the stonewalling by the audited groups, noted in [the draft audit report](#)’s Comment 1: “We experienced significant delays on this audit. From the onset, foundations were hesitant to provide information. Certain requested information was not provided while other information took an inordinate amount of time to receive.”

From various officials, there were the usual “nothingburger” excuses. The audit is a “non-issue,” according to President Samuel L. Stanley, Jr., of Stony Brook University – one of the two campuses cited for the worst problems. “I think a careful review shows that there was nothing really there...”

The SUNY Chancellor’s office “... strongly reject the assertions made by the Comptroller in this ‘audit.’ SUNY maintains very tight financial controls over its affiliated foundations [which] include annual independent audits, strict expenditure policies and oversight. They also include contracts between the campuses and their respective foundations.... SUNY recently updated these contracts to comply with enhanced foundation guidelines adopted by the Board of Trustees in May 2016.... This

audit report simply ignores the facts, which are readily verifiable.”

### *Conclusion*

This latest example of troubled public university foundations follows a disturbing pattern of questionable practices and procedures, insufficient oversight by state university systems’ officials, and a pattern of secrecy. “When foundations are not forthcoming, they imply they have something to hide ....”