

GEORGIA STATE UNIVERSITY FOUNDATION, INC.

Procedure number/name: 2.5a Endowment Agreements and Descriptions Drafting Procedure

Issuing date: 4/3/2009 **Effective date:** 5/13/09

Related policy number/name: 2.5 Gift Acceptance Policy, Title V, Restrictions on Gifts

Procedures Approved by: President of the foundation/vice president for development

I. Introduction

As outlined in the Gift Acceptance Policy, Title V, this procedure is intended to create consistency in documenting of endowment funds within the foundation. Endowment agreements and endowment descriptions are documents intended to define the purpose of individual endowment funds and should be able to withstand the test of time.

Agreements and descriptions should give the foundation reasonable flexibility as well as meet donors' wishes. This procedure has been developed to give guidance to staff in the development of these documents.

II. Revision history

Initially adopted as Procedure for Establishing Endowment Agreements and Endowment Descriptions, 3/7/2007.

What's New in This Revision?

- Definitions have been added.
- Roles and responsibilities have been clarified – especially the role and responsibility of development officers.
- The procedures recognize that development officers, as professionals, should have more latitude in involving donors in the process.
- “FAQs for Development Scholarship Agreements/Descriptions” was added as Exhibit 2.

III. Definitions

A. Endowment. An “endowment fund” means an institutional fund, or any part thereof, that, under the terms of a gift instrument, is not wholly expendable the institution on a current basis. The terms not include assets that an institution designates as an endowment fund on its own use.” (Uniform Prudent Management of Institutional Funds Act., O.C.G.A. 44-15-2)

Endowment funds are further categorized in CASE standards as follows:

- Perpetual (true) endowments. These are endowments in which the donor has stipulated that the fund's principal be maintained inviolate and in perpetuity, but that all or part of the income derived from investment of the fund's principal may be expended.

- Term endowments. These are endowments in which a donor or other outside agency has stipulated that the fund's principal is to be maintained inviolate until a particular event or for a stated period of time, after which all or part of the principal may be expended.
 - Quasi-endowments (a/k/a funds functioning as endowment). These are funds established by the institution's governing body [i.e., the board of trustees of the foundation] as endowments. While quasi-endowments are established for the same purposes as permanent endowments, any portion may be expended at the discretion of the governing body.
- B. An endowment agreement is an agreement between a donor and the foundation to govern a named endowed fund. The president of the foundation is authorized to sign for the foundation. In financial accounting, funds (net assets) governed by endowment agreements are classified as “permanently restricted.” Additional gifts and non-gift revenue will be considered permanently restricted when added to these endowments.
- C. An endowment description is an internal foundation document created to establish or define an endowed fund (or a fund functioning as an endowment a/k/a quasi-endowment) when it is impractical or impossible to identify or contact a donor as a signatory to an endowment agreement. Examples of this include cases where there are multiple donors to a fund-raising effort, the donor is deceased or the endowment is being funded by non-gift revenue such as from a special event or from “round-table” surpluses. The president of the foundation (or his/her designee) is authorized to sign for the foundation. Although endowment funds governed by endowment descriptions are technically not “permanently restricted” as that term is used in financial accounting, they are treated as such by the foundation for investment purposes. By policy, additional gifts and non-gift revenue will be classified as “temporarily restricted” when added to these endowment funds.
- D. Use of funds. An appropriate university administrator approves the content of the agreement or description as to use of funds. In the case of a college endowment, the administrator is the dean and for university-wide scholarships, the administrator is the associate provost for academic programs.

IV. **Persons affected**

Donors; university administration, staff and faculty, Development staff (development officers, Office of Donor Relations and University Events, foundation accounting as well as other).

V. **Roles and responsibilities**

The roles and responsibilities of development officers, administrators (e.g., deans, associate provost for academic affairs, the president and CFO of the foundation, the director and donor relations coordinator in Donor Relations and University Events, and other staff detailed in **VI. Procedures**.

Donors

A donor initiates the process by agreeing to make a gift to create an endowment. Donors are partners in the process of drafting agreements and are one of the two parties that execute agreements.

Development officers

Development officers play a pivotal role in negotiating agreements and descriptions. The development officer advocates for the donor to foundation officials and represents the foundation to the donor. Development officers are expected to be knowledgeable concerning foundation endowment practices and take ownership of their role of communication and coordination between the donor and the foundation. As negotiations with donors can be delicate, development officers are expected to exercise good judgment and conduct themselves professionally. Development officers play a key role in keeping the process on track.

Donor relations coordinator and other Donor Relations and University Events staff that may be involved in drafting endowment agreements and descriptions

Staffs from the Office of Donor Relations and University Events (DRUE) play a “ministerial” role in drafting agreements and descriptions. Staff takes basic information provided by development officers on appropriate forms and draft agreements using pre-approved samples and knowledge acquired from drafting other agreements. DRUE staff can and should ask questions when clarification is needed and offer suggestions when requested. DRUE staff is responsible for routing drafts through the drafting and signature phases and complete the distribution of originals and copies after agreements and descriptions are executed. DRUE staff track the status of agreements and descriptions and issues periodic status reports to all concerned.

Chief financial officer (CFO) of the foundation

The CFO reviews agreements and descriptions to determine if the terms of the agreement/description are consistent with the interests, mission and policies of the foundation and the university. The CFO is the resource on financial and accounting issues.

President of the foundation

As the foundation official designated to execute agreements and descriptions, the president is the final authority on acceptance of the terms of the gift. All differences between the donor and the foundation must be resolved to the satisfaction of the president before an agreement or description can be concluded.

Administrators (e.g., deans, associate provost for academic affairs, director of athletics, vice presidents)

All agreements and descriptions must be signed by an appropriate university official who provides use of funds approval. By signing, the university official verifies that the university can and may use the funds for purposes indicated in the endowment agreement/description.

Associate vice presidents for development (Constituent Programs and Development Resources)

Though not routinely part of the agreement/description process, the AVP's can be helpful in removing obstacles in the process, interpreting policies and procedures and educating on best practices.

VI. Procedures

A. Process

The endowment agreement/endowment description process has two phases the draft phase and the signature phase.

B. Draft phase

1. Development officer completes endowment agreement/endowment description form (see Exhibit 1) and submits to the donor relations coordinator in Donor Relations and University Events. The donor relations coordinator will return a first draft of the agreement/description to the development officer for review. The development officer will review the document and may suggest changes involving the donor and university staff as appropriate. (Development officers should clearly communicate to donors and staff that all agreements are descriptions and tentative until agreed to by foundation officials.)
2. The next step is review by the chief financial officer (CFO) of the foundation, which must be completed before the document is submitted to the president of the foundation.
3. The donor relations coordinator will then forward the draft to the president of the foundation. Pending the foundation president's approval, the draft will then be sent to the appropriate university administrator (i.e. the dean).

Note: Steps 1, 2 and 3 repeat until agreement is reached among the development officer, the CFO and the president of the foundation. The donor relations coordinator is responsible for maintaining the official working copy of the agreement or description.

4. For endowment agreements only (not applicable to endowment descriptions). Following approval of the draft by the university administrator, the development officer will submit the final draft to the donor for his or her comments. If changes are made by the donor, those changes will be highlighted and returned to each party for review.
5. The draft phase is complete when all parties are in agreement with the content of the document.

C. Signing and distribution of original copies

1. For endowment agreements. Once a final draft is approved by the donor, the foundation president and the university administrator, the donor relations coordinator provides three original copies of the final agreement for signature. One original is presented to the donor for his or her records. A second original

copy remains with the development officer to be filed in the benefiting area. The final original, signed copy will be forwarded to the CFO of the foundation as a part of the official records. The donor relations coordinator will also provide copies to the appropriate Development, foundation and other university administrators as indicated on the endowment agreement/endowment description form.

2. Donor recognition option: The opportunity is available to recognize donors and their commitment via a “signing” event (a luncheon or other function) whereby the donor, the foundation president and the university administrator sign the document in a formalized setting.
3. For endowment descriptions only. Once a final draft is approved by the foundation president and the university administrator, the donor relations coordinator provides two originals of the final agreement for signature. The donor relations coordinator distributes the originals to the chief financial officer of the foundation (for the foundation’s official files) and to the development officer. (Endowment descriptions do not require donor signatures.)

B. Board of regents approval

Endowed faculty positions (chairs, professorships) are subject to the approval of the board of regents (See BOR Policy 803.0402). When a faculty position endowment reaches its full funding level, the appropriate dean shall send a letter to the president of the foundation that all funds are received and declaring his or her intent to begin a search to fill the position and requesting the Regents’ approval. The foundation president then sends a letter to the president of the university, certifying full funding and requesting that the university president call for official approval by the board of regents. Upon approval, a search for the faculty position can commence. (Note: The board of regents convenes ten times each year.)

C. Financial Edge project ID request form

Upon receipt of the original of the endowment agreement or endowment description, the chief financial officer of the foundation or his or her designee shall request that the development officer (or his/her designee) will submit a Financial Edge project ID request form. *This form is available on development intranet.*

D. Annual review

This procedure will be reviewed annually by the director, donor relations and university events in consultation with appropriate personnel.

HELP

People to contact

Position Title	Campus Location	Phone Number	Email Address
Donor relations coordinator		3-1321	ofpamc@langate.gsu.edu
Director, donor relations and university events		3-1330	ofpflk@langate.gsu.edu

Additional information and resources

Gift Acceptance Policy, Title V, Restrictions on Gifts

CASE standards – see *CASE Management and Reporting Standards, Third Edition*, Council for Advancement and Support of Education, Washington, D. C., 2004.

Uniform Prudent Management of Institutional Funds Act, OCGA 44-15-1 through 44-15-8.

Endowment Agreement/Endowment Description Form. See Exhibit 1.

“Alternatives to Exclusive Scholarships and Programs.” Office of Legal Affairs.

“FAQ’s on Developing Scholarship Agreements/Descriptions.” Foundation document. See Exhibit 2.

Board of Regents Policy Manual, www.usg.edu.

ENDOWMENT AGREEMENT/ENDOWMENT DESCRIPTION FORM

Georgia State University Foundation

***Endowment agreements** are documents intended to define the purpose of an **endowed fund** whose principles are agreed upon by the Georgia State University Foundation and the donor. Once an endowment agreement is established and signed, the foundation Board of Trustees is the only entity that can make changes to the agreement.*

***Endowment descriptions** are internal foundation forms created to document an **endowed fund** (or a fund functioning as an endowment) when it is impractical or impossible to identify or contact a donor as a signatory to an endowment agreement.*

These documents should be able to withstand the test of time. They should allow flexibility within reason, on the part of the university.

I. OFFICIAL NAME OF ENDOWED FUND TO BE ESTABLISHED

II. TYPE OF DOCUMENT

- endowment agreement**
- endowment description**

III. DONOR INFORMATION

Primary Donor Name and Address:

Raiser's Edge ID:

If the donor is a corporation or foundation, please indicate the organization's contact name(s) and title(s):

Primary Donor Information The endowment agreement will become the official and permanent record establishing this fund. Please provide several sentences about the donor, outlining the donor's connection to Georgia State, in particular identifying the spirit and intent of the donor for this fund.

Other Donors? Yes _____ No _____ *(For the establishment of endowment descriptions only.)*

If yes, please list names, addresses, Raiser's Edge ID numbers and relationship to the primary donor and/or the fund *(please attach another sheet for additional donors or additional information):*

1)

2)

3)

IV. GIFT/PLEDGE INFORMATION

NOTE: The minimum endowment level for the Georgia State University foundation is \$25,000, however, certain types of endowments require larger investments. Endowment amounts must be approved by the foundation. Please refer to the policy established by the board of regents identifying minimum amounts for specific fund type.
(<http://www.usg.edu/academics/handbook/section4/4.07/4.07.03.phtml>)

Internal Benefiting Area:

Total Gift Amount: \$ _____ *(See minimum amount required in Section V.)*

Annual payout for the fund will be used for the following purpose (please be specific): *(See Section IV of the Gift Acceptance Policy for guidelines.)*

If This Is an Outright Gift, Has the Gift been received by the foundation?

Yes _____ No _____

If no, please indicate the anticipated date of the gift (_____/_____/20____) and the type of gift (stock transfer, check, etc.) _____.

Will there be pledge payments?

Yes _____ No _____

If yes, please indicate the date of the final expected pledge payment (_____/_____/20____) and attach a copy of the pledge payment schedule. (Note: If the donor requests a pledge payment schedule that exceeds five years, approval by the foundation president is required.)

Will there be matching gifts or other soft (memo) credits expected to be added to the fund?

Yes _____ No _____

If yes, please explain.

Is there a bequest or other planned gift component to be included in the pledge/gift payments?

Yes _____ No _____

If yes, please provide details.

V. TYPE OF ENDOWMENT

Please check one of the following:

- | | |
|---|--|
| <input type="checkbox"/> Scholarship | (minimum \$25,000) |
| <input type="checkbox"/> Fellowship | (board of regents minimum \$50,000) |
| <input type="checkbox"/> Chair | (board of regents minimum \$500,000) |
| <input type="checkbox"/> Distinguished Professorship | (board of regents minimum \$400,000) |
| <input type="checkbox"/> Professorship | (board of regents minimum \$200,000) |
| <input type="checkbox"/> Other | (including colleges, centers, institutes, program support, etc.) |

Please indicate any additional important information about the fund or its designation:

Are there other special features to be considered (i.e. will gift(s) be used for both operating and endowed funds)?

VI. STEWARDSHIP

Endowment reports are sent annually to donors. These reports include financial information as well as detail regarding how annual payouts have been used. Reports will be sent to the primary donor as indicated above.

Are there other external constituents who should receive a copy of the report?

(Note: Copies of endowment reports will be sent to the dean and the director of development each year.)

If yes, please provide names and detailed contact information, including other donors listed above (for endowment descriptions).

Are there any additional reporting requirements (such detailed reports required by a foundation or corporation)? If so, please explain and provide due dates:

The three original, signed endowment agreements are retained by the GSU foundation, the benefiting unit and the donor. Are there other individuals who should receive a copy of the endowment agreement?

VII. ATTACHMENTS

Please attach all of the following documents to this agreement, if applicable:

- Pledge payment schedule
- Written proposal
- Planned Giving Transmittal Form
- Corporate/foundation Grant Award Letter
- _____
- _____

Submitted by: _____ **Date:** _____

GEORGIA STATE UNIVERSITY FOUNDATION

FAQs on Developing Scholarship Agreements/Descriptions

What is the purpose of endowment agreements and descriptions?

Agreements and descriptions are needed for the effective administration of endowments including endowed scholarships. Endowments, by definition are perpetual, are expected to live longer than the parties that created them. Agreements and descriptions should provide simple, clear documentation to take the guess work out of administration, now and in the future.

What is the difference between an endowment agreement and an endowment description?

See the Endowment Agreements and Endowment Descriptions Drafting Procedure.

What is the difference between an endowment and a quasi-endowment?

See the Endowment Agreements and Endowment Descriptions Drafting Procedure.

What is the role of the development officer in the agreement/description drafting process?

The development officer is main point of contact with the donor. He or she negotiates with the donor and provides the information to the donor relations coordinator who drafts the agreement/description. The development officer has the dual responsibility of advocating for the donor and representing the foundation's position and policies to the donor.

What happens if foundation officials find the donor's terms unacceptable?

This should rarely happen. An experienced development officer will be aware of the parameters which are acceptable to the foundation and will resolve issues before criteria are reduced to writing. When it is necessary to return to the donor for further negotiation, it is the development officer's responsibility to take ownership of the situation and works to find terms that are acceptable to both the donor and foundation.

What is the best approach to defining scholarship terms?

To stand the test of time, terms should be as broad as possible while honoring the donor's desires. Highly detailed or restrictive terms may make it impractical to award the scholarship in the future. Preserving the donor's intent is simple, clear terms are more desirable than complicated and highly specific details that can be misunderstood or impossible to follow in future. At the end of day, the donor will take more pleasure in seeing the scholarship awarded than in trying to define an ideal candidate and a fail safe process.

What is an example of broad scholarship terms?

"The scholarship will be awarded to a deserving student in the Department of X in the College of Y." *Deserving* is interpreted as qualified by merit, financial need or both.

What alternative can a development officer propose if the donor proposed highly detailed or restrictive terms?

Change a requirement to a preference. Suppose a donor wants to award scholarships to students from a small rural county. It might not be possible to find a suitable candidate from such a small pool. The agreement/description might say, "The scholarship will be awarded an undergraduate majoring in finance, preferably to a resident of Small County, Georgia."

Are there items that are off limits to negotiations?

Yes. No agreement/description may contain terms that are illegal, that would compromise the university's accreditation or the foundation's tax exempt status, that inconsistent with the university's mission or are contrary to board of regents, university or foundation policies.

The university is an Equal Opportunity/Affirmative Action Institution and does not discriminate on the basis of race, color, sex, religion, national origin, age, disability, citizenship, or veteran status in its programs or activities. Refer to the Office of Legal Affairs' document "Alternatives to Exclusive Scholarships and Programs" for alternative language.

Why does the endowment agreement/description form submitted to Donor Relations and University Events ask for personal information about the donor and/or the person commemorated by the scholarship?

This information is used in section I of the agreement/description. It is used to personalize the gift. It is an opportunity to tell about the donor's life and motivation for giving.

What is the difference between a scholarship and a fellowship?

In the context of student financial aid, scholarships are usually thought of as aid to undergraduates while fellowships are usually intended for graduate students.

May an endowment be restricted on the basis of race, sex or religion?

The university Office of Legal Affairs offers the following advice on crafting language for scholarship agreements.

“Georgia State University is an Equal Opportunity/Affirmative Action Institution and does not discriminate on the basis of race, color, sex, religion, national origin, age, disability, citizenship, or veteran status in its programs or activities. All forms of student financial aid (fellowships, scholarships, work-study, loans, graduate grants such as teaching assistantships, etc.) should be administered uniformly on the basis of demonstrated individual need and ability, and should not be restricted based on the criteria above. Application and eligibility information, as well as criteria for granting each type of award, should be well publicized.”

Legal Affairs counsels that a content-neutral approach.

“Content-neutral programs have the potential to promote diversity of viewpoint and experience without employing preferences that may trigger costly and counter-productive litigation. Content-neutral alternatives can target students who have been through ‘challenging social, economic, educational, cultural or other life circumstances.’...”

“The following are alternative criteria the university and foundation should consider in revising existing restricted financial aid and scholarship programs, or for future programs, involving donated funds:

- “Poverty/socioeconomic disadvantage:
- “Parents’ education level; family income; parents’ occupation
- “First person from a family to attend college
- “Growing up in a single-parent household
- “Graduating from an underrepresented high school
- “Living in a particular geographic area
- “Having a primary language other than English

- “Demonstrate leadership potential for promoting diversity and unity.”

Why does section VII (Administration) of the agreement/description provide for an alternate or back up use?

Academic programs are subject to change. Institutional missions evolve over time. If such changes occur and make it impossible or impractical for the university to honor the donor’s intent exactly as it is expressed in the agreement/description, the alternate language allows the board of trustees of the foundation to apply the funds to a purpose which board finds consistent with the donor’s intent.

Who executes endowment agreements/descriptions?

The donor and the president of the foundation execute agreements. The president executes descriptions.

What is the role of the university official who “approves as to use of funds”?

The university official verifies that the university can and may use the funds for purposes indicated in the endowment agreement/description.