

# MEMORANDUM

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**University of Florida Foundation, Inc.**

**352-392-5499**  
**1938 W. University Avenue**  
**Gainesville, FL 32603**

To: Members, Faculty Senate Budget Council

From: Leslie D. Bram, Esq., Associate Vice President/COO

Date: March 31, 2008

Re: University of Florida Foundation (UFF)

It was a pleasure to meet with you all. Below are the answers to the questions you submitted to me for response:

1. How do Foundation accounts work? When a gift is received, a new foundation fund may be established (if the gift is at least \$2,000, then a non-endowed fund may be created; an endowment requires a minimum of \$30,000). Each UFF fund has a fund administrator who is appointed by the college or unit's dean or director. The fund administrator is responsible for expending monies from this fund for the donor restricted purpose.
2. How does State Match work? There are two visionary State of Florida matching programs:
  - a. The Alec Courtelis Facilities Enhancement Challenge Grant program matches construction and renovation of academic space (athletic and dormitory facilities are not eligible). This is a dollar for dollar match and has no size limits. This matching gift program requires annual certification and submission to the legislature for appropriation and is done the first week of January each year.
  - b. The second program is the Major Gifts Trust Fund which matches endowment gifts for academic purposes of \$100,000 or more. At \$100,000 the match is 50% and grows as the size of the gift grows: at \$2 million, the match is dollar for dollar. [<http://www.uff.ufl.edu/documents/Document.asp?DocID=1798>]. Gifts are matched in the order received and a chronological list is maintained by the Board of Governors' staff based on submissions from all the SUS schools. In tough financial times, this list may get backlogged (up to four years in the past) and so the timing of the receipt of the state match is

unpredictable. Even so, the state has ultimately matched all endowment gifts that qualify.

3. Who controls how Foundation funds are spent? UFF funds are controlled by the fund administrator with the counter signature/approval of the dean/director. The expenditures must be consistent with donor restrictions on the fund and must comply with IRS, UF travel and purchasing rules, among others. UFF has only a few rules specific to expenditure of gift dollars: no first class travel, no lavish entertainment and no private club memberships or dues.
4. The appointment of the fund administrator is in the dean's or director's discretion. In some colleges and units, the dean/director may be the fund administrator of all gift funds. In others, the dean/director has designated another individual, most often a faculty member in charge of the program that is being benefited by the gift. Endowed faculty position fund administrators vary the same way. There is no requirement that the individual holding the endowed faculty position be the fund administrator. This is in the dean's/director's discretion.
5. How are endowed chairs/professorships to be used? The BOG provides great latitude in the spending of such funds including anything that supports the scholar's academic work (renovation of lab or office, support for secretary or graduate students, travel, research, etc.). However, the use of the spendable income from such an endowment is again in the dean's or director's discretion. The dean/director establishes the recipient's compensation package. The source of those funds may be the spendable income from the endowment or may not be, again varying by college/unit. Increases in the spendable income accrue to the spendable fund of the endowment but do not mean that the faculty member is receiving increased compensation; these are entirely independent issues.
6. A gift agreement is not a legal contract but we consider it legally binding on the university. These are negotiated very carefully to ensure we can deliver what is promised, that the spendable income can accomplish the purpose, that the donor is not invading academic freedom, etc. [See Attachment]
7. How much discretion do UFF and the colleges/units have in spending from endowment funds? The donor restriction on the fund must be honored exactly. As stated above, there is discretion in the use of endowed faculty funds. Further, UFF defers to the dean/director about whether a particular expenditure is appropriate from a specific fund (eg, is that piece of equipment appropriate to purchase?) as long as the reimbursement does not breach IRS, UFF or UF rules.
8. How does UFF ensure that funds are being spent for proper purposes? UFF has a series of controls in place: annually, UFF's external and internal auditors randomly audit donor restricted funds. Additionally, on the Financial Accounting System (FAS) the fund purpose appears on each page. All UFF gift agreements are imaged (although confidential) and are available to the dean/director or

fundraising development officer in the college/unit. Annually, a list of all endowed donor restricted funds is sent to each dean/director with the purpose articulated for him/her to confirm in writing that the fund is being used for the donor designated purpose. Additionally, UFF has established two websites: [www.uff.ufl.edu/scholarships](http://www.uff.ufl.edu/scholarships), and [www.uff.ufl.edu/endowedfaculty](http://www.uff.ufl.edu/endowedfaculty), which document the purpose of each fund, etc. UFF is currently creating such a website for gifts for facilities. Finally, the UFF disbursements staff reviews and approves each expenditure from UFF funds before reimbursement or payment is approved in the UF PeopleSoft system

9. As discussed with the committee, some funds, especially older funds, may contain restrictions that make the spendable income difficult to use. In this case, please contact me and our staff will work with you to either amend the gift agreement (if the donor or a surviving family member is available) or seek court approval (cy pres) to change an illegal or unusable restriction. This is never done lightly.
10. What are the roles of faculty within UFF? Each year the UF president appoints two faculty members and two deans/directors to the UFF Board of Directors. Faculty are also asked to serve on UFF board committees from time to time to provide specific expertise.
11. What is the best way to learn more about UFF? Please see the UFF website: [www.uff.ufl.edu](http://www.uff.ufl.edu) or [www.floridatomorrow.ufl.edu](http://www.floridatomorrow.ufl.edu).

## **ATTACHMENT**

### **THE ALBERT E. GATOR GIFT AGREEMENT**

This Agreement is between Albert E. Gator (Donor) and the University of Florida Foundation, Inc., located in Gainesville, Florida (Foundation), on behalf and for the benefit of the College of Education (College) at the University of Florida (University).

#### **1. PLEDGE**

The Donor, in consideration of his abiding interest in and love for the University, pledges to the Foundation the amount of \$100,000. This gift, together with any other properties which may later be brought within the operation of this Agreement (Gift), will be held by the Foundation in accordance with this Agreement.

It is the Donor's intention that the pledge incorporated into this Agreement will be irrevocable. If, at the time of the Donor's death, any amounts remain outstanding on the pledge, it is the Donor's intention that the outstanding amount becomes a debt of his estate and that his personal representatives pay such debt to the Foundation out of estate assets. The Donor will include a provision in his will reflecting this commitment.

#### **2. NAME OF THE FUND**

In grateful recognition of the Donor's generosity and in reliance upon this Agreement, the Foundation agrees to establish an endowment fund to be known as "**THE ALBERT E. SCHOLARSHIP**" (Fund).

#### **3. PURPOSE**

The spendable income of the Fund shall be used to support scholarships to students in the College of Education.

If, in the best judgment of the Board of Directors of the Foundation, all or part of the Gift cannot be used in the manner described in this Agreement, the Board may use the Gift for other purposes as nearly aligned to the Donor's original intent, after consultation with the Donor, if possible, as the Board deems appropriate under the circumstances.

**4. SCHEDULE AND FORM OF CONTRIBUTIONS**

The Donor will make a gift of \$20,000 on or before December 31, 2008 and agrees to make subsequent gifts of \$20,000 each on or before December 31, 2009, December 31, 2010, December 31, 2011, and December 31, 2012, respectively.

**5. STATE OF FLORIDA MATCH**

The Donor is making this Gift in anticipation that the Foundation will apply for State matching funds from the State of Florida Trust Fund for Major Gifts upon receipt of the entire Gift, if such matching funds are then available. It is the Donor's specific wish that the Foundation apply for any other matching funds from whatever source which may be available as a result of this Gift.

**6. ADMINISTRATION**

The Foundation will establish and manage the Fund in accordance with the prevailing management and investment policies of the Foundation and use the spendable income from this endowment to support the purpose(s) outlined in Section 3. The Dean of the College, or her designee, will be the initial administrator of the Fund.

**7. RECOGNITION**

The Donor's contribution may be noted in future University and College publications. Formal press releases or specific articles will be submitted to the Donor for approval. However, the Donor wishes that all other information regarding his Gift will be confidential.

**8. FOUNDATION QUALIFICATION**

By letter dated May 16, 1979, the Internal Revenue Service has declared the University of Florida Foundation, Inc. (federal tax identification number 59-0974739) to be a duly qualified charitable organization under section 501(c)(3) and also an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code and not a private foundation under such provisions in section 509(a). The Foundation is currently listed as such a qualifying organization in IRS publication 78. Additionally, the Foundation is certified by the Florida Board of Education as a Direct Support Organization for the University of Florida under Florida Statutes Section 1004.28 and is a duly chartered active Florida corporation not for profit.

This Agreement will be construed in accordance with, and the administration of the properties held in the Fund will be determined by, the laws of the State of Florida, irrespective of the domicile or residence of the Donor or of the situs of any property held under this Agreement.

The Donor, an officer of the University, and an officer of the Foundation have executed this Agreement on the date indicated below:

\_\_\_\_\_  
Albert E. Gator

\_\_\_\_\_  
Date

**THE UNIVERSITY OF FLORIDA**

By:

\_\_\_\_\_  
J. Bernard Machen  
President

\_\_\_\_\_  
Date

**THE UNIVERSITY OF FLORIDA FOUNDATION, INC.**

By:

\_\_\_\_\_  
Paul A. Robell  
Executive Vice President

\_\_\_\_\_  
Date