

SUBSTITUTE AGENDA ITEM
MEETING OF THE BOARD
NOVEMBER 13, 2008

8. **U. T. System Board of Regents: Amendment to the Regents' Rules and Regulations, Rule 60101, regarding Acceptance and Administration of Gifts**

RECOMMENDATION

The Chancellor concurs in the recommendation of the Vice Chancellor for External Relations and the Vice Chancellor and General Counsel that the Regents' *Rules and Regulations*, Rule 60101, regarding acceptance and administration of gifts, be amended as set forth on Pages 8 - 12.

BACKGROUND INFORMATION

The proposed amendments to the Regents' *Rules and Regulations*, Rule 60101, will streamline the acceptance of gifts that conform to all relevant policies, including the U. T. System Gift Acceptance Procedures, to provide that gifts, which currently require Board of Regents' approval if valued at greater than \$1,000,000, may be accepted by the Chancellor or the president, with prior review and approval of appropriate System offices, regardless of the value of the gift. Only gifts that do not conform to all relevant policies would continue to require Board of Regents' approval.

Proposed deletion of Section 6.3 eliminates the requirement for periodic reports summarizing acceptance and approval by the Office of External Relations of all conforming gifts. These reports were discontinued several years ago and were replaced by an annual presentation to the Board on private giving.

Deletion of the references to quasi-endowments in Section 7 is proposed to eliminate redundancy, as quasi-endowments are simply one classification of endowments. Minor editorial changes are also proposed.

1. Title

Acceptance and Administration of Gifts

2. Rule and Regulation

Sec. 1 Authority to Accept Gifts and Develop Acceptance Procedures. The authority to accept gifts to The University of Texas System or to any of its institutions is vested in the Board of Regents and delegated by the Board as specifically set out in this Rule. Except as provided in this Rule or any other Rule in the Regents' *Rules and Regulations*, or approved institutional policies, no member of the staff of any institution has the authority to accept gifts.

Sec. 2 The Board delegates to the Vice Chancellor for External Relations the authority and responsibility to promulgate a set of guidelines regarding the acceptance, processing, investment, and administration of gifts. These guidelines, ~~will be known as the~~ The University of Texas System Administration Policy UTS138, *Gift Acceptance Procedures*, ~~and shall be adhered to by the U. T. System and its institutions. In promulgating the U. T. System Gift Acceptance Procedures, the delegate shall also consider provisions to:~~

- 42.1 accomplish the goal of increasing financial support for the U. T. System through the appropriate assistance of donors,
- 42.2 allow staff members to respond to donor initiatives quickly and with certainty,
- 42.3 establish administrative processes to accept and administer gifts in a prudent and efficient manner, with fiduciary responsibilities of fundamental importance,
- 42.4 comply with the Texas Constitution and applicable federal and State law,
- 42.5 comply with the provisions of the *Internal Revenue Code* and related regulations,
- 42.6 specifically incorporate provisions related to the acceptance of pledges to fund endowments as follows:

- (a) at least 20% of the donors' total required minimum funding must be received prior to the acceptance of an endowment, and
- (b) the pledge for payment of the remaining funds shall not extend beyond five years from the date of execution of the gift agreement. With the written approval of the Vice Chancellor for External Relations the pledge period may be longer than five years under rare and special circumstances; and

~~1.7~~ specify that requests to establish quasi-endowments are to be submitted when it is expected that the endowment will be maintained permanently, and

~~1.82.7~~ provide that, in the interest of financial responsibility and efficiency, it is the specific preference of the Board that all endowment gifts be eligible for commingling for investment purposes with other endowment funds.

Sec. ~~23~~ Board Approval of Nonconforming Gifts Requiring Board Approval. ~~All conforming gifts, including pledges, having a value of more than \$1,000,000 (in cash or in kind) must be submitted to the Board of Regents for approval via the Docket, except those processed or administered by the Office of External Relations. Recommendations regarding the acceptance of gifts or other actions that do not conform to all relevant policies, including but not limited to the *U. T. System Gift Acceptance Procedures*, shall be made through the Vice Chancellor for External Relations to the Board of Regents after review by appropriate offices of the terms of the gifts, the nature of the donated assets, and/or the requested action.~~

Sec. ~~34~~ Gifts of Art

- ~~34.1~~ Outdoor Works of Art. Approval by the Board is also required prior to the acceptance of a gift of an outdoor work of art. Considerations will include appropriateness with regard to the institution's Campus Master Plan and expense related to installation and/or continuing maintenance.
- ~~34.2~~ Gifts of Statuary Depicting Living Persons. No gift of statuary depicting a living person shall be accepted by an institution, unless intended for display in a museum or for

addition to the collection of works of art for display in a museum. Authority to accept proposed museum gifts of statuary depicting living persons, intended for display indoors, is delegated to the presidents. Proposed gifts of statuary intended for outdoor display require approval under Section ~~3.1~~ 4.1 above; ~~authority to accept proposed museum gifts of statuary depicting living persons, intended for display indoors, is delegated to the presidents.~~

Sec. 45 Approval of Conforming Gifts Requiring Approval by Chancellor or Presidents. The Board of Regents delegates to the Chancellor or the president of an institution, following prior review and approval by the appropriate Executive Vice Chancellor and the Vice Chancellor for External Relations, the authority to accept conforming gifts, including pledges, other than gifts of real property, that are not processed or administered by the Office of External Relations, provided that such gifts have a value of \$1,000,000 or less (in cash or in-kind) and the authority to take any and all desirable actions relating to the administration and management of gifts accepted by the Chancellor or the president of the institution, as may be permitted by applicable law, policies, these Regents' *Rules and Regulations*, and the *U. T. System Gift Acceptance Procedures*.

Sec. 56 Gifts Requiring Approval by Executive Vice Chancellor for Business Affairs. The Board of Regents delegates to the Executive Vice Chancellor for Business Affairs authority to accept all conforming gifts of real property of any value that are not processed or administered by the Office of External Relations, and the authority to take any and all desirable actions relating to the administration and management of gifts accepted by the Executive Vice Chancellor for Business Affairs, as may be permitted by applicable law, policies, ~~these Rules and Regulations,~~ the *U. T. System Gift Acceptance Procedures*, and these Regents' Rules and Regulations, including Rule 80306 concerning the environmental review policy for acquiring real property and Rule 60103 concerning guidelines for acceptance of gifts of real property. Acceptance of all gifts of real property shall be subject to the Regents' *Rules and Regulations*, Rule 60103 and Rule 80306.

Sec. 67 Gifts Requiring Approval by Vice Chancellor ~~of for~~ External Relations. The Board of Regents delegates to the Vice Chancellor for External Relations authority to accept all

conforming gifts, including pledges, of any value (either in cash or in-kind) that are processed or administered by the Office of External Relations. The Board also delegates to the Vice Chancellor for External Relations authority to take any and all desirable actions relating to the administration and management of gifts accepted by the Office of External Relations, including without limitation the modification or termination of trusts, ~~and~~ endowments, ~~and quasi-endowments~~ as may be permitted by applicable law, policies, these *Rules and Regulations*, and the *U. T. System Gift Acceptance Procedures*.

67.1 Gifts Reviewed. The Office of Development and Gift Planning Services, with assistance from the Real Estate Office, University Lands West Texas Operations and the Office of General Counsel as required, shall review all gift assets processed or administered by the Office of External Relations and certain gift assets that the Chancellor or president is authorized to accept. Gift assets requiring review include, but are not limited to, securities, interests in limited partnerships, stock of closely-held corporations, stock of S corporations, stock options, and warrants. The Office of Development and Gift Planning Services shall also review all bequests, interests in trusts, gifts, and other funds to establish endowments ~~and quasi-endowments~~, and other planned gifts as defined in the *U. T. System Gift Acceptance Procedures*.

67.2 Gifts to Establish Endowments. Endowments will be established with gifts that have been completed for tax purposes or with a combination of such gifts, pledges, and other funds at a minimum funding level of \$10,000. ~~Endowments may be established to fund scholarship programs and other educational activities as well as the endowed academic positions specified in Regents' Rules and Regulations, Rule 60202 concerning endowed academic positions.~~

~~6.3 Gifts Report. The Office of External Relations shall submit a report to the Board of Regents summarizing acceptance and approval by the Office of External Relations of all conforming gifts and other actions taken no less frequently than annually.~~

- Sec. ~~78~~ Internal Revenue Service Forms. The Board of Regents delegates to the Chancellor, the Executive Vice Chancellor for Business Affairs, the Vice Chancellor for External Affairs, and the president of the institution the authority to execute all necessary Internal Revenue Service forms, including without limitation IRS Forms 8283 and 8282, that relate to gifts accepted by each, respectively.
- ~~Sec. 8 Nonconforming Gifts. Recommendations regarding the acceptance of gifts or other actions which do not conform to all relevant laws and Board of Regents policies, including but not limited to the U. T. System Gift Acceptance Procedures, shall be made through the Chancellor to the Board via the Agenda after review by the appropriate offices of the terms of the gifts, the nature of the donated assets and/or the requested action.~~
- Sec. 9 Gift Benefiting an Individual. Neither the U. T. System nor any of its institutions will administer a gift for the benefit of any designated individual unless the donor is exempt from federal income taxes as defined by the Commissioner of Internal Revenue.
- Sec. 10 Service by Board as Estate Executor/Administrator. The Board of Regents will not serve as executor or administrator of an estate because of the potential for conflicts of interest and the scope of the required duties.
- Sec. 11 Prohibition to Act as Witness to Will. The employees of the U. T. System or any of its institutions should not knowingly act as witnesses to wills in which the U. T. System or an institution is named as a beneficiary so as not to jeopardize the receipt of the bequest.
- Sec. 12 Service by Employee as Executor/Administrator of Estate or Trustee of Trust. Employees of the U. T. System or any of its institutions who agree to serve as trustee of a trust, or executor or administrator of an estate benefiting the U. T. System or any of its institutions are immediately to notify the Office of Development and Gift Planning Services of their appointment. Upon notification, the employee will be furnished with a statement advising of the potential for conflicts of interest and directing that all communications pertaining to the trust or estate between the employee and any office of the U. T. System or its institutions shall be in writing.