

Effective Gift Agreements: Documenting Donor Intent

Debbie Meyers

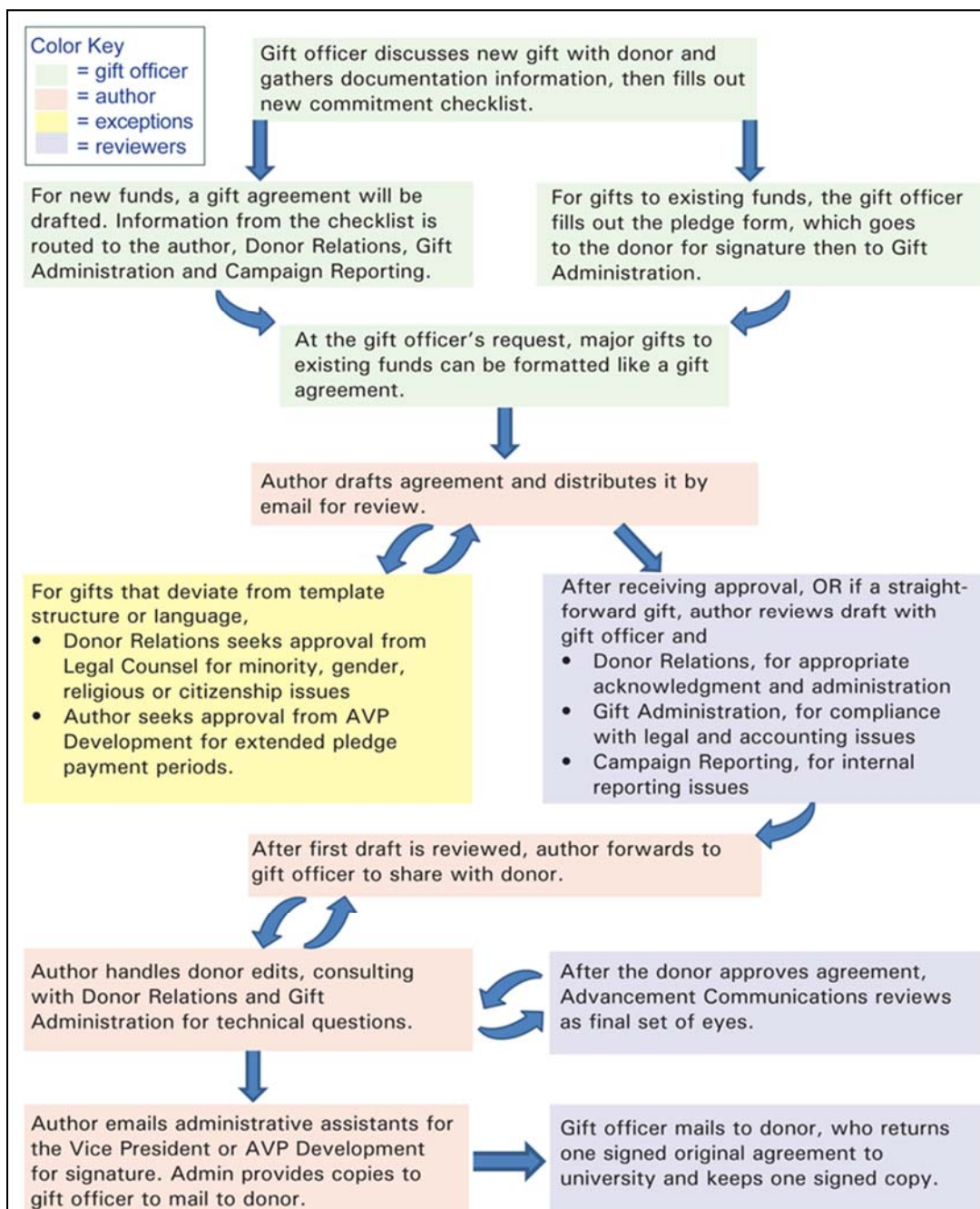
Please find a list below of additional resources from the *Effective Gift Agreements: Documenting Donor Intent* webcast. These resources include sample gift documentation process flows and other guidelines. If you wish to print only certain resources, you may click their respective links to jump directly to them in the packet.

Pre-Webcast Resources

1. [New Commitment Process Flow](#) – Page 2 – flow chart outlining internal steps necessary to effectively document a new gift.
2. [Gift Documentation Form](#) – Page 3 – sample electronic form that enables you to capture the must-haves for gift documentation.
3. [Sample Legal Whitepaper](#) – Pages 4-5 – legal guidelines for establishing scholarship preferences and restrictions.
4. [Gift Documentation Handbook Template](#) – Pages 6-22 – comprehensive gift documentation guidelines, including templates for gift agreements, donor-advised fund language and a sample pledge letter.
5. [Laws and Regulations Affecting Scholarship Programs](#) – Page 23 – Reasons why allowing donors to sit on scholarship selection panels is not a good thing.

Effective Gift Agreements: Documenting Donor Intent

New Commitment Process Flow



Effective Gift Agreements: Documenting Donor Intent

Gift Documentation Form

One form, preferably electronic, that enables you to capture the must-haves for gift documentation.

DONOR NAME AND ADDRESS INFORMATION

Donor Name: (How the name appears here is how it will appear in all donor recognition vehicles.)

Advance ID#:

Does the donor have an existing outstanding pledge:

Please list who should receive stewardship reports: (include donor children if appropriate)

COMMITMENT DETAILS

Personal Commitment

Expectancy Commitment (DAF, DDF, MG)

Total Commitment

Payment Schedule (five year maximum)

First Payment (use last day of calendar year if unknown)

DESIGNATION DETAILS

Funding Initiative

Faculty Support
 Full professorship
 Center Support
 Other Faculty Support
 Student Support
 Endowed Scholarship
 Graduate Fellowship
 Financial Aid Scholarship
 Merit-based Scholarship
 Prize/Award
 Student Programs
 Athletics
 College/Department/Unit Unrestricted Support:

Fund Name Fund Preferences

Yes (if more than one, indicate priority order)

1. 2. 3.

Donor Motivation for this gift (short summary that will be incorporated into agreement) [?](#)

Has the donor expressed interested in making gifts toward this pledge through a donor advised fund or family foundation?

Yes
 No
 If yes, who?

SIGNING

How quickly do you need this agreement approved and signed by UA leadership?

LEGAL GUIDELINES FOR ESTABLISHING SCHOLARSHIP PREFERENCES AND RESTRICTIONS

This quick reference for non-attorneys highlights potential legal pitfalls in creating scholarships with restrictions or preferences. These guidelines cover scholarships and programs the university administers or supports, as well as those in the federal financial assistance program. They do not cover scholarships that an individual or organization gives directly to the university.

Scholarships based on race and national origin

Legal issues

- our policy is guided by the U.S. Supreme Court’s recent decision in *Fisher v. University of Texas* and earlier *Grutter* and *Gratz* decisions
- UR must use criteria similar to admissions standards
- awards must pass the constitutional test of “strict scrutiny” that says scholarships may not be awarded solely on race or national origin
- BUT the university may use race and national origin if we
 - choose to promote benefits of diversity by using race or national origin *as one of the factors* to select a scholarship recipient, as long as we can prove that we considered using race-neutral and national origin-neutral policies but found them ineffective in achieving diversity
 - use the practice of “pooling” funds from programs with unacceptable restrictions with programs without those restrictions.

Pooling

The Maryland Office of the Attorney General sanctioned this policy, describing it as follows:

Recipients of scholarships from the pool must be selected without regard to race or national origin. If a selected recipient matches the designated race or ethnicity, that recipient can be awarded one of the race- or national origin-limited scholarships. However, no student selected to receive a scholarship from the pool may be denied one because of race or ethnicity, so if funds from the pool are not sufficient to award scholarships to all recipients, the institution must find alternative funds to support each student selected.

See Strengthening Diversity in Maryland Colleges and Universities: A Legal Roadmap at 7, Maryland Office of the Attorney General,

http://www.oag.state.md.us/Reports/OAG_Diversity_Paper.pdf

KEY TAKE AWAY:

Short of pooling funds or using race or national origin as one of many factors used to select scholarship recipients to achieve diversity, awarding scholarships based on the recipient’s race or national origin is illegal.

Scholarships based on citizenship and alienage

“Citizenship” should not be confused with “national origin,” defined by the U.S. Supreme Court to mean the country where a person was born, or from which his or her ancestors came.

Scholarships may not be awarded based solely on U.S. citizenship, because restrictions based on alienage are in the same category as restrictions based on national origin, which would not pass the strict scrutiny test.

Scholarships based on gender

Scholarship restrictions based on gender are prohibited under Title IX, with certain exceptions.

- Title IX regulations permit a gender-restricted scholarship “established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments...provided that the overall effect of the award does not discriminate on the basis of sex.” 34 CFR 106.37.
- Regulations anticipate use of pooling
- While not strictly prohibited under the Constitution, such scholarships must serve important governmental objectives and must be substantially related to achieving those objectives – for instance, economic compensation for that gender and scholarships designed to rectify a disadvantage.

KEY TAKE AWAY:

For gender-based scholarships to be legal, the university must prove the scholarship is being awarded to remedy a disadvantage or to support some other legally valid objective.

Scholarships based on sexual orientation

University policy specifically prohibits discrimination on the basis of sexual orientation in financial aid.

Scholarships based on religion

The First Amendment’s “establishment” clause prohibits public entities like the University of Maryland from promoting or opposing religion, while the “free exercise” clause protects the rights of individuals to practice their religious beliefs. ***Scholarships awarded based on religion could be challenged under one of these principles and would likely be unconstitutional.***

Scholarships based on age

- could be challenged based on the Age Discrimination Act of 1975.
- exception: where age would be a factor necessary to the normal operation of the program.

KEY TAKE AWAY:

Seek legal advice to see if an age restriction for a particular scholarship program would be legal.

XYZ UNIVERSITY

Gift Documentation Handbook

Prepared by the Office of Donor Relations and Stewardship

Last Updated April 8, 2014

Gift Documentation Handbook Purpose and Use

This gift documentation handbook serves as a resource for university advancement staff as they work with donors to accept, structure and administer charitable contributions to the university. This handbook includes comprehensive information about gift documentation guidelines, tips and templates.

Included in this handbook are templates for fund agreements for gifts of \$10K and more. Also included is text for documenting special circumstances. These templates are mandatory for documenting all gifts to the university that establish new funds.

The donor relations and stewardship office (DRS) must approve *language* or *structure* that varies from handbook templates before the gift officer consults the donor.

Contacts

List staff names, titles, contact info and duties involving gift documentation.

Gift Documentation Guidelines

1. DRS will draft all gift documentation, following templates in this handbook and, along with the gift officer's supervisor, must approve exceptions to these templates. Example: a donor's attorney may request specific language that is not in our templates.
2. In general, gift documentation for new commitments over \$10,000 must be in writing and include donor signatures, fund purpose and payment schedules. Faxes and scanned documents are acceptable. In rare exceptions, the university may accept email documentation from donors.
3. Verbal pledges will not be recorded, although they may be tracked for reporting purposes.
4. Conditional pledges will be recorded case by case and are tracked for reporting purposes.
5. To establish a new endowed fund, the university requires an endowed fund memorandum of understanding specifying the fund purpose, signed by the donor, the president of the UMCPF and the university representative who will benefit from the fund. Undocumented gifts go into a holding account until we receive documentation. While this gift money remains in the holding account, the university will spend investment earnings for general operating purposes. There are no exceptions, even if a new endowed fund pledge is paid in full. Once the university receives an endowed fund MOU, gifts to the fund will be invested. The fund must be invested in the endowment for one full quarter before receiving a draw.
6. Gifts to existing funds do not require a new fund agreement but do require written documentation from the donor as to the gift designation. This documentation can be as simple as a letter, email or check memo.
7. To protect the philanthropic intent of charitable donations, the university discourages amendments or changes to signed, executed fund agreements. An acceptable amendment would be one in which the donor and the university mutually agree to change terms of the agreement to enable the fund to be administered more effectively. An unacceptable change would be one in which the donor requests adding cumbersome restrictions. Using the gift documentation checklist will prevent most administrative problems.
8. If a donor needs to change the pledge payment schedule, an amended agreement is not needed. The donor can simply indicate the new schedule in a separate letter.
9. Commitments made through a planned giving vehicle (e.g., life income plans or bequests) must be coordinated with the gift planning office. If a donor makes a commitment where the ultimate designation is to establish an endowed fund, an endowed fund MOU is required when the planned gift is documented. (See "Bequest Language" on p.XX.)
10. Documentation for gifts made through a donor-advised fund (DAF) or matching gift program must use specific language that protects the donor's tax situation. Specifically, gifts from DAFs and matching gift companies cannot be applied to a donor's pledge commitment. (See suggested language on page \XX.)

11. DRS keeps all original gift documents. XXX is responsible for scanning, naming and storing electronic copies, available on a common server.
12. Donors who request fund preferences that could place the university at risk for legal liability must conform to gift agreement language approved by XXX. These preferences include gender, religion, citizenship, race and ethnicity. The DRS director will arrange for approval.

Process for Gift Documentation

1. Submit a gift documentation checklist (posted on XXX) to DRS, including donor information, gift information and fund details. Please allow at least 48 hours turnaround time.
2. The director will draft gift documentation for the gift officer to review.
3. To secure the donor's written, documented intentions, DSR will send two formal copies of the final MOU to the gift officer to forward to the donor. The donor signs both copies and returns them to the gift officer, who forward them to .
4. After receiving signed documentation, the stewardship office scans all relevant documents and correspondence, then completes a funding source request form (FSRF). Stewardship then emails those electronic files to the finance office, the treasurer's office, gift administration and the appropriate business manager. The finance office assigns the fund a new funding source number and sends it back to those copied on the original email request

Etc...

Endowed Fund Minimum Giving Levels

The university requires that 100% of minimum endowment levels be achieved with donor gifts – referred to as the gift value – including matching gifts and gifts from donor advised funds, before earned income can be spent. Accumulated earnings and fund additions designated by the university, such as challenges or income returned to principal, do not count toward meeting endowment thresholds.

This minimum fund level policy helps ensure that the university treats all donors fairly and equitably in recognizing their generosity, and also helps ensure that funds remain at a level sufficient to support their designated purpose. *Note that distinguished professorships, School Head/Department Head/Center Director and Deanships require that only 60% of the minimum endowment funding level be reached before earned income can be spent.*

Payments received before the minimum is reached will be placed in a reinvestment account where earned income will be added back into the fund. When gifts received reach the minimum level, the reinvestment account will be converted to a spending/distribution account.

Current Thresholds

These *minimum* thresholds also apply to endowments at colleges.

Faculty Support

Deanship	\$5M+
School Head/Department Head/Center Director	\$3M+
Distinguished Professorship	\$2.5M+
Career Development Professorship	\$1.25M+
Faculty Research, Center Support or Other Support	\$50K+

Student Support

Full University Fellowship	\$750K+
Fellowship (Partial)	\$50K+
Financial Aid Scholarships (Full)	\$750K+
Financial Aid Scholarships (Partial)	\$50K+
Merit Scholarships, Prizes and Awards (<i>must be approved by GAC</i>)	\$50K+
Student Programs	\$50K+
Athletics Programs	\$50K+
Undergraduate Research Funds	\$10K+

Leadership

President, Dean, Department Head Innovation Funds	\$50K+
Department (Unrestricted or Specific Use)	\$50K+
Library	\$25K

Facilities/Equipment/Miscellaneous

Equipment or Artwork	\$50K
Maintenance	\$50K+
Unassigned	\$50K+

Tips for Structuring Need-Based Scholarship Funds

- Encourage donors to create need-based scholarships with a few routine preferences or none at all. These funds are much more likely to be awarded every year than scholarships with many or complex preferences.
- Scholarship restrictions beyond a college or department must be specified as *preferences* in gift agreements so we can award the fund if we are unable to find students who meet restricted criteria. We will make every attempt to find students who meet the preferences before we award it to students who do not. Donors who wish to designate more than one preference must prioritize their preferences.
- XYZ University grants institutional and federal financial aid only to U.S. citizens and nationals.
- Also avoid subjective or specific award criteria
 - ◆ Qualitative, not quantitative, criteria – e.g., “the most deserving” or “good moral character”
 - ◆ Criteria that Enrollment Services routinely does not or is unable to track – e.g., regional geographical preferences (“from the Midwest” or “from the Milwaukee area”)
 - ◆ Preferences that exclude religious or ethnic groups
 - ◆ A small class of students – e.g., a major in which only five students are enrolled each year

Endowed Fund Agreement Template

FundName

The XYZ University acknowledges with gratitude the generous gift/commitment of \$XX,XXX on date from DonorFirstName(s) LastName(s) to establish the endowed NameFundType.

(You may wish to include a personalized historical or biographical paragraph. This paragraph can include information about the donor or individual/organization for whom the fund is named, or the donor's purpose in establishing the fund.)

(Insert FUND PURPOSE LANGUAGE from pages 15 -16 here, based on fund type.)

- ♦ *(If the gift is not paid in full, complete the pledge payment schedule.)* Title(s) DonorLastName(s) intend/s to pay \$XX,XXX for number of years, and he/she/they intend/s to make the first payment by June 30/December 31, XXXX, and the remainder in annual installments of \$X by each successive June 30/December 31 thereafter, until the pledge is paid in full.

OR

- ♦ Title(s) DonorLastName(s) made the first payment of \$XX,XXX on date and he/she/they intend/s to pay the balance over number years and he/she/they intend/s to make the next payment by June 30/December 31, XXXX. They will pay the remainder in annual installments of \$X by each successive June 30/December 31 thereafter, until the pledge is paid in full.

The donor/s and the university can change terms of this agreement only by a written amendment that both parties agree to and sign. If unforeseen circumstances alter or remove the subject area or the purpose of this fund from the university's mission, the university will consult with the donor/s to redirect the principal and income to areas most consistent with the donor's/s' wishes. If the donor/s is/are deceased, university leadership will direct its principal and income to areas it deems to be the most consistent with the donor's/s' wishes.

Any other individual or organization may add to the fund, and additions will follow terms of this agreement. The principal of this fund will be held in perpetuity and the annual endowment payout will support the purpose described above. The university's Board of Trustees will manage the fund in accordance with the university's investment, administration and disbursement policies.

Donor Name

Date

(for alumni donors, include their indicia in the signature line)

Signatory

Title

Sample Endowed Fund Agreement

Mildred Smith Scholarship in Drama

XYZ University acknowledges with gratitude the generous commitment of \$50,000 from John and Mary Smith to establish the endowed Mildred Smith Scholarship in Drama.

John and Mary Smith are creating this fund in memory of John's late mother, Mildred Smith, who was an avid fan of XYZ's drama productions. She often remarked that attending theatre performances on campus with John and Mary were some of her happiest memories. She passed away in October 2008.

This fund will support undergraduate students who qualify for financial aid, with first preference for drama students. The amount of scholarships and the selection of the awardees will be in accordance with university policy at the time of the award.

On June 30, 2009, Mr. and Mrs. Smith pledged \$50,000 to establish this endowed fund. They intend to pay the pledge in equal installments over five years, making the first payment by December 31, 2009 and the remainder in annual installments of \$10,000 by December 31 each successive year thereafter until the pledge is paid in full.

The donors and the university can change terms of this agreement only by a written amendment that both parties agree to and sign. If unforeseen circumstances alter or remove the subject area or the purpose of this fund from the university's mission, the university will consult with the donors to redirect the principal and income to areas most consistent with the donors' wishes. If the donors are deceased, university leadership will direct its principal and income to areas it deems to be the most consistent with the donors' wishes.

Any other individual or organization may add to the fund, and additions will follow terms of this agreement. The principal of this fund will be held in perpetuity and the annual endowment payout will support the purpose described above. The university's Board of Trustees will manage the fund in accordance with the university's investment, administration and disbursement policies.

John Smith

Date

Mary Smith

Date

SIGNER
XYZ University

Date

Expendable Fund Agreement Template

XYZ Scholarship

XYZ University acknowledges with gratitude the generous gift/commitment of \$XX,XXX on date from Title(s) DonorFirstName(s) LastName(s) to establish the expendable Name FundType.

(You may wish to include a personalized historical or biographical paragraph. This paragraph can include information about the donor or individual/organization for whom the fund is named, or the donor's purpose in establishing the fund.)

(Insert FUND PURPOSE LANGUAGE from pages 15 –16 here, based on fund type. Be sure to indicate who will administer the fund.)

- ♦ *(If the gift is not paid in full, complete the pledge payment schedule.)* Title(s) DonorLastName(s) intend/s to pay \$XX,XXX for number of years, and he/she/they intend/s to make the first payment by June 30/December 31, XXXX, and the remainder in annual installments of \$X by each successive June 30/December 31 thereafter, until the pledge is paid in full.

OR

- ♦ Title(s) DonorLastName(s) made the first payment of \$XX,XXX on date and he/she/they intend/s to pay the balance over number years and he/she/they intend/s to make the next payment by June 30/December 31, XXXX. They will pay the remainder in annual installments of \$X by each successive June 30/December 31 thereafter, until the pledge is paid in full.

Any other individual or organization may add to the fund, and additions will follow terms of this agreement. The donor/s and the university can change the terms of this agreement only by written amendment, as long as both parties agree to the amendment.

The university's Board of Trustees will manage the fund in accordance with the university's administration and disbursement policies.

Donor Name Date
(for alumni donors, include their indicia in the signature line)

Signer Date
XYZ University

Capital Fund Agreement Template

XYZ University acknowledges with gratitude the generous gift/commitment of \$XX,XXX to the university from Title(s) DonorFirstName(s) LastName(s).

Title(s) DonorLastName(s) intend/s to pay \$XX,XXX for number of years, and he/she/they intend/s to make the first payment before June 30/December 31, XXXX, and the remainder in annual installments of \$X by each successive June 30/December 31 thereafter, until the pledge is paid in full.

OR

Title(s) DonorLastName(s) made the first payment of \$XX,XXX on date and he/she/they intend/s to pay the balance over number years and he/she/they intend/s to make the next payment before June 30/December 31, XXXX. They will pay the remainder in annual installments of \$X by each successive June 30/December 31 thereafter, until the pledge is paid in full. Pledge payments can be made in cash or in the form of marketable securities, some of which may be subject to temporary trading restrictions. *(If the gift is not paid in full, complete the pledge payment schedule.)*

In appreciation of and in reliance on DonorTitleandLastName's/theDonorLastNames' gift of \$X, the university would be honored to name SpecificDescriptionOfSpaceInBuilding by a mutually-agreed-upon name/to be known as Name. Consistent with university policy, this name will remain on the room for the duration of the life of the building and will not be given a different name that replaces or supplements this one. The Name space will be designated as such by appropriately designed and placed signage, consistent with the overall building signage program and with language approved by Donor. DonorTitleandLastName/TheDonorLastNames grant/s the university full and complete rights to use the name selected for all purposes related to the University.

In the event that the entire \$X is not received by the university as specified above, the university will offer donor alternate naming opportunities and benefits commensurate with its final gift level.

If, in the future, a space usage change or renovations materially affect the naming in this agreement, or other unforeseen circumstances exist (as determined in good faith by the Board of Trustees after recommendation by the President or the Provost), the university reserves the right to amend its obligation under this agreement and, in such case, (i) the university will first consult with the donor/s or his/her spouse or children of the deceased donors, if feasible, and (ii) the donor/s will have no further obligation to make any further then-remaining unpaid pledge payments.

Donor Name

(for alumni donors, include their indicia in the signature line)

Date

Signer

XYZ University

Date

Preference Language for Fund Agreements

When preparing agreements for the following fund types, the stewardship office will use fund agreement templates on pages 11 and 12, and insert standard language for the second paragraphs as shown below. These are the most common types of funds; for others, consult the stewardship office for appropriate language.

Need-Based Scholarships

Name Scholarship

This fund will support undergraduate students who qualify for financial aid. **Add preferences, if any, in priority order.** The amount of scholarships and selection of awardees will be in accordance with university policy at the time of the award.

Legacy Scholarship Language

This scholarship will support an undergraduate student who qualifies for financial aid (add in preferences if applicable.)

Fellowships

Name Fellowship **in Field**

This fund will support graduate students in **field** in **college/school/department**. **Add preferences, if any, in priority order.** The **dean/head** of the **College/School/Department** or his/her designee will determine the amount of fellowships and selection of awardees will be in accordance with university policy at the time of the award.

Library Funds

Name Library Fund

This fund will be used to purchase resource and reference materials for the University Libraries. **Add preferences, if any, in priority order.** The dean of the University Libraries or his/her designee will determine the amount of purchases and select materials in accordance with university policies and processes.

Discretionary Funds

Name Discretionary Fund **in Field**

The **dean/department head** of **college/school/department** will use this fund to meet the **college/school/department** priorities, with flexibility to direct resources to areas of greatest need. The **dean/head** of **college/school/department** or his/her designee will determine the amount and direction of all expenditures.

Professorships

Name **Professorship** Fund **in Field**

XYZ University and the donor(s) agree to the following conditions, principles and procedures: **(Choose from these three paragraphs.)**

Dean, School/Center/Department Head

Appointments to the **Name** Professorship for the **dean/head** of the **College/School/Department** will be automatic and made effective when the professor becomes the **dean/head** of the **academic_unit** and will continue until the holder of the professorship is no longer the **dean/head**. The succeeding

dean/head will then be named the holder of the professorship. When at least 60 percent of the endowment has been received, the **dean/head** of the **academic_unit** will be named to this position.

Distinguished Professorship

The recipient of the **Name** Professorship in **Field** will be a faculty member in the **College/School/Department** who specializes in **field** to be named at the discretion of the university president and provost with advice from the dean of the **School** in accordance with university policies and processes. Annual endowment payout from the endowed professorship will support the named professor, usually a combination of academic-year salary support, research and office support, and discretionary funds. When at least 60 percent of the endowment has been received, a professor will be named to this position.

Career Development Professorship

The recipient of the **Name** Professorship in **Field** will be a junior faculty member in the **College/School/Department** who specializes in **field** to be named at the discretion of the university president and provost with advice from the dean of the **College/School**. Appointments to the **Name** Professorship in **Field** will be made for three years (renewable for one additional term), after which a different faculty member will be appointed to each professorship. When the full endowment minimum for this fund has been received, a professor will be named to the professorship.

The permanent name of this professorship is the **Name** Professorship in **Field**. The discipline/s in which the recipient specializes can be reflected in the name of the professorship. As such, the discipline/s reflected is subject to change with each professorship holder in accordance with recipient preference.

(Continue here with endowment template.)

Note that the president and provost must sign a professorship fund agreement, so be sure to allow adequate time for their signatures. The Office of Stewardship will coordinate this process; do not contact the president's or provost's office directly.

Special Circumstances

Bequest Commitment

XYZ University acknowledges with gratitude the generous bequest from **Title(s) DonorFirstName(s) LastName(s)** which will be used to endow the **Name FundType**. The **donor/s** will include XYZ University as a beneficiary of **his/her/their** Last Will and Testament with a bequest of at least \$50,000, and these funds shall constitute the bequest gift. The **donor/s intend/s** that, when received, these funds will be sufficient to establish an endowed **fundtype** at the gift minimum required by the university at the time of **his/her/their** demise. (Presently, in **year**, this amount is **\$XX,XXX**.) However, if the funds received are insufficient to establish an endowed **fundtype**, the fund will be merged with an endowed fund at the university whose purpose university leadership deems to be most consistent with the donor's/s' intention.

Planned Giving Vehicle Commitment

XYZ University acknowledges with gratitude the generous gift of \$XX,XXX from **Title(s)0 FirstName(s) LastName(s)** on **date** to establish a **PlannedGivingVehicle**. *(If the remainder interests from multiple planned giving gift vehicles are being used to establish a single fund, we will need to include the gift amounts and gift dates for each in this paragraph.)* The remainder interest from this **PlannedGivingVehicle** will be used to establish the **Name FundType** Fund.

Donor-Advised Fund Language

This language is used to document pledge intentions for a donor who plans to fulfill gift payments through a donor-advised fund. Donor-advised funds and the IRS will not allow donors to fulfill individual pledges through this vehicle, so it is important to use this specific language to avoid confusion in booking these types of intentions.

Title(s) FirstName(s) LastName(s) plan/s to recommend that the **Donor-AdvisedFundName** make grants from their fund (if relevant) in combination with their personal outright gifts of cash/stock to establish the **Name FundType** with gifts totaling \$XX,XXX. The **donor/s intend/s** to make (the first payment/grant recommendation before **June 30/December 31, XXXX** and the endowment will be paid in full before **June 30/December 31, XXXX**. Grant recommendations are not binding on the donor-advised fund.

Matching Gift Language

This language is used to document pledge intentions for a donor who plans to fulfill gift payments through matching gifts. Most matching gift companies and the IRS will not allow donors to fulfill individual pledges through this vehicle, so it is important to use this specific language to avoid confusion in booking these types of intentions. It is advisable to confirm with the donor's matching company rules prior to drafting the agreement.

XYZ University acknowledges with gratitude the generous **pledge/gift** of \$XX,XXX on **date** from **Title(s) DonorFirstName(s) LastName(s)** to establish the **Name FundType** Fund. *(If the gift is not paid in full, complete the pledge payment schedule.)* **Mr./Mrs.LastName** intend/s to pay \$XX,XXX for **number** years, and **he/she/they** intend/s to make the first payment before **June 30/December 31, XXXX**. It is also **Title(s) LastName(s)**'s intention that each of **his/her/their** gifts will be matched by a gift from **CompanyName**.

Donor Advised Fund, Personal and Matching Gift Language

This language has been approved in the rare instance that the donor plans to use all of these gift vehicles for a non-binding intention. It is impossible to include a pledge schedule generally when all of these gift vehicles are used for a single non-binding intention.

XYZ University acknowledges with gratitude **Donor's** non-binding intention to establish the endowed **Name Scholarship**.

It is anticipated that this fund will be established from a combination of personal gifts from the **donor/s**, as well as gifts on the **donor's/s'** behalf from matching companies and donor-advised funds. The university understands that while the **donor/s** have no ultimate control over allocation of matching gifts and donor-advised fund gifts, we have every confidence that the **donor's/s'** relationship with these organizations, in addition to their personal philanthropy, will ensure the ultimate fulfillment of the fund minimum.

Binding Obligation

To be used in rare instances in commitments in which the university is at financial risk if the donor does not honor the pledge and in capital fund agreements.

To ensure that the full amount of the gift is available to carry out the **donor/s** intentions, if for any reason the gift has not been satisfied before **his/her/their death/s**, the balance shall be a debt of the deceased **donor's/s' estates** and payable by **his/her/their estate/s** to the university.

Gifts of Art

XYZ acknowledges with gratitude the generosity of **Donor** for their gifts of **Description of Art**.

The university has accepted these works of art in accordance with its Policy for Public Art, which is attached to this Memorandum of Understanding. These **paintings** will become part of the University's permanent art collection and will be managed and maintained in accordance with university policies and procedures. As with all works of art in the permanent art collection, the university intends to maintain and display the works of art in an appropriate location consistent with its Policy for Public Art.

In accordance with the policy, the donor will pay for all costs of acquisition, shipping, installation, appraisal, wall-to-wall insurance and maintenance until the installation of the works of art onto the university campus is complete. Finally, the university will abide by the policy regarding the ownership and/or deaccessioning of these works of art.

As with all gifts of real property to the university, the value of these paintings is to be determined by independent appraisals. In keeping with IRS regulations, **Donor** is responsible for arranging for these appraisals and for any expenses associated with them. Once these appraisals have been completed, **Donor** will provide copies of the appraisals and the IRS Form 8283 to the University.

Letter of Intent Template

To be used to add to existing funds.

Title Donor First Name Last Name
Address
Address

APPROPRIATE UNIVERSITY PERSON
ADDRESS
ADDRESS

Dear :

It is **my/our** pleasure to **pledge/give** **\$XX,XXX** to XYZ University to support the _____ in the _____. (Include brief description of fund purpose.)

For pledges:

- ♦ *(If the gift is not paid in full, complete the pledge payment schedule.)* **I/we** intend to pay **\$XX,XXX** for **number of** years, and **I/we** intend to make the first payment before **June 30/December 31, XXXX**, and the remainder in annual installments of **\$X** by each successive **June 30/December 31** thereafter, until the pledge is paid in full.

OR

- ♦ **Title(s) DonorLast Name(s)** made the first payment of **\$XX,XXX** on **date** and **he/she/they intend/s** to pay the balance over **number** years and **he/she/they intend/s** to make the next payment before **June 30/December 31, XXXX**. They will pay the remainder in annual installments of **\$X** by each successive **June 30/December 31** thereafter, until the pledge is paid in full.

Sincerely,

Donor Name

(For alumni donors, use their indicia in the signature line)

Date

Gift Documentation Transmittal Letter

Date

Donor Name

Address

Address

Dear Name:

As promised, I am sending you two copies of the Fund Name endowed/expendable fund gift agreement. They have already been signed on the university's behalf by APPROPRIATE UNIVERSITY PERSON.

Please sign both copies of the gift agreement and keep one for your files. Please return the second copy to me via the enclosed envelope at your earliest convenience.

Thank you once again for your generous commitment to XYZ University. We are grateful for your support.

Sincerely,

Gift Officer Name

Gift Documentation Transmittal Letter – Letter of Intent

Date

Donor Name

Address

Address

Dear Name:

As promised, I am sending you two copies of the Fund Name gift letter. Please sign both copies of the letter and keep one for your files. Please return the second copy to me via the enclosed envelope at your earliest convenience.

Thank you once again for your generous commitment to XYZ University. We are grateful for your support.

Sincerely,

Gift Officer Name

Allowing donors to sit on scholarship selection panels is not a good thing for a variety of reasons.

This article <http://grantspace.org/tools/knowledge-base/Funding-Resources/Individual-Donors/scholarship-funds> references another article (<http://www.finaid.org/educators/awarddesign.phtml>) Both are worth reading, but check out the part in yellow below:

Laws and Regulations Affecting Scholarship Programs

The main laws affecting the awarding of scholarships are the laws relating to private foundations and non-profit organizations. For example, section 4945(g)(1) of the Internal Revenue Code specifies that amounts paid as a scholarship or fellowship grant to an individual for travel or study will not be considered a taxable expenditure if the grant is awarded on an objective and nondiscriminatory basis and is to be used for study at an educational institution described in Section 170(b)(1)(A)(ii) of the code. Generally, a private foundation that awards scholarships should request advance approval from the IRS of the procedures it uses in managing the scholarship program, to ensure that the scholarships are not considered taxable expenditures. Section 4946 of the code specifies a list of "disqualified persons" who are not eligible to receive the grants. Similarly, for an award to be excludable from gross income, it must comply with the provisions of section 117(a) of the code.

This yields the following requirements for scholarships:

- The scholarship must be awarded on an objective and nondiscriminatory basis.
- No grants may be awarded to an officer, manager or trustee of the organization, nor to a member of the selection committee, nor to a substantial contributor, nor to certain US government officials.
- Family members of these individuals are also not eligible to receive grants.
- The group of applicants from which the recipients are selected must be sufficiently broad as to be considered a charitable class.

A charitable class must be sufficiently large and indefinite so that assisting members of the charitable class benefits the community as a whole. Earmarking scholarships to help a particular pre-selected student would violate this requirement. The donor of a scholarship cannot take a charitable deduction for a scholarship that is earmarked for the benefit of a specific individual, not even if that individual is unrelated to the donor. Moreover, donors may not circumvent this restriction by tightly delineating the selection criteria. Examples of valid charitable classes include 9/11 victims, lower income students, female students, students graduating in the top 10% of their class, all graduating seniors of a particular school, and even baton twirlers. Each of these examples is broad and indefinite.

Say your school chooses three candidates, and the donor says "I like the second one" and lets the school ultimately decide. Naturally, the school is going to pick the one the donor likes. Is that legal? Probably. Is it a good thing to do? Probably not. Do some schools do it? Absolutely.

How would it look on the front page of the newspaper? It would look like the school is doing what the donor wants. And that's not a gift.

Bottom line is, do you want to have to defend yourself, or have your donors defend themselves, in the event of an IRS audit? Having a donor choose a recipient can violate the applicants' privacy and it lessens the philanthropic intent of the gift. Gifts don't have strings.