

## **Administrative Guidelines for Allocation, Reallocation and Administration of Gifts and Bequests Received by The Regents and the Campus Foundations**

The following guidelines govern the allocation, reallocation, and administration of gifts and bequests benefiting the University of California, whether made to The Regents or to the Campus Foundations.

### **I. GUIDING PRINCIPLES**

- A. The University of California is a permanent public trust and its endowments are presumed to exist in perpetuity. Accordingly, when the question arises as to how a particular gift or bequest should be allocated, the University has followed a long-standing preference for allocation to support important continuing goals through endowments, funds functioning as endowment (FFE), and funds that may be used to support capital and infrastructure improvements. Therefore, whenever possible, any administrative restriction placed on endowments and FFEs should permit maximum flexibility to the campus, consistent with the donor's terms. Unrestricted funds or funds with terms that allow the payout to be applied within campus discretion are generally preferred to narrowly restricted funds, since the former provides a tool for leveraging the University's other financial resources. Endowments and FFEs that are restricted in purpose, but that provide funds that *relieve other resources*, also meet that objective. For example, an endowment restricted to awarding scholarships would serve a budget-relieving purpose. Gifts and endowments that support new and renovated facilities also may relieve the capital budget. University personnel responsible for allocation decisions shall keep these principles in mind during the allocation process. For a gift or bequest over \$50,000, if a campus prefers current use over its future use, the allocation record shall include a justification for the preference.
- B. The University, its faculty, and those administrators who provide staff services for gift administration, including those administrators who serve the Campus Foundations, have a legal and fiduciary responsibility under California trust law to fulfill each donor's terms for a gift or bequest. The same duty is present whether the funds are held in the name of The Regents or of the Campus Foundation. University policy also requires that administratively prescribed terms be respected. The Regents has the ultimate fiduciary responsibility for the expenditure of payout from endowments and FFEs. Therefore, the benefiting unit must use prudent methods to ensure timely and appropriate expenditures of payout, and the campus must assure that such use is monitored by the budget, accounting and audit functions, as appropriate.

If facts and circumstances make it impossible or impracticable to fulfill the terms of a completed gift or bequest made to The Regents or a Campus Foundation and the donor is no longer living or is otherwise unavailable, the Office of the General Counsel (OGC) shall be consulted to take appropriate legal action on behalf of the University or the Campus Foundation to secure approval from the California Attorney General or the Superior Court to modify the terms of the gift or bequest.

- C. If a donor does not provide all information necessary for administration of a gift or bequest (i.e., the location, purpose, and type of fund, as defined herein), the University will supply the necessary terms, as set forth in these Guidelines. The proposed terms and the gift instrument must be reviewed by the appropriate legal authority. For gifts that must be approved by the Office of the President, that authority will be the General Counsel of The Regents. For gifts within a Chancellor's purview, that authority will be Campus Counsel in consultation with the General Counsel, as appropriate.
- D. To give the Chancellors and the Vice President–Agriculture and Natural Resources (ANR) the maximum flexibility in use of allocated funds, administrative action to complete gift and bequest fund terms should not add unnecessary restrictions beyond those necessary to meet the donor's and campus/division/location-defined purpose. If the donor has demonstrated or articulated particular interests, the University practice has been to take those interests into consideration when allocations of the gift are made. The donor's giving history may provide additional guidance as to appropriate allocation. If the University is unable to discern the donor's preference, the University may consult the donor's family members and/or the donor's trustee, attorney, or personal representative. A summary of consultation efforts shall be documented in the gift record.
- E. If the donor does not specify the terms of the gift or bequest, the University should give priority to long-term use (endowment, FFE, capital project) when the donation is over \$50,000. Documentation must be supplied in the gift record if the campus decides to expend such a gift for current needs.
- F. The Chancellor may allocate and reallocate gifts and bequests up to \$5,000,000 received by The Regents and the Campus Foundation; the Vice President–ANR may allocate and reallocate gifts and bequests up to \$5,000,000 received by The Regents. This is the same amount delegated for solicitation and acceptance of gifts and grants and for expenditure for capital projects. Gifts and bequests to The Regents and to the Campus Foundation exceeding \$5,000,000 shall be submitted to the President for acceptance, authorization for acceptance, and allocation, as appropriate, with the exceptions noted below.

## II. DEFINITIONS

- A. *Allocation*: The administrative designation of fund terms that have not been specified by a donor, such as the *location* at which funds will be used, the *purpose* for which funds will be expended, and the *type of fund* to be established (endowment, fund functioning as endowment, current or plant fund). *Reallocation*

refers to an administrative decision to modify a pre-existing allocation as to location, purpose and/or type of fund, consistent with a donor's terms. Allocations and reallocations may be referred to below as *administrative decisions* and *administrative actions*.

- B. *Endowment record sheet, fund record sheet, gift record*: The University administrative record documenting the receipt of a gift, including the donor's identity, the date received, the gift value as of the date received, the prescribed use according to the donor's terms or as administratively prescribed (allocated) in the absence of terms from the donor, other pertinent details of the gift, and correspondence with the donor.
- C. *Location*: The administrative unit of the University (e.g., campus, division, college, school, department, unit, office) responsible for expending a gift.
- D. *Purpose*: The general and specific use for the funds as stated by the donor or as designated by administrative action. To respect the donor's wishes and to enhance flexibility to administer gifts and bequests for the highest and best purpose, the University shall impose no unnecessary restrictions.
- E. *Type of fund*: For accounting and administrative purposes, the University will designate the type of fund for a gift or bequest using one of the following four terms:
  - 1. *True endowment*  
A donor designates a gift as a *true endowment* either by directly stating so or by expressing a desire that the University use only the income (payout) from the gift or bequest corpus. The principal of a true endowment is inviolable in perpetuity.
  - 2. *Fund functioning as an endowment (FFE)*  
Designation of a gift or bequest as a *fund functioning as an endowment (FFE)* or *quasi-endowment* may be made by a donor, or as an administrative decision if both the principal and payout are to be available for expenditure. As an FFE, the principal of the gift or bequest is invested as an endowment and held on a long-term basis, routinely using only the income (payout) from the fund. If the beneficiary wishes to draw upon the corpus of an FFE, the Chancellor and Vice President-ANR may delegate authority for withdrawal from funds with a market value up to \$1,000,000. Authority for withdrawal from a fund valued between \$1,000,000 and \$5,000,000 remains with the Chancellor and the Vice President-ANR. The President must approve withdrawals from a fund with a market value over \$5,000,000. The Chancellor and the Vice President-ANR may also approve withdrawals from an FFE with a market value over \$5,000,000 when no more than five percent of the market value of a fund is to be withdrawn in a single year, over and above the routine payout.

3. *Current fund:*  
A gift up to \$50,000 may be designated as a *current fund*. A gift over \$50,000 for short-term expenditure may also be designated as a *current fund* with the donor's instruction or when the accepting authority has appropriately justified expenditure within one or two years. If the current-fund designation for a fund over \$50,000 is made administratively, the gift record shall document and justify the preference for current use over future use. A gift over \$5,000,000 to be designated as a current fund needs the approval of the President.
4. *Plant fund:*  
The University may designate a gift as a *plant fund* when the gift or bequest by the donor's instruction or by administrative action will support capital expenditures (construction, renovation and/or equipment) on a short-term or intermediate-term basis (i.e., the duration of a particular construction project). A gift over \$5,000,000 to be designated as a plant fund needs the approval of the President.

### III. DELEGATION OF AUTHORITY TO ALLOCATE AND REALLOCATE GIFTS AND BEQUESTS

- A. The Board of Regents has delegated to the President of the University the responsibility for allocation and reallocation of gifts and bequests. The President, in turn, has delegated responsibility as defined below to the Chancellors and the Vice President–Agriculture and Natural Resources. The Office of Institutional Advancement within University Affairs provides staff assistance, in consultation with the Office of the General Counsel and other University departments, for proposed allocations requiring review and approval in the Office of the President.
- B. From time to time, the gift terms imposed by a donor may present legal, policy, or practical issues. In such cases, appropriate University counsel (the General Counsel or Campus Counsel) should be contacted to reconcile the gift terms with such issues. When it is not possible to resolve the issues presented by particular restrictions, the President of the University, in consultation with the General Counsel, is authorized to return all or any portion of a gift of personal property if it becomes impossible or impracticable to fulfill the purposes of the gift and/or when alternative uses are precluded [Standing Order 100.4 (v)].
- C. A campus request to the President for authorization to accept a gift or bequest over \$5,000,000 should contain, if appropriate, the campus's proposal for the allocation of the gift or bequest. If the campus/location recommends that a bequest over \$5,000,000 be established as an endowment or an FFE, the Chancellor or Vice President may approve the allocation.
- D. The Chancellors have been delegated the authority to allocate and reallocate gifts and bequests made to The Regents and the Campus Foundations up to \$5,000,000, the same level as delegated authorities for gift and grant solicitation/acceptance and for capital expenditure. The Vice President–Agriculture and Natural

Resources has parallel authority for gifts to The Regents to benefit the Division of ANR. The following parameters apply to authority delegated to the Chancellors and the Vice President–ANR:

1. The Chancellors and the Vice President–ANR may redelegate to the Executive Vice Chancellor, Provost, and Associate Vice President the authority for allocation and reallocation for gifts and bequests up to \$1,000,000.
  2. If the donor has specified a campus or ANR as the recipient but has not specified other terms, the Chancellor or the Vice President–ANR must designate the specific administrative unit and purpose for which the gift or bequest shall be used; the type of fund in which it will be deposited; whether income and/or principal shall be expended; and decisions on allocations and reallocations in accordance with these Guidelines; and
  3. The Chancellors and the Vice President–ANR have unlimited authority for allocation and reallocation of funds administratively designated as endowments and as FFEs, including funds over \$5,000,000 from which no more than five percent of the market value of the corpus will be withdrawn for current expenditure in any one year. The Chancellor or VP–ANR may designate the gift as an FFE and specify the administrative unit and the purpose for a gift or bequest in accordance with these Guidelines. Presidential approval is not required for *allocation* of gifts and bequests valued at over \$5,000,000 which are to be handled in this manner, however *acceptance* of such a gift or bequest would continue to require Presidential approval.
  4. Gifts, bequests, and other funds used to establish endowed chairs are reviewed and approved according to procedures defined in Academic Personnel Policy 191.  
<http://www.ucop.edu/acadadv/acadpers/apm/apm-191.pdf>
  5. Gifts and bequests for student financial support are administered according to the Guidelines for Allocation, Reallocation and Administration of Financial Aid Gifts and Bequests.  
[http://www.ucop.edu/uer/instadv/fundraising/guidelines\\_for\\_allocation.pdf](http://www.ucop.edu/uer/instadv/fundraising/guidelines_for_allocation.pdf)
- E. The President retains authority for all other allocations, including 1) gifts and bequests for which the donor has not designated a preferred location/administrative unit, 2) those gifts and bequests over \$5,000,000 to be expended on a current or plant basis, and 3) those funds over \$5,000,000 from which more than five percent of the market value of the corpus is proposed for current or plant expenditure in a single year).

#### IV. MISCELLANEOUS PROVISIONS

##### A. REVIEW OF ENDOWMENTS AND FUNDS FUNCTIONING AS ENDOWMENTS

At least every ten years, the campus/location shall review all individual endowments and FFEs to assure compliance with fund terms for Regents- and Campus Foundation-held endowments and FFEs. From time to time, the Chancellor and the Vice President–ANR may reallocate gift funds consistent with a donor’s terms; however, any such decision should take into account the need to provide notice and a period of transition to affected units.

##### B. POLICY FOR WITHDRAWAL FROM FFE CORPUS

The President, the Chancellor and the Vice President–ANR may delegate authority for withdrawal from principal with a market value up to \$1,000,000. When such approval is delegated, documentation shall include the title of the administrator who will be authorized to make withdrawals. Otherwise, the authority for withdrawal shall be retained by the President, the Chancellor, or the Vice President–ANR, as appropriate. A withdrawal from the corpus of a Regents’ FFE may be made only during the fourth quarter of the fiscal year. The President must approve any allocation or reallocation proposal that would withdraw more than five percent from the corpus of an FFE having a market value of more than \$5,000,000.

##### C. ESTABLISHMENT OF FFE BASED ON NON-GIFT FUNDS

Any location proposal to use non-gift funds (such as departmental reserves from fee revenue) in any amount to establish or augment an FFE must be approved by the campus/division/location chief budget officer before referral to the President or Chancellor for approval. For Presidential approval, the Chancellor must recommend the use of non-gift funds in an FFE. No legislatively-appropriated funds (19900 funds) are eligible for deposit in an endowment or an FFE unless specifically authorized by the Legislature or appropriate State office. All non-gift funds are subject to the same level of review and may be used to establish a true endowment only if the Chancellor or the President concurs that the institutional interest is better served by a true endowment rather than an FFE.

##### D. CAMPUS/LOCATION RESPONSIBILITY

1. Each campus/division/location will maintain a central office of record for all gift and bequest allocations and reallocations, such as Advancement Services/University Relations. However, a campus may choose instead to assign the responsibility for maintaining records and conducting the required fund reviews to another office, such as campus accounting
2. By December 31, 2006, each Chancellor, the Vice President–Agriculture and Natural Resources, and the Office of the President must establish:
  - a. written procedures for allocating and reallocating gifts and bequests within their jurisdiction;

- b. a mechanism for accomplishing review by Campus Counsel (for campus-approved proposals, in consultation with the Office of the General Counsel, as appropriate) and University Counsel (for Office of the President-approved proposals) of each gift and bequest for which the administration has proposed fund terms not provided by the donor (i.e., location, purpose, and type of fund), including the gift instrument and the proposed allocation;
  - c. a system for maintaining a permanent record by fund for all allocation and reallocation decisions and assuring review of individual funds at intervals no greater than ten years to ensure the timely and appropriate expenditure;
  - d. an annual-review procedure to assure appropriate and timely expenditure of funds derived from gifts and bequests, including the annual payout distributed from Regents- and Foundation-held endowments;
  - e. as applicable, a procedure for preparing and maintaining an endowment record sheet for each fund held by The Regents or by the Campus Foundation and for revisions of the endowment record sheet following any reallocation of the fund; and
  - f. a system for recognizing donors and a record of efforts made to recognize and commemorate a donor's generosity, including written procedures that ensure timely written acknowledgment to the appropriate parties (donor, family, executor, attorney, personal representative).
3. Chancellors and the Vice President–ANR shall assure that all actions taken to commemorate a gift will be described in the related allocation proposal and in the allocation approval letter, as well as recorded in the permanent gift record.
4. The General Counsel will coordinate any *bequest to The Regents*. For a *bequest over \$5,000,000 made to a Campus Foundation*, the Chancellor shall assure that the bequest is presented to the President for acceptance and that complete documentation is provided to the Office of the General Counsel, including copies of the gift instrument, donor correspondence, and a copy of each allocation and reallocation transaction.
5. For a gift or bequest to The Regents that involves allocation as an endowment or FFE, the Chancellors and the Vice President–ANR shall assure that copies of the complete record are provided to the Endowment and Investment Accounting Office, Office of the President, for each allocation and reallocation of the fund.

6. The Chancellors and the Vice President–ANR are responsible for administering endowments and FFEs in accordance with the Guidelines for Endowment Administration.  
<http://www.ucop.edu/uer/instadv/fundraising/principles.pdf>
7. To assure the timely use of endowment payout, the Chancellors and the Vice President–ANR shall conduct an annual review by fund of the endowment payout available for expenditure by The Regents. This provision applies whether the payout is derived from Regents- or Campus Foundation-held endowments and FFEs. The review should document steps taken to remedy excess accumulation of current funds.
8. The Chancellors and the Vice President–ANR must submit to the President for acceptance or authorization for acceptance all gifts and bequests exceeding \$5,000,000.

## APPENDIX:

Policy on Endowed Chairs and Professorships and related Administrative Guidelines, APM-191  
<http://www.ucop.edu/acadadv/acadpers/apm/apm-191.pdf>

Guidelines for Endowment Administration  
<http://www.ucop.edu/uer/instadv/fundraising/principles.pdf>

Financial Aid Gifts and Bequests Guidelines  
[http://www.ucop.edu/uer/instadv/fundraising/guidelines\\_for\\_allocation.pdf](http://www.ucop.edu/uer/instadv/fundraising/guidelines_for_allocation.pdf)

Fund Record Sheet format (also referred to as an endowment record sheet)  
[http://www.ucop.edu/uer/instadv/fundraising/ERS\\_FRS.pdf](http://www.ucop.edu/uer/instadv/fundraising/ERS_FRS.pdf)

Sample allocation request/approval memo  
[http://www.ucop.edu/uer/instadv/fundraising/Allocation\\_letter\\_draft1.doc](http://www.ucop.edu/uer/instadv/fundraising/Allocation_letter_draft1.doc)

Procedures to establish Regents endowments and FFEs, Accounting Manual E-525  
<http://www.ucop.edu/ucophome/policies/acctman/e-525.pdf>

Allocation checklist  
<http://www.ucop.edu/uer/instadv/fundraising/allocationchecklist.pdf>

Endowed fund review request form  
[http://www.ucop.edu/uer/instadv/fundraising/fund\\_form.pdf](http://www.ucop.edu/uer/instadv/fundraising/fund_form.pdf)

Scholarship fund review request form  
[http://www.ucop.edu/uer/instadv/fundraising/scholars\\_form.pdf](http://www.ucop.edu/uer/instadv/fundraising/scholars_form.pdf)