

**FLORIDA BOARD OF GOVERNORS  
NOTICE OF PROPOSED REGULATION AND AMENDMENTS**

Date: February 1, 2008

**REGULATION TITLES AND NUMBERS:** 9.019 University Major Gifts Challenge Grant Program.

**SUMMARY:** This regulation is amended to provide guidance on the implementation of the major gift matching program.

**FULL TEXT OF THE REGULATION:** The full text of the proposed new regulation is posted on BOG's Website at [www.flbog.org](http://www.flbog.org). In addition, the full text of the regulation is available upon request to the Office of the Chancellor, which can be contacted at (850) 245-0466.

**AUTHORITY TO ADOPT/ AMEND/ REPEAL REGULATION:** Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

**BOARD OF GOVERNORS' OFFICIAL INITIATING ADOPTION/ AMENDMENT/ REPEAL OF REGULATIONS:** Tim Jones, Executive Director, Budgeting and Fiscal Policy

**COMMENTS REGARDING ADOPTION/ AMENDMENT/ REPEAL OF REGULATIONS SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW.** The comments must identify the regulation(s) on which you are commenting.

**THE PERSON TO BE CONTACTED REGARDING ADOPTION/ AMENDMENT/ REPEAL OF REGULATION IS:** Vikki R. Shirley, General Counsel, Board of Governors, State University System 325 W. Gaines Street, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), [generalcounsel@flbog.org](mailto:generalcounsel@flbog.org).

Substantially Reworded

6C-9.019 Trust Fund for Major Gifts- University Major Gifts Challenge Grant Program

(1) The University Major Gifts Challenge Grant Program-Trust Funds established in the State Treasury for Major Gifts provides the opportunity to each state university and New College to receive and match challenge grants to enhance their libraries and instruction and research programs. Each university shall adopt regulations for the administration of these programs. To be eligible, contributions for state matching purposes must be made in the manner prescribed below and as provided by law. The Chancellor shall administer the Trust Fund for Major Gifts as prescribed by Section 240.2605, Florida Statutes, and Section 35, Chapter 94-230, Laws of Florida. To be eligible, contributions for matching purposes must be made in the manner prescribed in applicable Florida Statutes and subsequent amendments. Contributions must be made for the purpose of supporting the libraries or instruction and research programs of the recipient institution, provided however, that donations, state matching funds or proceeds from Major Gift endowments may not be used for the construction, renovation, or maintenance of facilities or to support intercollegiate athletics. The support of libraries and instruction and research programs shall include, but not be limited to:

(2) Gift Purpose and Use

(a) Private contributions must be made for the purpose of supporting the libraries or instruction and research programs of the recipient institution. Donations, state matching funds, or proceeds from Major Gift endowments may not be used for the construction, renovation, or maintenance of facilities or to support intercollegiate athletics. The support of libraries and instruction and research programs shall include, but not be limited to:

(1a) staffing, equipment, supplies, books, subscriptions, monographs, binding, purchase of or access to technological resources such as computerized databases and other electronic media, and other legitimate expenditures in support of libraries; and,

(2b) expenditures for personnel, equipment, supplies and other legitimate purchases in support of the instruction and research programs within the recipient institution's mission.

3. funding for scholarships, fellowships, or professorships.

———(2) Each university shall adopt the necessary rules for the administration of these programs pursuant to Sections 35, Chapter 94-230, Laws of Florida, and Section 240.2605, Florida Statutes, and subsequent amendments.



~~(3) Applications to the Chancellor for challenge grants shall include documentation to support the match as well as certification that all matching requirements have been met. Upon certification by the Chancellor that the matching requirements have been met, the university or New College foundation shall be allocated state matching funds.~~

(b) Private donations and associated state matching funds which together total at least \$1,020,000 may be designated as an Eminent Scholar Endowed Chair, provided the following conditions are met:

1. The donations are made for the specific purpose of contributing to the establishment of an eminent scholar chair and the intent of the donor is indicated in a gift agreement, letter, or other document transmitting the gift.

2. The chair is established to support libraries or instruction and research programs and is consistent with the intent of the donor and the academic programs approved by the Board of Governors (BOG) and/or each university's Board of Trustees for their respective institution.

3. Proceeds of the endowment may be used as salaries or supplement for salaries for the chair holder and for those individuals directly associated with the chair holder's scholarly work and for expenses directly related to that scholarly work.

(3) Eligibility for State Matching

(a) Gifts shall be for projects which benefit the academic functions of the university and are consistent with the university's mission, as defined by the BOG Strategic Plan.

(b) Percentages of state matching funds provided will be as provided by law.

(c) Donations must qualify as a charitable donation under Section 170 of the Internal Revenue Code of 1986, or subsequent revisions.

(d) State matching funds will not be provided for gifts to a single endowment that exceed \$15 million.

(e) A gift shall be limited to \$3 million per year for matching purposes (unless additional state funds are otherwise appropriated). The balance of a request for matching funds for a gift greater than \$3 million shall remain on the priority list for match in future years.

(f) In the case of a testamentary gift, the donor, the donor's representative, or the university should delineate the purpose of the gift, the intent to solicit a state match, and the amount of the donation(s).

(g) The following donations or assets are not eligible for state matching:

1. Interest earnings on gains in the value of negotiable assets subsequent to the date of the donation to the university.

2. Revenues (such as license tag revenue) which are not gifts or donations to the university.

3. Donations to benefit university intercollegiate athletic programs or



affiliated activities.

4. Donations for construction, renovation, or maintenance of facilities.

5. Donations of real property that have not been sold or converted to cash, except as provided for in Section (4) (a) 2.

6. Donations to an endowment which occur after state matching funds have been provided to the university if they are less than the minimum eligible amount of \$100,000 (except in the case of pledge payments and testamentary gifts). Except for circumstances noted in item 6b, exemptions to this policy may be granted by the Chancellor if the exemption request is made at the time the original match is requested, the additional donation is from the original donor(s), and one of the following circumstances has occurred:

a. Transmission of a portion of the donation is delayed due to circumstances beyond the control of the donor(s).

b. The original donor makes an additional donation within one year of receipt of the original donation or, in the case of multiple donors, within one year of the date of the original match request to the BOG. Gifts from a donor(s) who makes multiple gifts to the university foundation within a one-year period from the initial gift may be matched at the percentage for the cumulative amount of the gifts. Any gifts previously matched at a lower percentage will be adjusted based on the new percentage.

#### (4) Gift Valuation

##### (a) Non-Cash Donations

1. Donations of income producing securities such as stocks, bonds, insurance policies, certificates of deposit, and other highly liquid and negotiable instruments are eligible for state matching under the following conditions:

a. If the securities are of the quality which would otherwise be held by the university foundation in its investment portfolio, the average market value of the securities on the date of the gift is used to value such donations. Copies of the documents which transfer assets to the university and an independent appraisal or stock market quotation from an appropriate periodical or the internet on the date of donations are necessary to document the value of security donations.

b. Except for donations of real property, the gift must represent the value of the gift at the time of the donation and not include subsequent gain in value. Interest earnings, returns on investments, and other increases in the value of donations after the date of donation are not matched by the State.

2. Real property or fixed assets must be converted to cash before a request for state match is submitted. The valuation of a donation of real property which has not been improved by the University is generally based upon the proceeds from the sale of the property by the university. The university may receive state matching on a gift of land without selling the land by advancing funds from unrestricted gifts. However, the advance and the value of the gift for state matching purposes shall not exceed the value documented by an independent



appraisal. A copy of the appraisal must be provided with the request for state matching.

(5) Requirements for Pledged Donations

(a) All pledges must be completed within five years of the anniversary date of the pledge. The anniversary date will be established as the date that the match request is submitted.

(b) The pledge agreement should provide a schedule outlining the incremental amounts of payments to be made on an annual basis at a minimum and the timeframe for making the pledge payments.

(c) The university shall be diligent in tracking pledge payments to ensure that the donor(s) is making a good faith effort to adhere to the pledge agreement and the payment schedule as outlined in the gift agreement.

(d) If a pledge commitment is not completed within the specified time period of no more than five years, the pledge is considered expired and any payments received after that time cannot be added to payments already made and will not be eligible for a state match under the original pledge terms.

(6) Documentation of Receipt of Gifts and Donations

(a) The university foundation must include, at a minimum, the following information to document receipt of gifts:

1. A copy of the check(s) or other means of fund transmittal or the foundation's official ledgers which are subject to audit, or

2. A letter prepared by a Certified Public Accountant (CPA) or the University Foundation Chief Financial Officer or Director:

a. Certifying receipt of the donation(s), and

b. Verifying deposit by the foundation of any cash amounts into the proper accounts;

AND

1. A copy of the letter(s) or gift agreement(s) indicating the intent of the donor(s) should be submitted if provided, which includes at a minimum:

a. Identification of the parties involved (donor(s) and donee),

b. The purpose of the gift(s), and

c. Conditions of the gift(s) (e.g. to be matched by the State of Florida), and the amount of each gift(s), or

2. A letter prepared by a CPA or the University Foundation Chief Financial Officer or Director:

a. Attesting to the appropriateness of the foundation's actions as specified by the donor(s) relating to the donor(s) wishes that the gift be submitted for a state match and the purpose and intended use of the gift and/or

b. Attesting that a specific donation is a testamentary gift for which it is not possible to document the donor's intent and specifying the intended use of the donation.



(b) All agreements to create endowments for the establishment of Eminent Scholar Chairs or Professorships must be approved by the university provost or academic vice president prior to being submitted to the BOG for a state match.

(c) If a gift agreement is amended to the extent that changes are made relative to the original intent of the donor(s) or to the original purpose of the gift, the BOG should be provided a copy of the signed amended agreement.

(d) Verification of the compliance with all BOG and state requirements is achieved, in part, with the foundation including, as a part of its annual audited financial statement, a Major Gifts Program Schedule of Receipts, Expenditures, and Endowment Balances for all endowments funded by the Major Gifts Program. The schedule includes all endowments for which the Department of Education Comptroller's Office has distributed matching funds to the foundation. The schedule identifies the corpus of each endowment, interest earnings, expenditures, and other transactions during the year that affect the endowment. The ending corpus balance and the ending total balance (corpus plus interest/income, less expenditures, along with transfer activity) for each endowment are identified on the schedule.

(e) The foundation will maintain adequate documentation of the name of each donor and the valuation of each donor's gift. For all endowments, the foundation's records will include, at a minimum, either written agreements between the donor and the foundation, pledge agreements, copies of checks, stock certificates, or payment schedules. For each endowment with multiple donors, the name of each donor and the valuation of the contribution given by each donor are maintained.

(f) For donations with multiple donors, the foundation will retain documentation that is adequate to allow for an independent verification that the combined contributions from the multiple donors are properly documented and equal the total amount of the endowment as reported to the BOG. For each multiple donor major gift for which state matching funds were provided, the foundation will engage a CPA to verify the information retained by the foundation. This is done as a part of the annual audit process following the procedures as outlined below:

1. The foundation will provide, at a minimum, the following information to the CPA:

a. A list of all endowments that the BOG has funded which are comprised of multiple donors;

b. A copy of Section 1011.94, F.S.

c. A copy of BOG Regulation 9.019.

2. The CPA determines if the foundation retained adequate documentation to identify the number of donors, the names of the donors, and the valuation of each donor's contributions for each endowment funded by multiple donors. In addition, the CPA determines if the combined contributions

from the multiple donors equaled the total endowment reported to the BOG, and that the donations were not commingled among different endowments.

3. The CPA's report lists any inconsistencies in the reporting or accounting for the endowments.

(g) If the result of the CPA's review indicates that corrective actions are needed by the foundation, then the foundation shall attach its written corrective action plan to the CPA's report. Both the CPA report and the written corrective action plan are submitted, along with the audited financial statements, to the BOG.

Authority: Section 7, Article IX, Fla. Const.; Section 1011.94, Florida Statutes;  
History: Former BOR Rule 6C-9.019, 12-11-79, Amended 6-21-83, 8-11-85,  
Formerly 6C-9.19, Amended 4-10-86, 10-2-94.