

~~1. 580-046-0005~~

2.1. Recognition of a Foundation

~~2.1.1.1. An institution~~The University of Oregon (University) president (President) may award recognition as an institution foundation (Foundation) to an entity that meets and maintains the requirements of these rules. ~~Throughout division 046, "president" refers to an institution president and "foundation" refers to an institution foundation.~~

~~2.2.1.2. Only one entity may have recognition as a~~the Foundation, ~~except that the president may recognize other foundations existing at the time this rule is adopted. The president shall report all awards of recognition to the Chancellor.~~ All private support of the institution not provided directly to the ~~institution~~University shall be through ~~a recognized foundation~~the Foundation, or affiliated or associated organizations ~~as provided by OAR 580-046-0020(4) and (5).~~

~~2.3.1.3. To be eligible for recognition and to maintain continued recognition, a~~the Foundation must:

- a. Be created and operated with the primary purpose of support of the ~~institution~~University;
- b. Have as its purpose the solicitation, management and/or investment of private support for the benefit of the ~~institution~~University; and
- c. Be organized and operated in a manner to permit compliance with this policy.

1.4. ~~Procedures for Recognition:~~An entity seeking recognition as ~~a~~the Foundation shall submit to the president for review its:

- a. Articles of incorporation;
- b. Bylaws; ~~and~~
- c. Any other of its organic or enabling documents; and
- ~~e.d. All subsequent amendments.~~

1.5. ~~A~~The ~~president~~President shall notify the governing body of ~~a~~the Foundation in writing of recognition and that compliance with these rules is a condition of continued recognition.

- ~~a. The foundation shall submit all amendments to the documents described in subsection (4)(a) of this rule to the president who shall submit them to the Chancellor.~~

~~2. State System Foundation:~~

- a. ~~The Chancellor may recognize as the State System foundation an entity created to provide support to the Oregon State System of Higher Education.~~
- b. ~~In the event of recognition, the procedure, conditions and limitations of these rules shall apply.~~
- c. ~~In such instances, all references in these rules to a president shall be deemed to refer to the Chancellor and references to institution shall be deemed to refer to the State System. Where these require reports to the Chancellor, the Chancellor shall report to the President of the Board of Higher Education.~~

~~2. 580-046-0010~~

3.2. Privileges and Responsibilities of Recognition

2.1. Privileges of recognition by ~~a the p~~President ~~of a foundation~~ may include:

- a. License to use the institution name, logos, informal seals, symbols and marks; and
- b. ~~Use of institution resources in the manner provided by OAR 580-046-0035(7)~~Other privileges and responsibilities as agreed upon in a Memorandum of Agreement.

2.2. No individual, group or entity not awarded recognition under ~~these rules~~this policy shall use any of the privileges described in this ~~rule~~policy or otherwise make use of the ~~institution~~University name except as expressly approved by the ~~institution~~University by license or contract.

2.2.2.3. ~~A f~~The Foundation's governing body promptly shall provide to the ~~president~~President a resolution of acceptance of the condition expressed ~~in OAR 580-046-0005(4)(b)~~, in this policy and such resolution of acceptance, in the form of a Memorandum of Agreement, shall be reaffirmed annually.

~~3. 580-046-0020~~

4.3. ~~Institution~~University Foundation Organization, Affiliates, Relationships

4.1-3.1. ~~A f~~The Foundation shall be organized and operated pursuant to the Oregon nonprofit corporation law.

4.2-3.2. ~~A f~~The Foundation shall obtain and maintain status as a tax-exempt entity pursuant to **Section 501(C)(3)** of the federal **Internal Revenue Code** and other similar Oregon statutes.

4.3-3.3. ~~A f~~The Foundation's articles of incorporation or other governing documents shall require that, upon its dissolution or withdrawal of recognition, the ~~foundation~~Foundation's net

assets shall, within the limitations imposed by legal and fiduciary rights and responsibilities, be distributed to the institution-University that awarded recognition, or another entity that has been awarded recognition by ~~that institution pursuant to OAR 580-046-0005.~~the University.

~~4.4.3.4.~~ A fThe Foundation may include as part of its organization one or more affiliates that support a particular unit or activity of the institution-University but that are not separately incorporated.

- a. An affiliate may have an advisory board that reports to and is advisory to the foundation Foundation governing body. Institution-University employees may serve on an affiliate's advisory board so long as they do not comprise a majority of the advisory board membership nor a majority of any quorum of such body. Institution-University employees may provide staff support for an advisory board, ~~subject to OAR 580-046-0035(7).~~
- b. ~~A fThe~~ Foundation shall not delegate to an advisory board of an affiliate its authority to hire personnel or to enter into contracts.
- c. A member of each advisory board of an affiliate should serve on the foundation Foundation governing body whenever possible.
- d. No entity shall become an affiliate of ~~a fthe~~ Foundation until the affiliation is approved in writing by the ~~president~~President and ~~reported to the Chancellor.~~

~~4.5.3.5.~~ A fThe Foundation may establish or associate with another entity interested in the institutionUniversity, provided:

- a. The ~~president~~President in writing approves of such relationship prior to any operations ~~and the president reports approval to the Chancellor;~~
- b. Such relationship does not impair or circumvent the requirements ~~for of OAR 580-046-0025 and otherwise is consistent with the requirements of these rules~~Foundation independence; and
- c. All for-profit activities are approved by the ~~president~~President.

~~5. and reported to the Chancellor Upon application of an institution, the Board of Higher Education may grant specific exemptions from the provisions of sections (4) and (5) of this rule.~~

~~6. 580-046-0025~~

~~7.4.~~ Foundation Independence from ~~Institution~~ the University

~~7.1.4.1.~~ A fThe Foundation shall be independent of the institutionUniversity.

- ~~7.2.4.2.~~ To assure independence, ~~a f~~the Foundation's governing body, employees, and agents:
- a. Shall not be subject to control by the ~~institution-University~~ or ~~an a~~ ~~institution-University~~ employee;
 - b. Shall not give the appearance that the ~~institution-University~~ or any of its officers or employees control the ~~foundation-Foundation~~ or its property, including investment of gifts and endowments made to the ~~foundation-Foundation~~.
 - c. No ~~institution-University~~ employee may be a voting member of a governing body of the ~~institution-recognized-f~~Foundation.

~~8. 580-046-0030~~

~~9.5. President's Responsibilities, Additional Rules~~

~~9.1.5.1.~~ ~~A p~~The President or designee shall be, and other ~~institution-University~~ employees may be, ex officio, nonvoting members of ~~a f~~the Foundation's governing body and of any executive or similar committee empowered to act for the governing body. ~~Such appointments shall be described in all contracts entered into pursuant to OAR 580-046-0035(7).~~

~~9.2.5.2.~~ The ~~president-President~~ shall monitor ~~foundation-Foundation~~ activities and ~~institution-f~~Foundation relationships to ensure compliance with ~~Board of Higher Education rules and periodically shall report thereon to the Chancellor~~this policy.

~~9.3.5.3.~~ ~~A p~~The President may establish additional written policies and guidelines applicable to ~~a~~ ~~the foundation-Foundation~~ consistent with ~~these and all Board of Higher Education rules and Internal Management Directives. Such policies and guidelines shall be reported to the Chancellor and the Board prior to their adoption~~this policy.

~~10. The president shall report to the Chancellor as required by OAR 580-046-0005(2) & (4)(c); 580-046-0020(4)(d), (5)(a), and (5)(c); 580-046-0030(2) & (3); 580-046-0035(3), (6)(b), (6)(c), & (7)(b); 580-046-0040(2)(a); & 580-046-0045(1).~~

~~11. 580-046-0035~~

~~12.6. Foundation and Institution-University Operational Procedures, Gifts, Accounts, Institution Support, Contracts~~

~~12.1.6.1.~~ An ~~institution-University~~ employee may, ~~consistent with ORS 351.130,~~ encourage gifts to the institution directly as well as through the ~~foundation-Foundation~~.

~~12.2.6.2.~~ In accepting gifts of any kinds, ~~a f~~the Foundation shall:

- a. Obtain ~~institution-University~~ approval of any restrictive terms and conditions, and advise donors that a restricted gift for the benefit of the ~~institution-University~~ may not be accepted without ~~institution-University~~ approval; and

- b. Coordinate with the ~~institution's~~University's development office or other appropriate ~~institutional~~University officer regarding funding goals, programs or campaigns proposed by ~~an institution~~the University.

~~12.3-6.3.~~ 12.3-6.3. The ~~foundation~~Foundation shall report gifts to the ~~foundation~~Foundation and to ~~an institution~~the University as a result of ~~foundation~~Foundation activities. Such reports shall be made annually to the president. ~~The president shall provide such reports to the Chancellor.~~

~~12.4-6.4.~~ 12.4-6.4. Revenue received from an ~~institution~~University activity, other than through normal development activities, shall not be deposited in a ~~foundation~~Foundation account.

~~12.5-6.5.~~ 12.5-6.5. ~~An institution~~The University and the ~~institution-recognized f~~Foundation shall develop and implement guidelines regarding the identification of funds so that the intended donee, whether ~~institution~~University or ~~foundation~~Foundation, actually receives the funds, subject to the following:

- a. If the ~~foundation~~Foundation is the intended recipient of funds made payable to ~~an the institution~~University, the funds shall first be deposited in a state account and then transferred to the ~~foundation~~Foundation.
- b. Funds payable or gifts made to the ~~institution~~University shall not be transferred to the ~~foundation~~Foundation unless accompanying documents demonstrate that the ~~foundation~~Foundation is the intended recipient.
- c. If the ~~foundation~~Foundation deposits funds in its accounts or receives other gifts intended for the ~~institution~~University, the ~~foundation~~Foundation shall transfer those funds or gifts to the ~~institution~~University.

~~12.6-6.6.~~ 12.6-6.6. Salaries, consulting fees, loans, perquisites or other benefits provided to or on behalf of ~~an a institution~~University employee, other than a student employee, by ~~a fthe~~Foundation shall be:

- a. Approved by the Board of ~~Higher Education Trustees~~ when paid to the ~~president~~President or other employee appointed directly by the Board of ~~Higher Education Trustees~~.
- b. Approved by the ~~president~~President in writing, ~~and reported to the Chancellor in instances where subsection (a) of this section does not apply.~~
- c. Paid by the ~~foundation~~Foundation to the ~~institution~~University, which in turn will make payments to the employee in accordance with normal ~~institution~~University practice,

~~except where the Chancellor approves a different form of payment. All exceptions shall be reported to the Board of Higher Education annually by the Chancellor.~~

- d. This subsection is not applicable to reimbursements for actual and necessary travel and other expenses incurred for authorized ~~institution-University~~ or ~~foundation-Foundation~~ purposes that are reported by the ~~foundation-Foundation~~ to the ~~president-President~~ annually.

~~12.7.6.7.~~ 12.7.6.7. ~~Institution-University~~ Contract with Foundation:

- a. ~~An institution~~The University may provide pursuant to a written contract limited and reasonable support to the ~~foundation-Foundation~~, including but not limited to the cost of utilities and janitorial services and all or part of the salary and related personnel costs of staff support, from funds otherwise available to the ~~institution-University~~. As used in ~~these rules, this policy~~, staff support is assistance by any personnel whose responsibilities and activities exclude policy making and other functions that would nullify the independence of the ~~foundation-Foundation~~ from the ~~institution-University~~.
- b. ~~An institution~~The University ~~providing support to a foundation~~ shall contract with the ~~foundation-Foundation~~ regarding the terms and conditions for ~~implementing OAR 580-046-0010(1) and subsection (7)(a) of this rules~~support and may contract for other purposes consistent with ~~these rules~~this policy. Any such contract and amendments thereto shall:
 - A. Accurately and fully describe the extent of such use and support and the consideration therefor;

~~13. — Be reviewed by an Assistant Attorney General assigned to the Oregon Department of Higher Education; and~~

- B. Be approved by the ~~president-President and by the Chancellor~~ or their respective designees.
- C. Funds received by ~~an institution~~the University because of a contract with ~~a the~~ Ffoundation shall be placed in a current restricted account that is not a depository for donated or gift money.

~~14.7.~~ 14.7. ~~580-046-0040~~ **Foundation Activities**

~~14.1.7.1.~~ 14.1.7.1. Financial and other activities of ~~a the~~ FFoundation shall be administered and reported in accordance with law, prudent business practices and generally accepted accounting principles.

~~14.2.7.2.~~ 14.2.7.2. Audits and Financial Reports of the Foundation:

- a. ~~A f~~The Foundation shall be audited annually by a certified public accountant. The audit report shall be provided promptly to the ~~president~~President, ~~who shall submit it and accompanying documents to the Chancellor.~~ The audit report shall be accompanied by a current list of ~~foundation~~Foundation officers, directors, trustees, managers and legal counsel and the officers of any group or entity described in ~~OSAR 580-046-0020(4) and (5).~~Section 3.4 and 3.5 of this policy.
- b. ~~A f~~The Foundation shall permit the ~~president~~President ~~or, after consultation with both the institution and foundation president, the Chancellor,~~ using ~~institution~~University ~~or OSSE~~internal auditors, to inspect and audit all ~~foundation~~Foundation books and records at reasonable times. The ~~foundation~~Foundation shall provide such reports of and information on its financial status and operations as required by the ~~president~~President ~~or the Chancellor~~ in order to assure conformance by the ~~institution~~University and the ~~foundation~~Foundation with ~~these rules~~this policy.

~~15. 580-046-0045~~

~~16.8.~~ **Revocation of Recognition**

~~16.1-8.1.~~ The ~~president~~President may revoke recognition as provided therein, if the ~~president~~President finds that a ~~foundation~~Foundation or its operation conflict with ~~these rules~~this policy or the mission of the institution. ~~The president shall inform and consult with the Chancellor regarding all activities involved in revocation of recognition and shall provide to the Chancellor copies of all documents relating thereto.~~

~~16.2-8.2.~~ Prior to ordering revocation of recognition, ~~a p~~the President shall notify the ~~foundation's~~Foundation's governing body of the reasons that could form the bases for revocation of recognition. Within 30 days of receipt of the ~~president's~~President's notification, the ~~foundation~~Foundation may in writing propose actions to remedy the deficiencies described by the ~~president~~President.

~~16.3-8.3.~~ If the ~~president~~President approves the proposed actions, the ~~foundation's~~Foundation's governing body shall implement the proposals within a time specified by the ~~president~~President.

~~16.4-8.4.~~ If the ~~president~~President rejects the ~~foundation's~~Foundation's proposed actions or finds that they are not adequately implemented, the ~~president~~President may revoke recognition by a written order to the ~~foundation's~~Foundation's governing body specifying the reasons for revocation.

- 16.5-8.5. An order revoking recognition may be appealed to the Board of ~~Higher Education Trustees~~ if filed with the ~~University Secretary of the Board~~ within 30 days of the date the ~~president~~ President issues the order revoking recognition. The Board ~~of Trustees~~ shall review the ~~president's~~ President's decision but shall not reverse that decision unless the Board finds the ~~president~~ President acted arbitrarily or capriciously.
- 16.6-8.6. An order revoking recognition shall terminate the ~~contract provided by OAR 580-046-0035(7)~~ Memorandum of Agreement and the privileges of recognition.