

## **FUNDRAISING INVENTORY OF POLICY AND DELEGATION**

The following Inventory of Policy and Delegation is provided as a reference for development officers and administrators. It is offered to provide up-to-date information while the Development Policy and Administration Manual is being revised and translated into a web-friendly format. The compilation is a work-in-progress; it will be updated as necessary. The date on this page reflects the most recent revision.

The Inventory provides, under a single heading, the controlling documents with regard to fundraising authority and the related subjects of endowments, allocations and reallocations, namings, support groups, campus foundations, and alumni associations.

The *Miscellaneous* section contains other items of interest, including information on letters and deeds of gift, sample language to establish an endowed fund, a paper titled *Principles of Endowment Administration*, Financial Aid Guidelines for Compliance with Proposition 209, reports dealing with Private Support, gift authority at-a-glance, campus endowment minima, and Office of the President contacts.

For additional information or suggested additions to the inventory, please contact June Smith [June.Smith@ucop.edu], Director of Development Policy and Administration, 510-987-9180.

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[http://www.leginfo.ca.gov/.const/.article\\_9](http://www.leginfo.ca.gov/.const/.article_9)

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Bylaws and Standing Orders of The Regents

Bylaw 21.3f(3)

<http://www.ucop.edu/regents/bylaws/bl21.html#bl21.3>

Bylaw 21.4t

<http://www.ucop.edu/regents/bylaws/bl21.html#bl21.4>

Standing Order 100.4 (k), (n), (s), (t), (u), (v), (dd-1&9), (ff), (gg), (hh)

<http://www.ucop.edu/regents/bylaws/standing.html>

Delegation of Authority – To Solicit and Accept Gifts

<http://www.ucop.edu/ucophome/coordrev/da/da2011.html>

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<http://www.ucop.edu/ucophome/coordrev/da/da2063.html>

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See Administrative Guidelines for Campus Foundations, Section II.J.1,2,3

<http://www.ucop.edu/ucophome/coordrev/policy/4-18-02att.html>

Regental Policy on Fundraising Campaigns

<http://www.ucop.edu/ucophome/coordrev/policy/7-16-93rp.html>

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<http://www.ucop.edu/ucophome/coordrev/da/da2018.html>

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<http://www.ucop.edu/ucophome/coordrev/da/da0225.html>

Regental Policy on Payroll Deductions for Charitable Contributions and Development Programs

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<http://www.ucop.edu/ucophome/coordrev/da/da1052.html>

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<http://www.ucop.edu/ucophome/coordrev/da/da2030.html>

### **4. Naming and Endowed Chairs**

Policy of Naming University Properties, Programs and Facilities

<http://www.ucop.edu/ucophome/coordrev/policy/12-19-02.html>

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<http://www.ucop.edu/ucophome/coordrev/da/da2002.html>

Policy on Endowed Chairs and Professorships, APM 191

<http://www.ucop.edu/acadadv/acadpers/apm/apm-191.pdf>

Administrative Guidelines and Procedures: Endowed Chairs and Professorships, APM 191

<http://www.ucop.edu/acadadv/acadpers/apm/apm-191.pdf>

Policy on the Use of Non-19900 Fund Sources to Support Ladder-Rank Faculty, APM 190, Appendix F

<http://www.ucop.edu/acadadv/acadpers/apm/apm-190-f.pdf>

Procedures for Presidential Approval of Endowed Chairs and Namings

<http://www.ucop.edu/ucophome/coordrev/policy/6-14-96.html>

Policy on Naming Facilities to Include Full Name of Individual

<http://www.ucop.edu/regents/policies/6094.html>

### **5. Support Groups, Campus Foundations, and Alumni Associations**

Policy on Support Groups, Campus Foundations, and Alumni Associations

<http://www.ucop.edu/ucophome/policies/support/supppol.html>

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<http://www.ucop.edu/ucophome/policies/support/alumniguide.html>

## **6. Financial Aid**

Financial Aid Guidelines for Compliance with Proposition 209  
<http://www.ucop.edu/ucophome/coordrev/policy/11-01-01att.html>

Guidelines for Administering Private Outside Agency Student Support Funds Restricted by Race, Ethnicity, Gender or National Origin  
<http://www.ucop.edu/sas/sfs/ppolicies/prop209/agency.html>

Guidelines on Applying for Federal Student Support Funds Post-Proposition 209  
[http://www.ucop.edu/sas/sfs/ppolicies/guidelines/federalfunds\\_guidelines.htm](http://www.ucop.edu/sas/sfs/ppolicies/guidelines/federalfunds_guidelines.htm)

## **7. Miscellaneous references not posted on web – text follows:**

Information on Letters and Deeds of Gift

Sample Language to Establish an Endowed Fund with The Regents or Campus Foundation

Sample Bequest Language

Principles of Endowment Administration

Reports Dealing with Private Support

Matrix on Gift-Related Authority

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Office of the President Contacts

## MISCELLANEOUS SECTION

### **Information on Letters and Deeds of Gift**

Gifts are normally accompanied by a letter or deed of gift from the donor that specifies the use to which the gift is to be put. Under California law, gifts of community property require the consent of both spouses. A non-consenting spouse can revoke his or her community interest in such a gift. It is therefore in the best interests of the University to secure the signatures of both spouses for all significant gifts.

Ideally, the letter of gift should include the following points for ease in administering the fund:

- ? Clearly state the donor's commitment (not *intention*) to make a gift;
- ? Provide a brief description of the gift (e.g., cash, shares of stock, personal property);
- ? Declare the gift is irrevocable;
- ? Identify the purpose or purposes for which the gift will be used (this may include the campus designation and the type of fund [i.e., current use, endowment, plant])

The University's stewardship of a gift will be aided by a gift agreement crafted using the simplest, most straight-forward terms, preferably indicating that administration will be conducted according to University policy. Please carefully consider and consult on the obligations that the University may be making to build, maintain, and name facilities and programs – especially commitments in perpetuity. Each time a gift agreement stipulates a unique committee structure or other unique administrative requirement, the cost of gift administration increases as do the chances that at some future time there will be a misstep in the handling of that particular gift. If a gift opportunity involves an unusual circumstance or unique issues, staff are invited to consult in advance with the Office of Development Policy and Administration ([June.Smith@ucop.edu](mailto:June.Smith@ucop.edu)), 510-987-9180.

**Sample Language To Establish an Endowed Fund with The Regents or Campus Foundation**

Donor Name(s)

I/WE wish to establish an endowed fund to benefit the \_\_\_\_\_ campus and hereby pledge irrevocably \$\_\_\_\_\_ to [The Regents/name of campus foundation], a California non-profit corporation, for that purpose. The fund shall be known as the \_\_\_\_\_ Fund (FUND) and will support (e.g., financial aid for undergraduate students at the direction of the Chancellor, research in mathematics, etc.).

I/WE plan to fulfill this pledge this year [or in \_\_\_\_\_ (not more than five) years]. I/WE have made provision in MY/OUR [Will(s) or other testamentary-plan documents] for payment of any portion of this pledge that has not been paid at MY/OUR deaths.

I/WE understand that the FUND's expendable distribution will be determined from time-to-time under the Endowment Expenditure Policy established by [The Regents/name of campus foundation]. Total return earned by the FUND in excess of the amount approved for distribution shall be retained in the FUND principal to protect the FUND from the effects of inflation and to allow for growth. The expendable distribution from one year may be combined with that of the next year for spending purposes. In addition, I/WE authorize, at the discretion of the Chancellor, in any fiscal year that the expendable distribution is not needed for the aforementioned purpose,

I/WE understand that under campus policy there will be a one-time administrative fee of \_\_\_% deducted from this gift. I/WE further understand that the principal of the FUND may be combined with other funds for investment purposes.

If, in the judgment of the Chancellor, the designated use of the expendable FUND distributions is impractical or impossible, then the Chancellor may use the FUND distributions to further the objectives and purposes of the campus, as HE/SHE determines to be consistent with MY/OUR interests and intentions.

The [Regents of the University of California/name of campus foundation] is a fully qualified charity, Tax ID number [\_\_\_\_\_].

\_\_\_\_\_

Date

\_\_\_\_\_

Signed by Donor(s)

SAMPLE BEQUEST LANGUAGE

I give, devise, and bequeath to THE REGENTS OF THE UNIVERSITY OF CALFIORNIA:

\_\_\_\_\_ percent (\_\_\_%) of the rest, residue and remainder of my estate

OR

the sum of \_\_\_\_\_ dollars (\$\_\_\_\_.00),

This bequest shall be used to establish the { NAME OF DONOR(S) } Fund,

an endowed {*non-endowed*} fund,

the payout only {*or, if non-endowed, the principal and income*}

of which shall be used to benefit

{*insert more specific purpose here, if necessary*}

at the University of California, {*campus/school/department*}.

*{Optional: if possible, this charitable bequest shall be satisfied with assets deemed to be*

*“income in respect of a decedent” (IRD), under the Internal Revenue Code.}*

The corpus of the *Name of Donor* will be administered by The Regents of the University of California for the sole benefit of the Department/School of \_\_\_\_\_, in accordance with established University policies and procedures. In making this gift it is my intention to serve the Department/School of \_\_\_\_\_ on the \_\_\_\_\_ campus of the University of California and its students and I desire that the foregoing statement of purpose be liberally construed so that this objective may be fully accomplished. If, at any time in the judgment of the Chancellor of the \_\_\_\_\_ campus of the University of California, changed circumstances substantially interfere with the beneficial realization of such purposes, then the funds may be used for such other similar purposes as the Chancellor of the \_\_\_\_\_ campus of the University of California in his/her discretion determines to be consistent with my interests and intentions.

*The Regents of the University of California, \_\_\_\_\_ campus*

**Principles of Endowment Administration**  
**University of California, Office of the President**

A **true endowment** is created by a gift of bequest when a donor instructs the fiduciary that the corpus of the gift be held in perpetuity (or for a specified term of years) with the income used to support the institution or a particular program. Even absent a statement about holding the corpus in perpetuity, the intent to create an endowment should be inferred if the donor instructs that the *income* be used to support the institution or a particular program. Such gifts may be held in a fiduciary capacity by The Regents, a Campus Foundation, or an independent trustee licensed to engage in trust business.

When a gift is given to the University, it is not considered legally consummated until the University agrees to the conditions and notifies the donor of acceptance of the gift. If a gift or bequest is received without disclaimer by the University, the University assumes the legal obligation to administer the gift or bequest in a manner consistent with the terms specified by the donor. This obligation arises under an area of the law known as the law of charitable trusts, and is subject to enforcement on behalf of the public by the Attorney General of California.

A **fund functioning as an endowment**, also called a **quasi-endowment**, may be created by a gift or bequest when a donor does not instruct either that the gift be expended in its entirety or held as a true endowment. In such cases, the institution may, acting in its own discretion, decide to create a fund functioning as an endowment or quasi-endowment, which means the funds are invested in the same manner as if they were subject to the terms of a true endowment, with the crucial distinction that the institution may at any time decide to withdraw all or part of the corpus of the fund and expend it for the purpose designated by the donor.

California trust law (Probate Code Section 15000 et seq) provides among other things:

- ? The fiduciary must **invest the corpus prudently** in accordance with the Uniform Prudent Investor Act (Probate Code Section 16045 et seq).

The **income must be expended strictly in accordance with the donor's instruction**. Expenditures for purposes other than those set forth in the terms of the gift or as subsequently modified with the donor are unlawful and are not to be permitted. The institution and individuals willfully engaged in expenditures for impermissible purposes may be subject to civil and criminal penalties. If changed circumstances make expenditure of the funds in accordance with the terms of the gift illegal, impracticable or impossible and if the donor is not able to agree to

- ? **Excessive accumulation of income must be avoided.** The General Counsel of The Regents recommends that the income be expended regularly; as a guiding principle, the income accumulation should not be allowed to exceed five years.
- ? In the case of a true endowment, the unjustified failure to expend income as it is earned may constitute a **breach of fiduciary duty** under trust law. Accumulation may be justified if it is 1) not inconsistent with the terms of the gift, and 2) being done for a specific purpose consistent with the terms of the gift, such as equipment purchase. Simply deciding not to spend the funds without a specific purpose, or that the funding may likely be more useful at a later date, is not justification for not carrying out the donor's instruction. Accumulation is justified if it is agreed to by the donor and the institution.

#### **Conditions under which Endowment Income may be added to Endowment Principal**

- ? Endowment income must be spent strictly in accordance with the donor's instructions. There may be times, however, due to a variety of circumstances, such as expenditure is not possible. In these situations, the Office of Development Policy and Administration and the Office of the General Counsel will assist the campus in a review of an endowment fund's terms. In addition, assistance will be provided when the literal construction of the fund's terms is illegal, impracticable, or impossible, which may require court approval of revised terms.
- ? Requests to the administration to add accumulated income to principal will be permitted when the donor has expressly requested that it be done. Such requests may also be permitted when the donor's terms establish an endowment for a specific purpose that requires greater annual income than is currently being produced by the endowment corpus, but which, with the addition of accumulated income, would eventually produce an adequate income stream to support the fund's stated purpose. {Query – would this provision allow for a donor to establish a fund with a current gift of \$300,000, and let the fund accumulate income until the fund has reached the \$350,000 minimum for a Chair?}

#### **Endowment-related terms defined by Webster, Black, and others**

**allocation:** the administrative designation of fund terms that have not been specified by a donor, such as the location at which the funds will be used, the type of fund (endowment, fund functioning as an endowment, current fund), and the purpose for which the funds will be used.

**corpus:** the main body or corporeal substance of a thing; specifically: the principal of a fund or estate as distinct from income or interest.

**cy pres:** a rule providing for the interpretation of instruments in equity as nearly as possible in conformity to the intention of the testator (donor) when literal construction is illegal, impracticable, or impossible – called also *cy pres doctrine*.

**earnings:** the sum of stock dividends, bond interest, cash equivalent interest, rents, royalties, and other net cash flows earned by assets held by an endowment over a specified period of time. It does not include principal appreciation, or realized gains or losses.

**endowment:** the act of settling a fund, or permanent pecuniary provision, for the maintenance of a public institution, charity, college, etc. The fund settled upon a public institution, etc., for its maintenance and use.

An endowment is a fund held in perpetuity at the instruction of the donor or another, the income from which supports specific or general University programming.

**fair value:** the amount at which a financial instrument could be exchanged in a current transaction between willing parties, other than in a forced or liquidation sale. Commonly referred to, and defined in the Internal Revenue Code, as “fair market value”.

**fiduciary:** of, or relating to, involving a confidence or trust; held or founded in trust or confidence; depending on public confidence for value or currency; also, the agent or person who holds the trust.

**gift:** something voluntarily transferred by one person to another without compensation.

**historic value:** the aggregate value in dollars at the time the fund was endowed, each subsequent donation to the fund at the time it was made, and each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation was added to the fund. The total value of all gifts to a fund, not including any appreciation.

**income:** a gain or recurrent benefit usually measured in money that derives from capital or labor; *also* : the amount of such gain received in a period of time. Absent any qualifying language, income refers only to “ordinary income” or “trust accounting income” which would not include any capital gains – whether realized or not. However, income can also be defined to include certain realized capital gains (some net income charitable remainder trusts have this provision). In practice, this term may be used to refer to the “payout” from an endowment with a *total return expenditure policy* (see below).

**investment:** the outlay of money so that it may produce a revenue or income.

**reallocation:** the administrative redesignation of fund terms that have not been specified by a donor, such as the location at which the funds will be used, the type of fund (endowment, fund functioning as an endowment, current fund), and the purpose for which the funds will be used.

**UMIFA:** Uniform Management of Institutional Funds Act, California Probate Code Section 18500 et seq., was originally promulgated nationally to apply to all educational, religious, charitable, and eleemosynary institutions and to governmental organizations that hold funds for such purposes. The legislation prescribes the specific investment authority, the authority of governing boards to delegate day-to-day investment management, the standards of care and prudence in the operation of a non-profit institution, and the release of donor-specified restrictions on the use or investment of endowed gifts under certain circumstances. California originally enacted the UMIFA in 1973; it was the only state prior to 1990 among the 30 that passed UMIFA to restrict the legislation to certain accredited private schools and colleges. The revised UMIFA, supported by the University of California and passed by the California State Legislature in 1990, broadened the scope of the Act to apply to any incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or governmental organizations, to the extent that they hold funds exclusively for any of those purposes.

UMIFA permits a change in the traditional rule that trustees of trusts, including endowments, could spend only current income. In January 1991, California's revised version of UMIFA became effective, allowing trustees of both private and public charitable institutions to spend, in addition to current income, a portion of the net realized or unrealized appreciation in the value of the assets in the trust. The trust's income, plus the realized or unrealized gain, produces the "total return" of the trust. An institution that adopts UMIFA is permitted, but not required, to adopt a *total return expenditure policy*. However, without first adopting UMIFA, an institution must continue to adhere to the income only expenditure policy; the other provisions of UMIFA apply uniformly to charitable organizations without requiring an act by the governing board.

**total return expenditure policy:** endowment expenditure plans permitted to an institution that has adopted UMIFA (see above), as has been done by the Campus Foundations and most colleges and universities in the United States. An institution may take a number of different approaches to setting its total return expenditure policy. For example, the total return expenditure policy that is probably the most frequently occurring provides that the endowment make available for expenditure an amount equal to 5% of five-year moving average of the value of the endowment. This practice permits the institution to inform donors at the time of the gift what percentage of his or her donation will be available in future years.

**yield:** the return from an investment. This includes ordinary income realized gains, and capital appreciation (unrealized capital gains).

## **Reports Dealing with Private Support**

### **For Regents:**

Annual Report on the University Private Support Program, including Campaign Update

Report on Gifts from Foreign Sources

Report on Trusts and Charitable Gift Annuities

University Endowment Annual Report (Regents and Campus Foundations)

Quarterly Report on Private Support

Quarterly Report on Gifts of \$1 Million and More (submitted monthly)

Quarterly Report on Namings and Endowed Chairs

President's Report (includes gift highlights)

### **For external comparison with other institutions:**

Council for Aid to Education (CAE) Voluntary Support of Education Survey (annual)

### **For President and Chancellors:**

Annual Report on Endowed Chairs and Professorships

Annual Report on Support Groups

Annual Report on the Accumulated Payout of Regents Endowments

**GIFT AUTHORITY AT A GLANCE**  
**Solicitation, Acceptance, Allocation and Return of Gifts**  
**For Gifts to Regents and Campus Foundations**

AUTHORIZED	SOLICITATION			ACCEPTANCE				ALLOCATION AND REALLOCATION	RETURN OF GIFTS
	Pledges, Outright Gifts of Cash, Securities, Personal Property Exceptions listed below	Real Estate	Campaigns	Pledges, Outright Gifts of Cash, Securities, Personal Property Exceptions listed below	Real Estate	Endowed Chairs	Naming of Facilities, Schools, Academic Programs		
<b>BOARD OF REGENTS</b>	-Exceptions to programs and policies -Expenditure without approved funding source -Construction of facilities not previously approved	Over \$20 M (or \$10M to \$20M if Treas./Pres. do not have concurrence of Bd. And Invst. Comm. Chairs)	Public phase of campaign if goal over \$50M	-Exceptions to programs and policies -Expenditure without approved funding source -Construction of facilities not previously approved	Over \$20 M (or \$10M to \$20M if Treas./Pres. do not have concurrence of Bd. And Invst. Comm. Chairs)				
<b>TREASURER</b>		Up to and including \$10M or to \$20M if Bd. And Invst. Comm. Chairs concur			Up to and including \$10M or to \$20M if Bd. And Invst. Comm. Chairs concur				
<b>PRESIDENT</b>	Over \$5M for gifts to The Regents and Campus Foundations, except when Regents' action required	Up to and including \$10M or to \$20M if Bd. And Invst. Comm. Chairs concur	Any campaign over \$5M	Over \$5M, except when Regents' action required	Up to and including \$10M or to \$20M if Bd. And Invst. Comm. Chairs concur	Must approve establishment and naming of ALL	Land reserves, buildings, major centers of activities and other highly visible properties, major or multicampus programs or facilities	All gifts over \$250K (except Chancellors have authority to establish gift between \$250K to \$500K as fund functioning as an endowment [FFE])	Following consultation with General Counsel
<b>CHANCELLOR</b>	Up to and including \$5M for gifts to The Regents and Campus Foundations, except when Presidential or Regental action required		Up to and including \$5M, except if real property involved	Up to and including \$5M for gifts to The Regents and Campus Foundations, except when Presidential or Regental action required	Gifts to Campus Foundations not for transfer to The Regents		Streets, roads, portions of buildings, small outdoor areas and other minor properties, and single-campus programs or facilities	Gifts up to \$250K – determine purpose, fund type, campus beneficiary  Gifts from \$250K to \$500K – determine the purpose if not donor specified when gift will become an FFE	Up to and including \$5M after consultation with General Counsel

**University of California  
Campus and Foundation Endowed Minima Survey  
March 2000**

<u>Endowment Type</u>	<u>Campus/Foundation</u>								
	UCB	UCD	UCI	UCLA	UCR*	UCSD*	UCSF	UCSB	UCSC
<i><b>Chairs/Professorships</b></i>									
Endowed Chair	\$500,000	\$350,000	\$500,000	\$500,000	\$350,000		\$500,000	\$350,000	\$350,000
Distinguished Professorship	\$1,000,000			\$2,500,000			\$2,500,000	\$1,000,000	
Endowed Chair – Life Sciences			\$1,000,000						
Endowed Chair – Health Sciences		\$1,500,000				\$1,000,000			
Visiting Professorship				\$500,000					
<i><b>General</b></i>									
Academic Unit Endowment	\$50,000								
Chancellor’s Endowment	\$50,000			\$250,000	\$50,000			\$100,000	
Dean’s Fund				\$50,000	\$50,000			\$50,000	
Deanship/University Librarian				\$1,000,000				\$50,000	
Distinguished Scholars				\$250,000					
Endowments for Excellence							\$1,000,000		
Faculty Fellowship				\$100,000			\$250,000	\$300,000	
Faculty Research Fund	\$100,000	\$100,000			\$250,000			\$250,000	
Faculty Research Fellowship	\$300,000								
Graduate Fellowship	\$300,000	\$50,000	\$200,000	\$100,000	\$100,000		\$200,000	\$100,000	\$200,000
Lecture Fund			\$100,000	\$100,000	\$50,000		\$100,000	\$50,000	\$25,000
Library Fund	\$10,000		\$100,000	\$25,000	\$50,000			\$50,000	\$10,000
Named Award/Prize		\$10,000						\$20,000	\$10,000
Research Fund			\$250,000	\$100,000	\$250,000		\$100,000	\$100,000	
Student Prize			\$10,000					\$20,000	
Subject-Specific	\$10,000							\$20,000	\$10,000
Undergraduate Scholarship	\$25,000	\$10,000	\$50,000	\$50,000	\$50,000			\$50,000	\$50,000
* Suggested endowed minima, campus is in the process of formally establishing endowed minima levels									

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