



Establishing Endowments and Restricted Fund Agreements (RFA)

Responsible Official: Vice President for University Advancement	Responsible Office: University Advancement
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Policy Purpose

- I. The Memorandum of Understanding (MOU) section provides directives on the donor(s) objective with regard to the endowment, through description of how the endowment is established, funded, and awarded. The MOU will also serve as a future source of information as to expenditures from the endowment. The Policy on Endowments has set forth the minimum at \$25,000 for establishment. The minimum for a quasi-endowment is \$5,000, with provisions for how/when it may become a fully-funded endowment. Refer to the Naming Policy for the minimum amounts required for chairs and professorships.
- II. The ETSU Foundation Restricted Fund Agreement (RFA) is a one-page agreement that consolidates all pertinent information needed for the establishment and direction of a restricted fund account. The minimum amount required in order to set up a new restricted fund is \$500.

Policy Statement

Authority: Vice President for Advancement
ETSU Foundation

Definitions

N/A

History

Effective Date: 8/22/2016

Revision Date: 06/15/2021; 02/15/2021; 11/8/2017

Revision Notes: This version clarifies when to use a memorandum of understanding (MOU), restricted fund agreement (RFA), and/or Pledge Agreement, through the addition of Table 1. The June 2021 revision modifies the language in MOUs to make it clear they are non-revocable, clarifies the responsibilities of the Office Manager, and adds a provision for non-binding commitments.

Procedure (s)

Attachments:

- I. Sample MOU
- II. MOU Signature Sheet
- III. Sample RFA

	Used to document the details of...	For gifts of...	Form found at...
Memorandum of Understanding (MOU)	...an endowment agreement. Also provides biographical information regarding the donor(s). This can sometimes also be documented in wills or other legal documents. Needed in order to establish a "new" Foundation account.	...\$25,000 and above or for funds less than this, but intended to be endowed at some point.	https://www.etsu.edu/advancement/documents/mou_newtemplate_2-18-20.docx
Restricted Fund Agreement (RFA)	...a gift made to fund an account intended to be "spent down," i.e., not endowed. RFA funds can be spent in the current year. Needed in order to establish a "new" Foundation account.	...any amount, but typically less than \$25,000.	https://www.etsu.edu/advancement/documents/rfa_template_09272019.docx
Pledge Form/Agreement	...a short-term (5 years) commitment to provide a gift. Pledge agreements are typically used in lieu of MOUs or RFAs (especially when designations already exist), but there are times when you will want to use the MOU or RFA form and pledge together to help lay out the schedule of payments to establish the MOU.	...any amount.	https://www.etsu.edu/advancementservices/forms.php

Table 1. MOU/RFA/Pledge Decision Chart.

I. MOU Procedures:

- A. Gather necessary information from the donor, including name of the endowment, biographical data, monetary amount of endowment, schedule for funding, purpose of endowment, and criteria for awarding scholarship (if applicable). Schedules for recipient application, composition of selection committees, and contingencies will be determined internally.
- B. Communicate with the Advancement Office Manager about drafting MOU into standardized format (see attachment 1). The fundraiser should create the draft form of the MOU at this point.
- C. If endowment is funded fully or funded in part by a planned or deferred gift, then provide draft of MOU to Planned Giving for review.
- D. Draft of MOU then goes to the donor *for review only*. Watermark the MOU with 'DRAFT' to avoid any confusion.
- E. After donor has reviewed, make changes as appropriate and provide final draft to the Office Manager. They will then route the MOU to the required individuals as designated on the signature sheet (attachment 2).
- F. Once all individuals on the signature sheet have signed, the Office Manager will present to the donor for their signature. Donor signature will appear on the body of the MOU.
- G. After donor has signed, the Advancement Office Manager will direct the MOU to the individuals listed on the last page for final signatures.

- II. MOU – Addendum versus Revision.** This decision will be made on a case-by-case basis. If the change affects the purpose of the endowment, the criteria or requirements for how the recipient is chosen, or if the college or program cease to exist, rendering the endowment moot, then a revision will need to be drafted. A revision would require donor contact. However, if the change is minor or does not substantively affect the selection, then the needed change can be accomplished through an addendum. A name change of a department requires only an addendum. Changing the name of an account manager or selection committee

requires only an addendum. An addendum will not require routing or approval signatures. A revision will require steps b through g of the procedure above to be completed. The Office Manager can assist with the drafting of each of these.

III. MOU Notes:

- A. Quasi-endowments need to have a firm end-date for when the endowment must be fully funded. Foundation Accounting will track these dates so that they can be abided by and enforced.
- B. If the donor is seeking to establish an endowment for a purpose that provides any ancillary benefit to the donor then it CANNOT be set up through the Foundation. This MUST go to Research and Sponsored Programs.
- C. The Account Manager will be listed on the MOU under the subsection entitled 'Expenditures.' Clerical and support staff cannot be account managers. The main/primary donor cannot be an account manager.
- D. Endowments can be established for scholarships, professorships, lectures, programs, etc.

IV. RFA Procedures:

- A. Gather necessary information from the donor including fund purpose, restrictions, and biographical data.
- B. Provide completed Fund Agreement (see attachment 3) to the Office Manager of Advancement, who will be responsible for obtaining all required signatures.

V. Eliminating RFAs:

- A. Authority is provided to close a restricted fund account for any of the following reasons:
 - 1. If there is a reorganization or restructure of the designated department;
 - 2. If the fund has not been utilized for three (3) consecutive years. A fund is determined to not be utilized if there has been ZERO activity in the fund for said time period; OR
 - 3. If the need for the listed fund purpose no longer exists.
- B. When a fund account is designated for elimination, the Dean of the existing department must be notified in writing. The Dean is then required to propose another existing fund to which the remaining balance might be directed. The appropriate fundraiser is then required to contact the original donor(s), if available, to gain approval for the proposed transfer.

Scope and Applicability	
	Governance
	Academic
	Students
	Employment
	Information Technology
	Health and Safety
	Business and Finance
	Operations and Facilities
	Communications & Marketing
X	Advancement

Attachment I – Sample Memorandum of Understanding

EAST TENNESSEE STATE UNIVERSITY FOUNDATION
MEMORANDUM OF UNDERSTANDING
THE
[NAME]
SCHOLARSHIP ENDOWMENT

INTRODUCTION

The purpose of the _____ Scholarship Endowment is to provide scholarship assistance to deserving students enrolled in _____ at East Tennessee State University.
Statement and/or bio from the donor who is establishing the endowment

Except as otherwise provided, this Agreement shall be irrevocable.

FOR ALL GIFTS: THE FUND, including all gifts to it and all appreciation in and income from these gifts, shall become the absolute property of the UNIVERSITY and its successors. It may be invested and reinvested from time to time in such manner and in such investments, without restriction as to kind, as the UNIVERSITY in its discretion may elect.

FOR ESTATE GIFTS: THE UNIVERSITY acknowledges and consents that at this time the designated estate gift is revocable and can be amended by the Donors at any time until the Donors death, at which point estate gift becomes irrevocable.

FOR PLEDGES: This pledge shall extend to and be binding upon the donor's/s' executors, administrators, heirs, and assigns. It is a legally binding pledge, governed by the laws of the State of Tennessee. It is necessary for the trustee or other legal representative of a family foundation or charitable gift fund to sign on behalf of the organization or fund that may pay toward this pledge.

FOR NON-BINDING COMMITMENTS: This commitment will be paid through a Family Foundation or Donor Advised Fund and cannot be considered legally binding. I/We do wish for the fulfillment of this commitment to be binding direction upon our executors, administrators, heirs, and assigns to the extent possible.

AWARD DESCRIPTION

Scholarships shall be awarded by the _____ Committee. That Committee shall decide the number of scholarships and the value of each, depending on the funds available.

ELIGIBILITY

1. Applications should be submitted to the _____ Scholarship Committee by March 1 of each year.
2. Entering freshmen as well as current ETSU students, transfer students, or non-traditional students shall be eligible for the award. Donor preference

FUNDING

An initial gift of _____ from _____ shall establish the endowment. Subsequent contributions, including planned gifts, from family and friends shall be encouraged.

Remove the following if this is a full endowment:

Initially, the fund will be established as a quasi-endowment wherein the earnings shall be added to the endowment each year. After a minimum fund balance of \$25,000 has been reached, it shall become a full endowment wherein the principal shall remain intact, and only the interest will be used for the purpose of the fund. The minimum balance must be reached by June 30, 20XX (five years) or the quasi-endowment status will convert to that of a restricted account and all funds will be made available for expenditure.

Choose one statement:

After becoming an endowment, operating funds remaining at the end of the fiscal year shall be carried forward.

OR

After becoming an endowment, operating funds remaining at the end of the fiscal year shall be transferred to the endowment.

CRITERIA

The Committee shall consider the following criteria in awarding scholarships:

These are suggestions only. The criteria are donor preferences.

1. The applicants must be a declared _____ major in the Department of _____
2. Current ETSU students as well as entering freshmen must have a minimum cumulative GPA of 3.0.
3. Documented financial need may be considered in the selection of the recipient.
4. Once a student is selected to be a recipient, he or she may continue to receive the award for four consecutive years.
5. Applicants must meet all requirements for regular admission to ETSU.
6. Applicants must be full-time students.

CONTINGENCIES

The signers acknowledge that at some time in the future the scope of the program described and/or the department or college for which the scholarship is designated in this Memorandum of Understanding may vary substantially, cease to exist in its current form, or the need for the scholarship may cease to exist. If a department ceases to exist then the proceeding designated department or college will be substituted by way of an addendum. If a change to selection is required, a change in the purpose of the scholarship, or a change in the use of the funds then a revision of this Memorandum of Understanding will be required. Prior to a revision, the donor will, if available, be contacted in accordance with the Policy on Memorandums of Understanding. If any portion of this Memorandum of Understanding conflicts with state or federal laws, statutes, regulations, or ordinances then the Executive Board of the ETSU Foundation shall have authority to designate an appropriate use for the endowment and funds that closely approximates the original intent of the Donor. All change(s) shall be related as closely as possible to the original purpose of the Memorandum of Understanding. In all events, the fund shall retain the name of the “_____ Scholarship Endowment” and shall continue to generate funds. Initial

determination for necessity of changes will be made by the Director of Development for the respective department or college as related to or referenced in this Memorandum of Understanding.

EXPENDITURES

Expenditures must be approved by:

Account Manager: (Could be Dean, Chair, Director, etc. Please specify)
Dean,
President/CEO, ETSU Foundation

This agreement supersedes any previous agreement, written or oral.

Donor's Signature
Donor's Contact Information

Date

SIGNATURES

APPROVED:

Vice President, Health Affairs/ETSU COO
or
Provost/Vice President for Academic Affairs
Date

President/CEO, ETSU Foundation
Date

Chief Financial Officer, ETSU Foundation
Date

Chairman of the Board, ETSU Foundation
Date

cc: ETSU Foundation Accounting
ETSU Scholarship Office

Attachment II – MOU Signature Sheet

(Prepared before sending to the donor)

ETSU FOUNDATION
MEMORANDUM OF UNDERSTANDING
Name of Endowment

Please sign this cover sheet, indicating you have reviewed the attached document.
If you approve, sign on the appropriate line.

ROUTE TO:

SIGNATURE

DATE

Name
Director, University Advancement

Name
Chair,

Name
Dean,

Attachment III – Sample Restricted Fund Agreement

ETSU FOUNDATION RESTRICTED FUND AGREEMENT

This agreement is to establish and confirm all information pertaining to the establishment of a restricted account with the East Tennessee State University Foundation and supersedes all previous agreements. The ETSU Foundation Executive Board will authorize any changes and will consult with the account manager and the original primary donor, if available on those changes.

_____ Account Title _____ Account Number

Fund purposes and restrictions:

Fundraiser:

Account Manager: (Department/Title)

Original Donor: (Name/Address/Gift)

Honoring/Memorializing: (Name/Biographical data)

Scholarship recipient decisions made by : (Title)

Notes:

If any part does not pertain to account being established, list N/A.

In addition to the Foundation’s representatives, fund withdrawals require the signatures of:

<u>TITLE</u>	<u>NAME</u> (printed or typed)	<u>SIGNATURE</u>
1. Account Manager	_____	_____
2. Department Head	_____	_____
3. Dean	_____	_____
4. Vice President	_____	_____

The following signatures finalize the agreements stated in this form:

_____ Foundation Chief Financial Officer	_____ Date
_____ Foundation President/CEO	_____ Date
_____ Foundation Chairman of the Board	_____ Date