Appendix BBB

BOR Policy 901.9

MONTANA BOARD OF REGENTS OF HIGHER EDUCATION
Policy and Procedures Manual

SUBJECT: FINANCIAL AFFAIRS
Policy: 901.9 – Campus-Affiliated Foundations; Montana University System Foundation
Adopted: July 7, 2004 Revised: January 6, 2015

A. Purpose of Foundations

Private support for public higher education is an accepted and firmly established practice throughout the nation. Foundations are established to enable institutions to accomplish more than public funding allows. The private, independent nature of foundations also provides the added advantage of flexibility in fiscal management and responsiveness in donor services. Foundations affiliated with the campuses of the Montana University System have an outstanding record of providing additional support, both financial and otherwise, for their campuses so they can achieve a level of excellence not possible through state funding and tuition alone.

The Board of Regents recognizes and appreciates the contributions made to higher education by the foundations affiliated with the campuses of the Montana University System. The Board pledges to do its part in preserving and ensuring the future growth of these foundations. It acknowledges these foundations can best serve the special needs and interests of donors who desire their contributions to go toward enhancing the mission of the campuses, and not be used to replace necessary support from the state.

The purpose of foundations affiliated with campuses of the Montana University System is to provide support to their respective campuses, consistent with the mission and priorities of such campus. As agreed to in the applicable operating agreement, such support may include some or all of the following activities: raising funds, managing funds, and providing programs and services that nurture relationships on behalf of the campus with and between students, alumni, donors, volunteers, and other constituents.. These foundations are expected to have mission statements relevant to this purpose and to adopt policies, plans, and budgets to achieve their missions. Each campus-affiliated foundation is authorized to accept restricted and unrestricted gifts on behalf of that campus. The campus agrees, through its chief executive officer, to keep the foundation apprised of its needs and priorities; the foundation agrees to consider and communicate to the campus its ability and plans to fund those needs and priorities. An affiliated foundation must agree not to solicit or accept gifts, the use of which would be inconsistent with the campus' mission, goals, or objectives.

In addition the MUS may establish, subject to approval of the Board of Regents pursuant to paragraph C.9 below, a foundation to accept gifts from donors who wish to give to programs, initiatives, research, or students within the system where giving to one or more campus foundations is not practicable. Any MUS foundation will operate as a pass through entity. It is not designed to compete with the campus foundations and will not have any employees.

B. Public Confidence

The Board of Regents recognizes it cannot and should not have direct control over campus-affiliated foundations. At the same time, the Board of Regents is responsible for ensuring the integrity and reputation of the university system and its campuses and programs, and to that end, must be assured that all campus-affiliated foundations adhere to ethical standards appropriate to such organizations in order to assure the public that it is conducting its mission with honesty and integrity.

1. Within 60 days of the close of a foundation's fiscal year, the foundation will submit a report to the affiliated campus and the BOR providing information from the most recent year that addresses (a) the financial benefits to and related expenses of the affiliated campus, (b) the investment management results achieved by the foundation related to its endowment portfolio, and (c) performance metrics related to responsibilities cited in the operating agreement.
2. Within 30 days of acceptance by its board of trustees, the foundation will provide a copy of its annual financial statement as audited by an independent accounting firm.

---

3. Within 30 days of filing with the Internal Revenue Service, the foundation will provide a copy of Form 990 as filed with the Internal Revenue Service for the fiscal year.
4. As required by GASB 39, campuses with affiliated foundations shall include financial information from audited financial statements in the annual campus financial reporting.

The relationship between the campuses of the Montana University System and the foundations supporting those campuses must be based on a recognition of and respect for the private and independent nature of the foundations. Transactions between a campus and its foundation must be consistent with the foundation's mission to assist and benefit the campus and must also be consistent with the campus' obligation to hold, manage, and use public property and resources to benefit the public interest. To ensure that the campus/foundation relationship is clearly defined, each campus shall consummate a formal written operating agreement with its affiliated foundation. To ensure the independence of the foundation, no employee of the Montana University System shall hold a voting position on a campus-affiliated foundation board. The Regents may allow exceptions to this restriction during a three-year transition period for those campuses that historically and currently have faculty or other employees serving as voting members of their campus-affiliated foundation boards. Senior administrators of the campus should, however, participate on the foundation board in an ex-officio capacity.

C. Operating Agreement

The campuses of the Montana University System and their affiliated foundations shall enter into a public, written operating agreement that (1) outlines the relationship between the two entities; (2) incorporates an appropriate balance of foundation independence and Board of Regents' oversight; and (3) defines appropriate foundation activities. This agreement shall be reviewed and approved by the Board of Regents at least every two years and, at a minimum, include:

1. The services and benefits the campus and foundation provide each other and any payments made, including whether campus assets are managed by the foundation;
2. How gifts, grants, and endowments are accepted and accounted for;
3. That gifts made to a campus of the Montana University System be accounted for and ownership maintained by that campus; that gifts made to a campus-affiliated foundation be accounted for and ownership maintained by that foundation;
4. That the foundation has a conflict-of-interest policy;
5. That no salary supplements for a Montana University System unit chief executive officer will be underwritten by a foundation without the approval of and public disclosure by the Board of Regents;
6. That campus input will be sought by the chief executive officer of the campus before defining the major needs and priorities for foundation consideration;
7. That other requirements stated or implied by this policy have been followed.
8. If a unit of the Montana University System (MUS) desires to merge alumni activities with foundation activities, language specifically addressing the relationships and responsibilities of the merged entity and the MUS unit.
9. Any MUS foundation shall have a public operating agreement, bylaws, and a conflict of interest policy approved by the Board of Regents, and comply with all federal and state laws regarding a 501 (c) (3).

D. Board of Regents' Authority

As provided in Article X of the Constitution of the State of Montana, the Board of Regents has authority over the campuses of the Montana University System. Under such authority, the Regents have responsibility for ensuring the public interest is served by any individual or organization established to support a campus of the Montana University System. While the Board of Regents cannot control or direct individuals or private organizations, it has the full authority to control the activities of its agents and agencies in their relationships with such individuals or organizations. Such control extends to the regulation of participation in those organizations and the use of a name, logo, or other insignia identified with campuses of the Montana University System.

History:
Item 100-003-R0798, Campus-Affiliated Foundations; Montana University System (NEW Board of Regents' Policy), approved by the Board of Regents on September 17, 1998; revised July 7, 2004 (Item 122-109-R0304). Item 156-103-R0912 Revised September 20, 2012. Revised January 6, 2015 (Item 165-102-R1114.