COLORADO SCHOOL OF MINES
Policy: Educational Business Activities

1.0 Background and Purpose

The purpose of this policy is to describe the circumstances under which sales of Colorado School of Mines ("School") goods and services may be conducted and access to certain School facilities may be provided. This policy also sets forth guidelines and requirements for all members of the campus community engaged in such activities to ensure the School's compliance with appropriate State and federal law.

Since the mission of the School involves providing instruction, research and public service, this policy shall not apply to: charges or fees for instruction in the School's undergraduate, graduate or continuing education programs; services provided in connection with the practical aspects of instructional and sponsored research programs; services or fees in connection with the School's student extracurricular or residential life programs (including resident halls, food services, health and counseling services, athletic and recreational programs, and performing arts programs); academic support services; and federal and State mandated public service responsibilities and activities. This policy is also not intended to apply to the sale of School-owned real property or any personal property the disposition of which is governed by other School or CSM Board of Trustees policies and procedures.

2.0 Authority

Section 24-113-104 of the Colorado Revised Statutes regulates competition by State higher education institutions with private enterprise. The School is required by this statute to develop and implement procedures for reviewing unfair competition complaints from privately-owned businesses.

This policy is not intended to supersede or limit requirements which may be otherwise imposed by law. To the extent this policy conflicts with pertinent statutes or federal regulations, such statutes or regulations shall govern.

3.0 Policy

3.1 Sales of Goods and Services to the Campus Community.

A. The School may engage in the direct sale of goods and services, including provision of access to facilities, to the campus community, even though such goods and services may be available through privately-owned businesses, provided:
    1. The provision of such goods and services is substantially related to the School's instruction, research or public service mission; or

2. Provision of the goods, services or facilities is necessary or convenient for the campus community, including invited guests; or
3. The goods and services are facilities for recreational, cultural and athletic events, or facilities for food services and sales.

B. If the activity meets one of the above criteria, these guidelines must be followed:
   1. The price or fee charged for the goods, services or facilities must reflect the direct and indirect costs and overhead costs of providing such goods or services, and should be set in a manner consistent and compliant with the School's Recharge Policy.
   2. Advertising the goods, services or availability of facilities to the general public is prohibited.
   3. Any promotion of the goods, services or facilities, including public announcements or communications regarding their availability, must be directed to the campus community only, and shall not make comparisons with off-campus business establishments or prices.

3.2 Sales of Goods and Services to the External Community

A. The School may provide goods and services, including access to facilities, to parties outside the School community, provided:
   1. Provision of such goods and services is substantially and directly related to the instructional, research or public service mission of the School; or
   2. There is an external demand for the goods or services, which are not commonly available or otherwise easily accessible.

B. If the activity meets one of the above criteria, these guidelines must be followed:
   1. The price or fee charged for the goods or services must reflect the direct and indirect costs and overhead costs of providing such goods or services. Additionally, the prices must be reflective of the price in the private marketplace for such goods and services (where the private marketplace price can be reasonably determined by the School).
   2. Any required advertising must include a clearly worded institutional disclosure that explains the rationale for offering the goods or services.

C. Revenue Generating Activity Contract Templates

The following templates are to be used by departments when entering into agreements with the respective third parties listed below. For questions, please contact Business Operations (nmartinez@mines.edu or extension 3569).

1. Facility Use Agreement (For use when a third party needs to use our facilities/spaces)
2. Technical Services Agreement (For use when CSM will be providing a technical service for a third party)
3. External User Agreement (For use when CSM will allow a third party to use lab facilities or equipment for research)

3.3 Oversight and Compliance Accountability

A. Department and division heads and directors are responsible for assuring that the School fund managers and other pertinent personnel within their areas satisfy the above criteria and comply with this School policy before engaging in any sales of goods and services for fees, either to the campus community or external parties.

B. School business activities operating within the guidelines set forth in this policy shall be reviewed periodically (not less than every three years) by the Vice President for Finance and Operations, or his or her designee, to ensure continued compliance. As directed by the President of CSM, the Vice President for Finance and Operations shall, based on the internal review, authorize continued operations for a specified period or mandate termination of non-compliant activity.

3.4 Complaints Under C.R.S. §24-113-104 (Competition with Private Enterprise)

A. In accordance with Colorado Revised Statutes §24-113-104 (3)(a), the School has established a formal procedure for addressing complaints brought by private businesses that allege the School has engaged in unfair competition in violation of State law. The Vice President for Finance and Operations has been designated by the School's President as the officer in charge of reviewing and responding to all written complaints. Additionally, the Vice President for Finance and Operations has been designated by the President as being responsible for assuring the School's compliance with this

policy and responding to any general information requests regarding this policy.

B. Procedure for Responding to Oral Complaints Regarding the School's Business Activities

1. Oral complaints received within a department should be directed to the School employee directly responsible for the activity. This employee is encouraged to work with the appropriate director or department head to address the complainant's concerns and resolve the matter at the departmental level. In the event the matter cannot be resolved at that level to the complainant's satisfaction, the

   complainant shall be encouraged to submit a written complaint to the Vice President for Finance and Operations pursuant to the procedure outlined below.

2. Individuals who make an oral complaint to the Vice President for Finance and Operations regarding the School's business activities will be asked to put their concerns in writing so that a formal review of the matter can be completed. At that time, the complainant will be informed of the School's procedure for handling such complaints.

C. Procedure for Responding to Written Complaints Regarding the School's Business Activities

1. Written complaints regarding the School's business activities received by individual employees or departments must be forwarded to the Vice President for Finance and Operations within ten (10) business days of receipt. The department should not attempt to resolve such complaints informally.

2. Within five (5) business days of receiving the written complaint, the Vice President for Finance and Operations will send a written acknowledgment to the complainant. This acknowledgment will include an explanation of the School's process for reviewing such complaints, a request for additional information, if needed, and confirmation that the School will provide a written response to the complaint within thirty (30) business days.

3. The Vice President for Finance and Operations will review the complaint and conduct an internal investigation of the allegations in the complaint, conferring with the department head or director responsible for the area within which the disputed activities have occurred, and interviewing individuals responsible for these activities, and any other persons with knowledge or data pertinent to the allegations. The Vice President for Finance and Operations will also review pertinent department and School documents, and any other relevant information needed to address the complainant's allegations.

4. Based on his or her investigation and review of all pertinent information, the Vice President for Finance and Operations shall make a written determination as to the School's position regarding the appropriateness of the business activities and response to the complainant's allegations. The Vice President's report will outline any changes required in department or School processes or procedures to remedy any activities deemed inappropriate. The complainant and the appropriate School department head will be informed in writing of the Vice President's determination regarding the appropriateness of the business activities and the School's response to the complaint. This communication will include a summary of the appeal process available to the complainant if the School's response is deemed unacceptable.

D. Appeals

1. If the complainant deems the School's written response to the complaint unsatisfactory, the complainant may make a direct appeal to the Vice President for Finance and Operations. Within thirty (30) business days of receipt of notice of the appeal, the Vice President shall meet with the complainant to discuss the matter and consider any additional information the complainant wishes to provide.

2. In the event the meeting with the Vice President for Finance and Operations does not satisfactorily resolve the complainant's concerns, the complainant may appeal the matter, in writing, to the School President. The President will review the Vice President's decision and any relevant documentation, and issue a decision within fifteen (15) business days. This decision will be communicated in writing

to the complainant and will include a summary of the appeal options available to the complainant.

3. If the complainant is not satisfied with the results of the appeal to the President, the complainant is entitled to appeal the President's decision to the School's governing Board of Trustees. Upon notification by the Board of such appeal, the Vice President for Finance and Operations shall provide the Board the relevant School documents and any assistance required to enable the Board to render a decision on the appeal.

E. Annual Reporting

The Vice President for Finance and Operations shall report at least once annually to the Board of Trustees regarding any complaints about inappropriate business activities received by the School and the School's response to same.

Approved October 30, 2006.
Amended January 14, 2013.