

**WESTERN KENTUCKY UNIVERSITY
BOARD OF REGENTS / FOUNDATIONS POLICY
MEMORANDUM of UNDERSTANDING
ADDENDUM TO EXISTING AGREEMENTS**

1. General Statement

This policy is adopted pursuant to KRS 164.350 which authorizes and empowers the Western Kentucky University Board of Regents to take actions necessary for the establishment of foundations for the University. The Board recognizes the value of such foundations to the overall development programs of the University. Foundations provide a direct means for individuals to participate in the generation and management of contributions for the benefit of the University.

2. Definition of Foundation

For purposes of this policy, a foundation is defined as a not-for-profit organization which exists solely to support and advance the objectives of the University. A foundation also shall be operated as a tax-exempt corporation chartered within the Commonwealth of Kentucky.

3. Foundation/University Relationship

A foundation is not an operational function of the University; it is a separate legal entity. The foundation/University relationship is derived from a shared interest in the University's development. Institutional participation in and support of foundation operations is, therefore, appropriate and desirable. It is recognized that to be effective in achieving its purpose, a foundation's identity must be maintained separate from the University. The accountability of a foundation, and the University as it relates to the foundation, however, are concerns common to the foundation, the University, and the Board.

4. Purpose of the Policy

The purpose of this policy is to promote and strengthen the operations of foundations which have been and may be established for the benefit of Western Kentucky University. The following provisions set forth a framework which, from the Board's perspective, enable and enhance a sound and mutually supportive foundation/University relationship.

5. Provisions

- A. To document the foundation's and University's understanding of their relationship, this document shall serve as a written agreement or an addendum to an existing agreement with its foundation(s) which describes their respective responsibilities and the services, if any, that the University provides the foundation.
- B. It is the responsibility of the foundation to support the institution at all times in a cooperative, ethical, and collaborative manner, engage in activities in support of the institution, and, where appropriate, assist in securing resources, administer

assets and property in accordance with donor intent, manage its assets and resources so that the property, resources, and funds hold their purchasing power into the future.

- C. The priorities of the institution, as set by the Board of Regents and the President, shall be integrated into the operation, activities, efforts, and priorities of the foundation. Institutional priorities shall be set by the above and it is assumed the President will develop these in consultation with all appropriate constituencies.
- D. The governance structure of a foundation should be determined by the organization. To ensure an appropriate level of University participation in foundation governance, it is recommended that the University President and/or the President's designee(s) shall hold membership on the foundation's executive body.
- E. The foundation's executive body shall adopt an annual budget. The University will develop and present a recommended budget to the foundation to ensure that University objectives are reflected in the allocation of foundation funds.
- F. The foundation should develop policies and procedures concerning its operations. At a minimum, the policies should address solicitation, acceptance, and management/investment of contributions to the foundation. The policies must incorporate sound business principles and safeguard compliance with donor intent and conditions. The policy regarding solicitation and acceptance of contributions shall provide that prior to acceptance of any gift to the foundation which requires University support, i.e., staff, financial assistance, storage, etc., approval must be obtained from the President of the University in accordance with this policy.
- G. No University funds may be transferred directly or indirectly to the foundation. It is understood that instances may occur where a donor inadvertently directs a contribution to the University which is intended for the foundation. Procedures shall be established to clarify donor intent.
- H. Foundations must respect Board and University responsibilities for personnel administration, and a process must be established whereby foundation expenditures for compensation and other forms of supplement to University personnel, i.e., salary, expense account, automobiles, etc., must be approved in advance by the University President on an annual basis.
- I. Foundation records and accounts may be maintained by the University in agency accounts, separate from University funds, records and accounts, and must be shown as an agency fund of the University.
- J. The foundation executive body should issue periodic reports on the activities of the foundation, which shall be submitted to the President of the University. At a minimum, the reports should be issued on an annual basis. At a minimum, a comprehensive annual financial report shall be issued and prepared in accordance with generally accepted accounting principles.

- K. A foundation whose records and accounts are maintained as an agency fund of the University shall be audited on the same cycle as the University audit and shall be reported upon as a part of the agency funds of the University. Records and accounts maintained by the foundation shall be audited annually by an independent public accountant.
- L. The foundation while protecting personal and private information related to private individuals, shall, to the extent possible or reasonable, be open to public inquiries related to revenue, expenditure policies, investment performance, personnel information, and/or other information which would normally be open in the conduct of University affairs.
- M. The University President shall be consulted in the selection of executive leadership for this foundation; likewise, the foundation shall be consulted in the selection of University officers whose duties include senior administrative responsibilities for the foundation.
- N. No staff member of the institution may receive remuneration (salary, stipend or gifts for service) from the foundation without the approval of the institutional president.
- O. The foundation shall develop policies and procedures to establish ethical standards to ensure that no conflict of interest occurs between its members and employees and the activities of the cooperative organization and the institution.
- P. All usage by the foundation of the institution's name, symbols, or trademarks is subject to approval by the institution or Board of Regents.
- Q. Notice to and concurrence of the Board of Regents is required for change of name, change of mission, or change of governance documents or structure of the foundation.
- R. The foundation or its subsets, may be called upon to accept, manage, or sell gifts of real estate on behalf of the University, or when mutually agreed upon to act as the University's agent in owning intellectual property and the related management and distribution of revenues pertaining thereto.
- S. All gifts, grants, or other financial proceeds which are received by the foundation are ultimately intended for the sale, use, and benefit of Western Kentucky University. Any other intended use must be clearly stated in writing and approved by the University President, the chief executive officer of the foundation, and the donor, grantor, or contractor from which the funds are received and distribution request engaged. All use of funds as directed by a gift agreement, grant agreement, or contract are irrevocable and permanent and must reflect donor, grantor, or contractor's intent. All unrestricted funds are to be used solely for the benefit of Western Kentucky University.
- T. Upon dissolution of the foundation, assets and property secured in the name of or under the auspices of, or in support of the system institution shall become the property of the institution or an entity selected by the Board of Regents and

institution. Such dissolution will be done in accordance with the law and, in accordance with donor intent, where applicable.

- U. The relationship between the University and the foundation cannot be severed or terminated without written notification by the Chair of the Board of Regents of the University and the Chair of Directors of the foundation. No separation can occur within 90 days of the receipt of request for termination by both parties.

Approved : _____ (Date.)
Chair, WKU Board of Regents

Approved : _____ (Date.)
Chair, WKU Foundation Board of Directors

Approved : _____ (Date.)
Chair, College Heights Foundation Board of Directors

Approved : _____ (Date.)
Chair, WKU Research Foundation Board of Directors