

**USM BOARD OF REGENTS
ADVANCEMENT COMMITTEE
October 25, 2022, 11:00 AM**

Zoom Details to be Provided to Committee

Public Listen-Only Access:

**Dial-In Number: 443-353-0686
Conference ID: 239 673 729**

AGENDA FOR PUBLIC SESSION

Call to Order

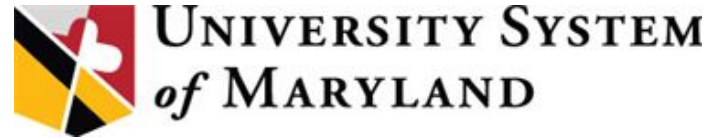
Chairman Breslin

1. Fundraising Updates
 - a. Year-end fundraising for FY22 (information)
 - b. Year-to-date fundraising September FY23 (information)
2. USM Quasi-Endowment Grant Requests for 2023 (action)
3. USM BOR IX – 2.00 – Proposed Modifications to BOR Policy on Affiliated Fundraising Foundations (action)
4. BOR Committee on Advancement Charge (action)



FY22 FUNDRAISING

Institution	FY21 Results 30-Jun	FY22 Results 30-Jun	FY2022 Goal	Percentage to Goal FY22
Bowie State University	\$29,762,543	\$7,275,691	\$6,000,000	121.26%
Coppin State University	\$1,591,021	\$4,708,450	\$2,500,000	188.34%
Frostburg State University	\$3,043,284	\$3,771,815	\$3,200,000	117.87%
Salisbury University	\$8,809,060	\$7,489,057	\$11,000,000	68.08%
Towson University	\$18,102,112	\$14,859,674	\$15,000,000	99.06%
University of Baltimore	\$9,562,718	\$5,389,432	\$5,000,000	107.79%
University of Maryland, Baltimore	\$78,134,071	\$80,398,445	\$85,000,000	94.59%
University of Maryland Baltimore County	\$10,318,234	\$43,445,882	\$13,000,000	334.20%
University of Maryland Center for Environmental Sciences	\$2,047,120	\$1,402,445	\$1,125,000	124.66%
University of Maryland College Park	\$208,324,804	\$249,457,969	\$175,000,000	142.55%
University of Maryland Eastern Shore	\$24,350,505	\$9,211,360	\$3,500,000	263.18%
University of Maryland Global Campus	\$2,431,690	\$2,790,573	\$2,300,000	121.33%
University System of Maryland	\$2,662,291	\$1,259,299		
TOTAL	\$399,139,453	\$431,460,092	\$322,625,000	133.73%



FY23 FUNDRAISING

Institution	FY22 Results 30-Sep	FY23 Results 30-Sep	FY2023 Goal	Percentage to Goal FY23
Bowie State University	\$1,610,529	\$964,592	\$8,500,000	11.35%
Coppin State University	\$722,120	\$456,921	\$3,000,000	15.23%
Frostburg State University	\$1,130,402	\$509,859	\$3,500,000	14.57%
Salisbury University	\$1,050,732	\$485,048	\$6,500,000	7.46%
Towson University	\$3,069,721	\$1,664,490	\$15,000,000	11.10%
University of Baltimore	\$2,767,312	\$4,174,664	\$6,500,000	64.23%
University of Maryland, Baltimore	\$9,651,356	\$9,634,970	\$100,000,000	9.63%
University of Maryland Baltimore County	\$3,253,233	\$1,691,638	\$12,000,000	14.10%
University of Maryland Center for Environmental Sciences	\$267,522	\$484,425	\$1,125,000	43.06%
University of Maryland College Park	\$34,650,689	\$45,859,795	\$220,000,000	20.85%
University of Maryland Eastern Shore	\$999,147	\$335,737	\$4,500,000	7.46%
University of Maryland Global Campus	\$586,163	\$1,164,138	\$2,500,000	46.57%
University System of Maryland	\$567,749	\$370,274		
TOTAL	\$60,326,675	\$67,796,551	\$383,125,000	17.70%

UMCES FY23 goal is tentative



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Quasi endowment grants

COMMITTEE: Advancement Committee

DATE OF MEETING: October 25, 2022

SUMMARY: The Quasi-Endowment Fund, initiated in FY15, was established with \$50 million committed by USM institutions and the USM Office. Spendable income from this quasi-endowment funds two components: a competitive grant program administered through the USM Office of Advancement, and direct funding of institution fundraising programs. The USM Office has reviewed and recommended grants for CY 2023 as summarized in the chart titled 2023 USM Quasi Endowment Grant Requests and Recommendations.

ALTERNATIVE(S):

FISCAL IMPACT:

CHANCELLOR'S RECOMMENDATION:

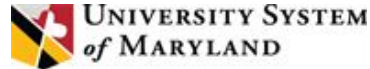
COMMITTEE ACTION:

DATE: 10.25.22

BOARD ACTION:

DATE:

SUBMITTED BY: Leonard Raley, Vice Chancellor for Advancement, raleym@usmd.edu
301-445-1941



**USM Quasi-Endowment Grant Program
2023 Grant Requests**

In FY15, the USM and its institutions established a \$50 million quasi-endowment in support of endowment-building at each USM institution. The USM Office administers a grant program funded by its \$10 million commitment to this quasi-endowment. Approximately \$475,000 in funds are available through this competitive grant process. USM staff makes funding recommendations, which are reviewed and approved by the Board of Regents Advancement Committee.

INSTITUTION	DESCRIPTION	AMOUNT REQUESTED	STAFF RECOMMENDATION
Coppin State University	CSU seeks continued funds for the position of Development Associate for grants and annual giving. This position serves as a project manager in grants administration and oversees the annual fundraising efforts. This position was instrumental in Coppin's historic fundraising year for FY22, raising over \$4M.	\$80,000	\$55,000
Frostburg State University	FSU seeks funds for their Comprehensive Communications Plan. This plan focuses on support initiatives for 3 specific audiences: alumni and other friends of the University; women in philanthropy as a target audience for endowment and gift planning growth; and campus employees as they cultivate the next generation of major and planned gift donors.	\$75,000	\$55,000
Salisbury University	SU seeks funds for their Parent & Family Giving Program. This will generate significant fundraising revenue and support endowment building efforts through major and annual gifts supporting the Sea Gull Family Fund and the Legacy Scholarship Fund.	\$75,000	\$60,000
Towson University	TU seeks funds to create a Manager, Fundraising Events and Sponsorships position to create, implement and evaluate fundraising events associated with university endowments. Including, but not limited to, creating new donor/sponsor pipeline, launching new fundraising events, increasing levels of support for existing endowment fundraisers, developing and monitoring event timelines, develop strategy and financial targets for fundraising events, coordination with other departments to achieve goals and maximize benefits of all fundraising events, and overseeing the operations of fundraising events.	\$69,000	\$50,000
University of Baltimore	As planning continues for the 100th Anniversary of UBalt (2025), UB would like to continue their relationship with Stelter Co. to upgrade existing digital package in planned giving marketing, plan and execute two events related to planned giving, and steward all donors who have included UBalt in their estate planning.	\$75,000	\$65,000
University of Maryland, Baltimore	UMB seeks funds to start a 4-year subscription to GC Wealth, a real-time screening of 30+ data points of individuals who give. To build engagement, UMB would also like to hire a full-time contract annual giving officer, with the goal of increasing repeat gifts and instilling long-term philanthropic commitment among annual fund donors.	\$63,000	\$54,000
University of Maryland Baltimore County	Continued funding for an Assistant Athletic Director for Advancement and External Relations. The goal will be to raise additional funds for UMBC Foundation for major gifts and endowment for athletics and recreational sports.	\$75,000	\$60,000
University of Maryland College Park	UMCP is seeking funds to implement CampusLogic's Scholarship Universe platform across campus. Once implemented, it will eliminate inefficiencies, ensure that a greater percentage of available funds is awarded to students on an annual basis, and add cutting-edge tools to a scholarship administration.	\$75,000	\$36,000
USM Hagerstown	USM Hagerstown is seeking funds to attract new donors and jumpstart efforts to raise endowment funds from both current and new donors. This grant will be used to match gifts to endowment.	\$30,000	\$25,000
The Universities at Shady Grove	USG seeks funding for additional contracted services support to reach endowment goals aligned with its first Strategic Plan. This would include expanding Entrepreneurship Lab funding and leverage new contributions, support university partner endowment funding, and increase scholarships to eliminate student debt.	\$36,000	\$15,000
TOTAL REQUESTED		\$653,000	
TOTAL AWARDED			\$475,000



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Proposed Amendment to BOR IX-2.00 – Policy on Affiliated Foundations

COMMITTEE: Committee on Advancement

DATE OF MEETING: October 25, 2022

SUMMARY: Amendments substantially revising the Board of Regents policy on affiliated foundations and amending the name to “Policy on Affiliated Philanthropic Support Foundations” are presented for approval.

One primary purpose in amending the policy is to restrict its applicability only to affiliated foundations engaged in fundraising and fundraising support activities. Certain affiliated business entities engaged in activities beyond the traditional fundraising activities conducted by affiliated foundations will no longer be governed by the policy; instead, they will be subject to a revised BOR policy on business entities.

Additional substantive amendments to the policy will accomplish the following:

- Require each affiliated foundation to enter into an agreement with the Board of Regents formalizing the Board’s recognition of the affiliation status. A draft model agreement is attached as Appendix A.
- Require that each affiliated foundation’s organizational documents include a provision assuring that any assets remaining upon dissolution of the foundation will be transferred to another USM affiliated fundraising organization.
- Require that any revision to organizational documents or changes to the foundation’s exempt purpose be shared with the Chancellor within thirty days.
- Expand provisions associated with revocation of the affiliation status, including rescinding the institution’s ability to extend use of facilities and staff resources.
- Deleting provisions permitting assignment of university staff to roles associated with the foundation.
- Require the institution to develop a conflict-of-interest management plan for each institution or USM Office employee who performs operational duties for a foundation to ensure that all parties interacting with the foundation understand the role and capacity of the institution or USM Office employee.
- Limit the acceptable scope of foundations to activities that are outside the normal scope of operations of the USM institution.

- Require that the foundation's acquisition of personal or real property intended to be transferred eventually to the institution be conducted in compliance with any requirements of the Maryland Public Ethics Law that would govern the institution's acquisition of such personal or real property.
- Delete the provisions enabling foundations to accept grants and contracts on behalf of the institution.
- Amend the provision requiring foundations to employ an internal auditor to a recommended "best practice."
- Require the foundation annually to provide the Chancellor with a copy of the IRS Form 990.
- Require the institution's president and the foundation's board chair and executive director to provide an affirmation that each have reviewed the policy and have complied with all policy requirements.

A red-lined and clean copy of the policy is attached. It has been reviewed and approved by the Office of Attorney General for legal sufficiency.

ALTERNATIVE(S): The Committee could decline to endorse the policy amendments as presented or provide alternative guidance.

FISCAL IMPACT: None

CHANCELLOR'S RECOMMENDATION: That the Advancement Committee endorse the proposed policy amendments.

COMMITTEE ACTION:

DATE: 10.25.2022

BOARD ACTION:

DATE:

SUBMITTED BY: Leonard Raley, Vice Chancellor for Advancement, raleym@usmd.edu
301-445-1941

IX - 2.00 - POLICY ON AFFILIATED PHILANTHROPIC SUPPORT FOUNDATIONS

(Approved by the Board of Regents on March 1, 1989; amended on November 29, 1990; amended on October 1, 1999 and amended on _____, 2022)

I. Purpose and Scope

The Board of Regents of the University System of Maryland (USM) recognizes the importance of philanthropy and encourages private support (1) for the benefit of the USM and its constituent institutions and components (herein collectively referred to as “USM”) and (2) for education and support activities operated by the USM. The Board also recognizes the important role of affiliated philanthropic support foundations (foundation) in supporting philanthropic activities across the USM. This policy governs the formation and operation of affiliated philanthropic support foundations and the respective rights and responsibilities of the Board of Regents, USM institutions, and foundations.

This policy applies to existing or prospective Section 501(c)(3) organizations that are created and operated with one or more of the following purposes:

- To support fundraising programs and contributions from private sources to foster, support, and promote the general welfare of the USM; and/or
- To manage and invest private gifts and/or property for the benefit of the USM.

The USM, its institutions, and such other components of the USM as the Board of Regents may determine may have an affiliation with such an entity.

A subsidiary legal entity formed or owned by an affiliated foundation may use the name, personnel or facilities of the USM only if it is separately recognized by the Board of Regents pursuant to this policy or a Board of Regents policy applicable to non-fundraising affiliates.

Entities with the primary purpose of economic development or research activities are governed by Board of Regents Policy VIII-13,00 Policy on Business Entities.

II. Responsible USM Official

A Responsible Official is accountable for the relationship between the foundation and the institution or component with which it is affiliated. The Responsible Official shall monitor compliance with USM policies and agreements between the foundation, the USM, and the institution or component.

- A. The chancellor is the Responsible Official for the University System of Maryland Foundation and any other System-wide or multi-institution philanthropic foundation.
- B. The institution president is the Responsible Official for a foundation affiliated with the institution, including any components of that institution.

The Responsible Official shall be evaluated annually to determine whether they have ensured that the foundation has complied with Board of Regents policies and reasonable prudent business practices.

III. Establishment and Recognition of a New Affiliated Philanthropic Support Foundation

Launching a new foundation requires (1) establishment of the legal entity, (2) completion of an operating agreement between the foundation and the institution and (3) recognition by the Board of Regents as an affiliated philanthropic support foundation. Although institution presidents may establish a foundation without Board of Regents approval, Board recognition is required in order for the foundation to use the institution's name or resources. It is recommended that these three steps be addressed concurrently or in close succession.

A. Establishment

In accordance with § 15-104 of the Education Article, Annotated Code of Maryland, the president of a USM institution may establish campus-based foundations without the approval of the Board of Regents, provided that such entities must operate subject to this USM Board of Regents' policy and any others adopted by the Board of Regents with provisions explicitly applicable to affiliated philanthropic support foundations.

A president shall give the chancellor notice of the establishment of any new foundation in conjunction with the signing of an operating agreement and a request for Board of Regents recognition. Such notice shall include: The (proposed) name of the foundation, its mission statement, its initial Board members, copies of its articles of incorporation and corporate bylaws, and, if available, the IRS Form 1023 and any IRS determination letters.

B. Operating Agreement

The institution and the foundation shall enter into an annual operating agreement, to be signed by the Responsible Official and the foundation officer authorized to sign such agreements. The agreement shall establish the relationship between the parties, describe the purpose of the foundation, and acknowledge the applicability of Board of Regents policies. The agreement shall also condition the organization's use of the institution's name or any other name, emblem, or mark to which the institution has any legal right upon the foundation's continuing compliance with all Board of Regent policies on foundations. The agreement shall be approved by the chancellor or the chancellor's designee to ensure consistency with all applicable Board of Regents policies. A sample operating agreement is included as appendix A of this policy.

C. Board of Regents Recognition of Affiliation Status

The Responsible Official and the foundation shall obtain Board of Regents recognition of status as an affiliated foundation before the foundation can use the institution's name or any other name, emblem, or mark to which the institution has any legal right. This request, to be submitted by the Responsible Official to the chancellor, shall include the following:

1. Notification of establishment (see item III.A)

2. Operating agreement between the institution and the foundation (see item III.B)
3. Draft affiliation agreement between the foundation and the Board of Regents to be signed after final approval of affiliation status by the full Board of Regents (see Appendix A for a sample agreement).
4. Business plan narrative for the new entity, including use of institution staff or resources, if any, and information on how the fundraising foundation will achieve a scale sufficient to satisfy all reporting and compliance requirements for tax-exempt organizations and appropriately manage organizational risks.

The chancellor shall review this request and provide any feedback to the Responsible Official within 45 days of submission. The chancellor may reject the request without Board of Regents consideration if feedback is not addressed. Following chancellor approval, requests shall be considered first by the Board of Regents Committee on Advancement and then by the full Board of Regents.

Any dispute about the propriety or right to a foundation's name related to the institution's name or intellectual property shall be resolved by the Board of Regents.

IV. Recognition of Existing Affiliated Foundations

For those philanthropic support foundations identified in Board of Regents Policy IX-2.01: Recognition of Affiliated Foundations that are in compliance with reporting requirements as of the date of adoption of this policy, the Board of Regents shall verify their affiliated status upon receipt of the:

- A. Operating agreement between the institution and the foundation (see item III.B);
- B. Draft affiliation agreement between the affiliated fundraising foundation and the Board of Regents (see Appendix A for a sample agreement; to be signed after approval of affiliation status by full Board of Regents);
- C. Articles of incorporation and corporate bylaws, the IRS Form 1023 and any IRS determination letters for the affiliated philanthropic support foundation.

These documents shall be provided to the Board by December 31, 2023. Any dispute about the propriety or right to a foundation's name related to the institution's name or intellectual property shall be resolved by the Board of Regents.

V. Changes and Revocation of Affiliated Status

- A. Changes in foundation organizational documents, such as Articles of Incorporation, Bylaws or similar documents and agreements, or changes to the exempt purpose approved by the Internal Revenue Service, are to be communicated to the chancellor within 30 days of adoption and/or communication to the Internal Revenue Service.
- B. When changes to organizational documents or exempt purpose as approved by the Internal Revenue Service change the activities such that the organization becomes something other than a fundraising foundation, the organization will no longer have

recognized status as an affiliated foundation and will then be subject to policy appropriate for the form of relationship to the USM or its institutions.

- C. Failure to obtain a determination in a timely manner from the Internal Revenue Service that the foundation has been recognized as a publicly supported charitable organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code, or a foundation's loss of IRS qualification as a publicly supported charitable organization exempt from tax under Section 501(c)(3) will result in the Board of Regents revocation of a foundation as an affiliated foundation within the scope of this policy.
- D. The Board of Regents may revoke its recognition of an affiliated foundation that fails to comply with this policy or the terms of the affiliation and/or operating agreements. In such case, the foundation shall no longer be entitled to use the name, staff, resources or facilities of the USM. The Board of Regents may seek guidance of the Office of the Attorney General in seeking any appropriate legal remedies.

VI. Structure and Independence

- A. Each affiliated fundraising foundation shall operate as a Maryland charitable non-stock corporation that is legally separate from the USM and is recognized as a 501(c)(3) public charity by the Internal Revenue Service with a clearly articulated purpose of support of the USM or one or more of its institutions or components.
- B. Articles of Incorporation shall include provisions that in the event of termination, dissolution, or loss of affiliated status, all remaining assets, direct or indirect, of the entity shall be transferred to a Board of Regents recognized affiliated philanthropic support entity
- C. The management and control of a foundation shall rest with a board of directors (or board of trustees; in this policy, directors shall also refer to trustees.)
- D. Presidents may serve only as ex-officio and non-voting members of the foundation's board of directors. USM employees may serve as voting members of the board of directors of any affiliated foundation, provided that USM employees do not constitute more than 20 percent of the foundation's board of directors.
- E. With the approval of the Responsible Official, an officer or employee of the USM may also serve as an officer or employee of an affiliated philanthropic support foundation. An employee or officer of a foundation who is also an employee or officer of the USM may not represent both parties in any negotiation between the foundation and the USM. Institutions must develop and formalize conflict of interest management arrangements for each USM employee performing roles for an affiliated philanthropic support foundation. Any exemptions to the requirements of the Public Ethics Law are to be documented in a manner consistent with that required under Board of Regents Policy III-1.10 Policy on Conflicts of Interest in Research and Development.

- F. Officers and staff members of a foundation and USM staff assigned to carry out functions of a foundation shall be bonded, and liability insurance for directors and officers shall be obtained by the foundation, in amounts to be determined by the board of directors.
- G. An affiliated fundraising foundation may use non-staff resources (e.g., space, equipment, facilities) of its affiliated institution without direct, dollar for dollar reimbursement to the institution.

VII. Scope of Activities

- A. Foundations shall comply with applicable Internal Revenue Code provisions and regulations and all other applicable policies and guidelines. Foundations may not engage in activities that conflict with federal or state laws, rules and regulations, USM policies, or the role and mission of the USM.
- B. Other than fundraising, fundraising support, gift management and investment management, after December 31, 2023 foundations may not engage in activities on behalf of the USM or institutions or components that the USM or its institutions or components could perform, without specific written approval by the Board of Regents.
- C. Foundations may acquire personal or real property assets for the eventual transfer to, or purchase by, the USM or its institutions; however, foundations may not make such acquisitions in a manner inconsistent with public ethics laws that would apply if the USM or its institutions were directly acquiring said property.
- D. All activities of foundations shall be in conformance with Section 501(c)(3) of the United States Internal Revenue Code. This includes but is not limited to the restriction that "[n]o substantial part of the activities (of a foundation shall be) carrying on propaganda, or otherwise attempting to influence legislation." Furthermore, no foundation shall directly or indirectly "participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office." In particular, a foundation may not make any contribution, whether in money or in kind, to any candidate for public office. The purchase of tickets to an event intended to raise money for use by a candidate in a political campaign is a violation of this policy.

VIII. Financial Activities and Business Operations

- A. The directors of each foundation board have the fiduciary responsibility to oversee the adequacy of the foundation's internal controls, as well as the sufficiency and appropriateness of its financial reporting. In fulfillment of these responsibilities, directors shall foster direct and private communications with the foundation's independent accountants on a regular basis and shall assure direct access to its internal audit function for independent accountants.
- B. The foundation shall ensure that it clearly presents itself as an independent entity separate and distinct from the USM and its constituent institutions and components. All

correspondence, solicitations, activities, and advertisements on behalf of a foundation shall use the name of that foundation and shall be clearly identified as an activity of that foundation to ensure that the public is aware that the activities undertaken by the foundation are separate and distinct from those of the USM. The letterhead of a foundation shall carry the complete legal name of the foundation or a registered Doing Business As (DBA) name (e.g., The University System of Maryland Foundation, UMBC Foundation, USG Foundation, etc.).

- C. Trademarks, service marks, logos, seals, or the name of the USM or any of its constituent institutions or components may be used by the foundation only with the prior written approval of the Responsible Official.
- D. In all negotiations and transactions with third parties, for fundraising and all other activities, foundation officers and employees shall take care to ensure that all parties involved are aware that the foundation is an independently established and separately operated legal entity from the USM. Obligations of foundations shall not be obligations of the USM or the State of Maryland.
- E. Foundation funds shall be kept separate from USM funds. USM funds shall not be transferred to foundations for any purpose except, when appropriate, by action of the Board of Regents after review by the Office of the Attorney General. Funds or gifts payable to the Board of Regents, the USM, one of its constituent institutions, or to any other USM component shall not be deposited with a foundation.
- F. Acceptance of gifts by the USM or a foundation is subject to applicable USM policies on gifts, including Board of Regents Policy IX-5.00 Policy on Ethical Practices in Charitable Giving. Fundraising campaigns and solicitations of major gifts for the benefit of the USM shall be approved in advance by the Responsible Official and should be compatible with the plans and needs of the USM. Before accepting contributions or grants for restricted or designated purposes that may require administration or direct expenditure by a constituent institution or other component of the USM, a foundation must obtain the prior approval of the Responsible Official. The foundation shall assure that each gift shall be used in accordance with the legally enforceable terms and conditions attached to such gift.
- G. Financial activities of an affiliated fundraising foundation shall be administered in accordance with prudent business practices. Each foundation's board of directors shall adopt an expense authorization and reporting process. The process shall define the dollar threshold and nature of expenses requiring approval of a member of the board of directors, who shall not be a USM employee, and it shall define the type and frequency of expense reporting to the board of directors. An adequate and effective system of internal control designed to reduce the risk of loss, ensure appropriate attention to compliance obligations, and formalize approvals and lines of authority, is an important and necessary part of prudent business practices.

- H. Foundations are encouraged to use the professional investment management resources and infrastructure provided by the University System of Maryland Foundation (or its successor(s)). In the circumstance where a foundation chooses another entity to perform investment management services, should the foundation's investments underperform appropriate market indices for three consecutive years, the Board of Regents may request from the foundation an independent review of its investment strategies along with plans for corrective action.
- I. All USM affiliated foundations may be assessed an annual overhead charge that shall be determined by the Board of Regents in consultation with the Presidents. The charge shall be transferred to the University System of Maryland Foundation (or its successor(s)) to cover certain costs incurred by the University System of Maryland Foundation on behalf of the Board of Regents and the Chancellor.

IX. Audits, Inspection and Reports

A. Audits and Inspection

- 1. Each foundation shall be audited annually by an independent certified public accountant who is not a director or officer of the foundation and who is approved by the Responsible Official. Each foundation should conduct its fiscal operations to conform to the USM's fiscal year. Each foundation shall prepare its annual financial statements in accordance with generally accepted accounting principles. The independent audit shall be performed in accordance with generally accepted auditing standards. As part of the audit, the auditor shall verify a summary annual report of transfers of funds made to the USM or its institutions.
- 2. Each year each foundation shall provide a separate audit, to be performed by either the foundation's independent auditor, or the USM Office of Internal Audit, of all unrestricted funds available to the Chancellor and/or the President(s).
- 3. Annually, the Responsible Official, directors and chief officers of each foundation should review their responsibilities, and the business and operational risks facing the foundation.
- 4. A foundation shall permit the Responsible Official or their designee to inspect, at reasonable times, the following documents: the foundation's books and records; its most recent federal and state tax returns; and a list of employees, consultants, and legal counsel for the fiscal year. At the request of the Chancellor or the Chairperson of the Board of Regents, the foundation shall permit the internal auditors of the Board of Regents access to all books and records of the foundation.

B. Reports

- 1. Within 120 days after the close of the USM's fiscal year, each foundation shall provide the Responsible Official with copies of the following, which are to be

transmitted to the Office of the Chancellor along with a set of assertions as to affiliated fundraising foundation compliance with Board of Regents policy requirements:

- a. annual financial audit report;
 - b. annual audit report of transfers made to the USM, institution and components;
 - c. annual audit report of unrestricted funds available to the Chancellor and/or the President;
 - d. a list of foundation officers and directors;
 - e. a list of USM employees who received compensation or other payments from the foundation during the fiscal year and the amount of that compensation or payment, detailed into compensation for services, and other payments;
 - f. IRS Form 990 and any related State or other regulatory compliance reports (when filed or available);
 - g. a list of all state and federal contracts and grants managed by the foundation; and
 - h. A written affirmation of the foundation board chair, executive director and the Responsible Official that they have read, understand and have complied with the provisions of the Board of Regents Policy on Affiliated Philanthropic Support Foundations.
2. Should the foundation not submit the required documents and reports within the required time period, the Chancellor and the Responsible Official (if other than the Chancellor) shall issue a joint warning to the foundation. Should the foundation not demonstrate satisfactory progress toward immediate compliance, the Board of Regents may revoke its affiliated status or take other appropriate action.
 3. The Chancellor may request from the Responsible Official information on foundations according to the schedule and format specified by the Chancellor.
 4. The Chancellor shall annually send any revised Board of Regents' policies relating to affiliated foundations to the Department of Legislative Services within 180 days of the end of the USM's fiscal year.
 5. The Board of Regents shall issue an annual report to the Legislative Joint Audit and Evaluation Committee regarding the operations of the affiliated foundations. The report shall be available no later than 180 days after the end of the USM's fiscal year.



Appendix A

**Model Affiliation Agreement between the University System of Maryland
Board of Regents and Affiliated Philanthropic Support Foundation**

Board of Regents Policy IX-2.00 Policy on Affiliated Philanthropic Support Foundations, Section III C. requires:

The Responsible Official and the foundation shall obtain Board of Regents recognition of status as an affiliated foundation before the foundation can use the institution's name or any other name, emblem, or mark to which the University has any legal right.

and in the same section #3, including a:

Draft affiliation agreement between the foundation and the Board of Regents...

This agreement is to remain in force for as long as the affiliation status is maintained and recognized by the Board of Regents. The affiliated philanthropic support foundation named above agrees and acknowledges that:

1. The above-named affiliated philanthropic support foundation commits to maintaining an operating agreement with the affiliated university that reflects best practices and the requirements of the BOR policy.
2. The BOR acknowledges that the named affiliated philanthropic support foundation is an independent 501 (c) 3 entity with its own governing board and financial systems.
3. The above-named affiliated philanthropic support foundation commits to compliance with all applicable BOR policies.
4. The above-named affiliated philanthropic support foundation understands and agrees to the consequences of failing to comply with the BOR policy governing affiliated philanthropic foundations, including but not limited to denial of the right to use the name and resources of the university.
5. The above-named affiliated philanthropic support foundation acknowledges that its dissolution will result in transfer of its funds to a BOR-recognized foundation for the benefit of the affiliated university.

- 6. The above-named affiliated philanthropic support foundation agrees to follow all applicable laws pertaining to their 501 (c) 3 status.
- 7. The above-named affiliated philanthropic support foundation agrees that any changes to corporate documents or purpose must be communicated to the BOR within 60 days, and that certain changes may result in revocation of recognition.
- 8. The above-named affiliated philanthropic support foundation agrees that it will cease using the institution or USM name or any other name, emblem, or mark of the university or USM in the event of a Board of Regents action to revoke its recognition as an affiliated philanthropic support foundation upon formal communication of such action.

We the undersigned, do hereby agree to, and acknowledge the terms of this affiliation agreement:

Executive director, President or Chief Executive Date
Affiliated philanthropic support organization

Responsible Official Date
USM institution

Chancellor (on behalf of the Board of Regents) Date
University System of Maryland

IX - 2.00 - POLICY ON AFFILIATED PHILANTHROPIC SUPPORT FOUNDATIONS

(Approved by the Board of Regents on March 1, 1989; amended on November 29, 1990; ~~amended on October 1, 1999~~ and amended on ~~_____~~, 2022)

I. Purpose and Scope

The Board of Regents of the University System of Maryland (USM) recognizes the importance of philanthropy and encourages private support (1) for the benefit of the USM and its constituent institutions and components (herein collectively referred to as "USM") and (2) for education and support activities operated by the USM. The Board also recognizes the important role of affiliated philanthropic support foundations (foundation) in supporting philanthropic activities across the USM. This policy governs the formation and operation of affiliated philanthropic support foundations and the respective rights and responsibilities of the Board of Regents, USM institutions, and foundations.

This policy applies to existing or prospective Section 501(c)(3) organizations that are created and operated with one or more of the following purposes:

- To support fundraising programs and contributions from private sources to foster support, and promote the general welfare of the USM; and/or
- To manage and invest private gifts and/or property for the benefit of the USM.

The USM, its institutions, and such other components of the USM as the Board of Regents may determine may have an affiliation with such an entity.

A subsidiary legal entity formed or owned by an affiliated foundation may use the name, personnel or facilities of the USM only if it is separately recognized by the Board of Regents pursuant to this policy, or a Board of Regents policy applicable to non-fundraising affiliates.

Entities with the primary purpose of economic development or research activities are governed by Board of Regents Policy VIII-13.00 Policy on Business Entities.

II. Responsible USM Official

A Responsible Official is accountable for the relationship between the foundation and the institution or component with which it is affiliated. The Responsible Official shall monitor compliance with USM policies and agreements between the foundation, the USM, and the institution or component.

- A. The chancellor is the Responsible Official for the University System of Maryland Foundation and any other System-wide or multi-institution philanthropic foundation.
- B. The institution president is the Responsible Official for a foundation affiliated with the institution, including any components of that institution.

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The Responsible Official shall be evaluated annually to determine whether they have ensured that the foundation has complied with Board of Regents policies and reasonable prudent business practices.

III. Establishment and Recognition of a New Affiliated Philanthropic Support Foundation

Launching a new foundation requires (1) establishment of the legal entity, (2) completion of an operating agreement between the foundation and the institution and (3) recognition by the Board of Regents as an affiliated philanthropic support foundation. Although institution presidents may establish a foundation without Board of Regents approval, Board recognition is required in order for the foundation to use the institution's name or resources. It is recommended that these three steps be addressed concurrently or in close succession.

A. Establishment

In accordance with § 15-104 of the Education Article, Annotated Code of Maryland, the president of a USM institution may establish campus-based foundations without the approval of the Board of Regents, provided that such entities must operate subject to this USM Board of Regents' policy and any others adopted by the Board of Regents with provisions explicitly applicable to affiliated philanthropic support foundations.

A president shall give the chancellor notice of the establishment of any new foundation in conjunction with the signing of an operating agreement and a request for Board of Regents recognition. Such notice shall include: The (proposed) name of the foundation, its mission statement, its initial Board members, copies of its articles of incorporation and corporate bylaws, and, if available, the IRS Form 1023 and any IRS determination letters.

B. Operating Agreement

The institution and the foundation shall enter into an annual operating agreement, to be signed by the Responsible Official and the foundation officer authorized to sign such agreements. The agreement shall establish the relationship between the parties, describe the purpose of the foundation, and acknowledge the applicability of Board of Regents policies. The agreement shall also condition the organization's use of the institution's name or any other name, emblem, or mark to which the institution has any legal right, upon the foundation's continuing compliance with all Board of Regent policies on foundations. The agreement shall be approved by the chancellor or the chancellor's designee to ensure consistency with all applicable Board of Regents policies. A sample operating agreement is included as appendix A of this policy.

C. Board of Regents Recognition of Affiliation Status

The Responsible Official and the foundation shall obtain Board of Regents recognition of status as an affiliated foundation before the foundation can use the institution's name or any other name, emblem, or mark to which the institution has any legal right. This request, to be submitted by the Responsible Official to the chancellor, shall include the following:

- 1. Notification of establishment (see item III.A)

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1. A foundation may be affiliated with one of the following entities: the University System of Maryland, one of the 13

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- 2. Operating agreement between the institution and the foundation (see item III.B)
- 3. Draft affiliation agreement between the foundation and the Board of Regents to be signed after final approval of affiliation status by the full Board of Regents (see Appendix A for a sample agreement).
- 4. Business plan narrative for the new entity, including use of institution staff or resources, if any, and information on how the fundraising foundation will achieve a scale sufficient to satisfy all reporting and compliance requirements for tax-exempt organizations and appropriately manage organizational risks.

The chancellor shall review this request and provide any feedback to the Responsible Official within 45 days of submission. The chancellor may reject the request without Board of Regents consideration if feedback is not addressed. Following chancellor approval, requests shall be considered first by the Board of Regents Committee on Advancement and then by the full Board of Regents.

Any dispute about the propriety or right to a foundation's name related to the institution's name or intellectual property shall be resolved by the Board of Regents.

IV. Recognition of Existing Affiliated Foundations

For those philanthropic support foundations identified in Board of Regents Policy IX-2.01: Recognition of Affiliated Foundations that are in compliance with reporting requirements as of the date of adoption of this policy, the Board of Regents shall verify their affiliated status upon receipt of the:

- A. Operating agreement between the institution and the foundation (see item III.B);
- B. Draft affiliation agreement between the affiliated fundraising foundation and the Board of Regents (see Appendix A for a sample agreement; to be signed after approval of affiliation status by full Board of Regents);
- C. Articles of incorporation and corporate bylaws, the IRS Form 1023 and any IRS determination letters for the affiliated philanthropic support foundation.

These documents shall be provided to the Board by December 31, 2023. Any dispute about the propriety or right to a foundation's name related to the institution's name or intellectual property shall be resolved by the Board of Regents.

V. Changes and Revocation of Affiliated Status

- A. Changes in foundation organizational documents, such as Articles of Incorporation, Bylaws or similar documents and agreements, or changes to the exempt purpose approved by the Internal Revenue Service, are to be communicated to the chancellor within 30 days of adoption and/or communication to the Internal Revenue Service.
- B. When changes to organizational documents or exempt purpose as approved by the Internal Revenue Service change the activities such that the organization becomes something other than a fundraising foundation, the organization will no longer have

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recognized status as an affiliated foundation and will then be subject to policy appropriate for the form of relationship to the USM or its institutions.

C. Failure to obtain a determination in a timely manner from the Internal Revenue Service that the foundation has been recognized as a publicly supported charitable organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code, or a foundation's loss of IRS qualification as a publicly supported charitable organization exempt from tax under Section 501(c)(3) will result in the Board of Regents revocation of a foundation as an affiliated foundation within the scope of this policy.

D. The Board of Regents may revoke its recognition of an affiliated foundation that fails to comply with this policy or the terms of the affiliation and/or operating agreements. In such case, the foundation shall no longer be entitled to use the name, staff, resources or facilities of the USM. The Board of Regents may seek guidance of the Office of the Attorney General in seeking any appropriate legal remedies.

VI. Structure and Independence

A. Each affiliated fundraising foundation shall operate as a Maryland charitable non-stock corporation that is legally separate from the USM and is recognized as a 501(c)(3) public charity by the Internal Revenue Service with a clearly articulated purpose of support of the USM or one or more of its institutions or components.

B. Articles of Incorporation shall include provisions that in the event of termination, dissolution, or loss of affiliated status, all remaining assets, direct or indirect, of the entity shall be transferred to a Board of Regents recognized affiliated philanthropic support entity

C. The management and control of a foundation shall rest with a board of directors (or board of trustees; in this policy, directors shall also refer to trustees.)

D. Presidents may serve only as ex-officio and non-voting members of the foundation's board of directors. USM employees may serve as voting members of the board of directors of any affiliated foundation, provided that USM employees do not constitute more than 20 percent of the foundation's board of directors.

E. With the approval of the Responsible Official, an officer or employee of the USM may also serve as an officer or employee of an affiliated philanthropic support foundation. An employee or officer of a foundation who is also an employee or officer of the USM may not represent both parties in any negotiation between the foundation and the USM. Institutions must develop and formalize conflict of interest management arrangements for each USM employee performing roles for an affiliated philanthropic support foundation. Any exemptions to the requirements of the Public Ethics Law are to be documented in a manner consistent with that required under Board of Regents Policy III-1.10 Policy on Conflicts of Interest in Research and Development.

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F. ~~Officers and staff members of a foundation and USM staff assigned to carry out functions of a foundation shall be bonded, and liability insurance for directors and officers shall be obtained by the foundation, in amounts to be determined by the board of directors.~~

G. ~~An affiliated fundraising foundation may use non-staff resources (e.g., space, equipment, facilities) of its affiliated institution without direct, dollar for dollar reimbursement to the institution.~~

VII. Scope of Activities

A. ~~Foundations shall comply with applicable Internal Revenue Code provisions and regulations and all other applicable policies and guidelines. Foundations may not engage in activities that conflict with federal or state laws, rules and regulations, USM policies, or the role and mission of the USM.~~

B. ~~Other than fundraising, fundraising support, gift management and investment management, after December 31, 2023 foundations may not engage in activities on behalf of the USM or institutions or components that the USM or its institutions or components could perform, without specific written approval by the Board of Regents.~~

C. ~~Foundations may acquire personal or real property assets for the eventual transfer to, or purchase by, the USM or its institutions; however, foundations may not make such acquisitions in a manner inconsistent with public ethics laws that would apply if the USM or its institutions were directly acquiring said property.~~

D. ~~All activities of foundations shall be in conformance with Section 501(c)(3) of the United States Internal Revenue Code. This includes but is not limited to the restriction that "[n]o substantial part of the activities (of a foundation shall be) carrying on propaganda, or otherwise attempting to influence legislation." Furthermore, no foundation shall directly or indirectly "participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office." In particular, a foundation may not make any contribution, whether in money or in kind, to any candidate for public office. The purchase of tickets to an event intended to raise money for use by a candidate in a political campaign is a violation of this policy.~~

VIII. Financial Activities and Business Operations

A. ~~The directors of each foundation board have the fiduciary responsibility to oversee the adequacy of the foundation's internal controls, as well as the sufficiency and appropriateness of its financial reporting. In fulfillment of these responsibilities, directors shall foster direct and private communications with the foundation's independent accountants on a regular basis and shall assure direct access to its internal audit function for independent accountants.~~

B. ~~The foundation shall ensure that it clearly presents itself as an independent entity separate and distinct from the USM and its constituent institutions and components. All~~

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H. Foundations are encouraged to use the professional investment management resources and infrastructure provided by the University System of Maryland Foundation (or its successor(s)). In the circumstance where a foundation chooses another entity to perform investment management services, should the foundation's investments underperform appropriate market indices for three consecutive years, the Board of Regents may request from the foundation an independent review of its investment strategies along with plans for corrective action.

I. All USM affiliated foundations may be assessed an annual overhead charge that shall be determined by the Board of Regents in consultation with the Presidents. The charge shall be transferred to the University System of Maryland Foundation (or its successor(s)) to cover certain costs incurred by the University System of Maryland Foundation on behalf of the Board of Regents and the Chancellor.

IX. Audits, Inspection and Reports

A. Audits and Inspection

1. Each foundation shall be audited annually by an independent certified public accountant who is not a director or officer of the foundation and who is approved by the Responsible Official. Each foundation should conduct its fiscal operations to conform to the USM's fiscal year. Each foundation shall prepare its annual financial statements in accordance with generally accepted accounting principles. The independent audit shall be performed in accordance with generally accepted auditing standards. As part of the audit, the auditor shall verify a summary annual report of transfers of funds made to the USM or its institutions.

2. Each year each foundation shall provide a separate audit, to be performed by either the foundation's independent auditor, or the USM Office of Internal Audit, of all unrestricted funds available to the Chancellor and/or the President(s).

3. Annually, the Responsible Official, directors and chief officers of each foundation should review their responsibilities, and the business and operational risks facing the foundation.

4. A foundation shall permit the Responsible Official or their designee to inspect, at reasonable times, the following documents: the foundation's books and records; its most recent federal and state tax returns; and a list of employees, consultants, and legal counsel for the fiscal year. At the request of the Chancellor or the Chairperson of the Board of Regents, the foundation shall permit the internal auditors of the Board of Regents access to all books and records of the foundation.

B. Reports

1. Within 120 days after the close of the USM's fiscal year, each foundation shall provide the Responsible Official with copies of the following, which are to be

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transmitted to the Office of the Chancellor along with a set of assertions as to affiliated fundraising foundation compliance with Board of Regents policy requirements:

- a. annual financial audit report;
- b. annual audit report of transfers made to the USM, institution and components;
- c. annual audit report of unrestricted funds available to the Chancellor and/or the President;
- d. a list of foundation officers and directors;
- e. a list of USM employees who received compensation or other payments from the foundation during the fiscal year and the amount of that compensation or payment, detailed into compensation for services, and other payments;
- f. IRS Form 990 and any related State or other regulatory compliance reports (when filed or available);
- g. a list of all state and federal contracts and grants managed by the foundation; and
- h. A written affirmation of the foundation board chair, executive director and the Responsible Official that they have read, understand and have complied with the provisions of the Board of Regents Policy on Affiliated Philanthropic Support Foundations.

2. Should the foundation not submit the required documents and reports within the required time period, the Chancellor and the Responsible Official (if other than the Chancellor) shall issue a joint warning to the foundation. Should the foundation not demonstrate satisfactory progress toward immediate compliance, the Board of Regents may revoke its affiliated status or take other appropriate action.

3. The Chancellor may request from the Responsible Official information on foundations according to the schedule and format specified by the Chancellor.

4. The Chancellor shall annually send any revised Board of Regents' policies relating to affiliated foundations to the Department of Legislative Services within 180 days of the end of the USM's fiscal year.

5. The Board of Regents shall issue an annual report to the Legislative Joint Audit and Evaluation Committee regarding the operations of the affiliated foundations. The report shall be available no later than 180 days after the end of the USM's fiscal year.

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BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Committee Charge

COMMITTEE: Advancement Committee

DATE OF MEETING: October 25, 2022

SUMMARY: The BOR Committee on Advancement will review and discuss the committee charge.

ALTERNATIVE(S):

FISCAL IMPACT:

CHANCELLOR'S RECOMMENDATION:

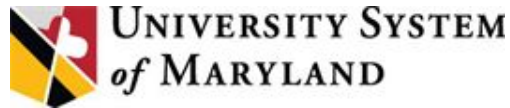
COMMITTEE ACTION:

DATE: 10.25.2022

BOARD ACTION:

DATE:

SUBMITTED BY: Leonard Raley, Vice Chancellor for Advancement, raleym@usmd.edu
301-445-1941



Committee on Advancement Charge

The Committee on Advancement shall consider and report to the Board on all matters relating to the University System of Maryland's private fund-raising efforts, including policies, strategies, best practices and national standards affecting capital campaigns and ongoing fund-raising programs of individual institutions and the University System of Maryland.

This Committee shall give support to individual institutions and affiliated foundations in all development/advancement efforts, recognizing the vast majority of donors' interests lie with individual institutions, and in many cases, specific programs. This Committee shall also encourage individual institutions and affiliated foundations in seeking collaborative and joint fundraising between and among institutions and programs.

This Committee shall support efforts to bring more resources to advancement programs in order to build a thriving culture of philanthropy and engagement, which in turn improves scholarship, student access, and innovation across the USM.

This Committee shall review institutional and system-wide efforts and make recommendations to the Board regarding the enhancement of system interests through entrepreneurial and private fund-raising activities, including gifts, donations, bequests, endowment, grants, venture, cooperative agreements, and other public-private opportunities.

The Committee will encourage all system institutions to establish positive and noteworthy stewardship standards, reflected in the regular communication with donors about the intent, use, and outcomes of the application of the funds received. This Committee will review requests related to the naming of academic programs and facilities.

This Committee acknowledges the critical role of affiliated foundations in these efforts, and in particular good stewardship and management of funds. This Committee shall consider and report to the Board on all matters relating to System-affiliated foundations, alumni associations and similar 501 (c) (3) organizations affiliated with the USM and monitor activities to assure adequate institutional controls are in place.

Per Regents policy, this committee shall review selected Regent's Advancement policies annually and each policy shall be reviewed at least once every four years.