FACULTY SENATE
PROVOST’S REPORT

Wednesday, November 7, 2018
BACKGROUND & VISION

• Trust and transparency → academic freedom and independence

  • As a public institution, Mason is bound to fulfill obligations to Virginia

  • As an institute of higher education, Mason is bound to fulfill obligations to students

  • As a recipient of philanthropic funds, Mason is bound to fulfill obligations to donors and benefactors

• Striving to become a national model for upholding core principles of academic independence while maintaining quality donor cultivation and stewardship
MOTION FOR REVIEW OF GIFT AGREEMENTS AND PRACTICES

Task Force with representatives from the Board of Visitors, the Administration, the student body, and faculty.
- Faculty representatives shall be elected by the Faculty and be at least equal in number to the representatives of any other group.
- One or more people from an external 3rd party entity that is independent

The task force will review:

1. Gift Agreements supporting any of the following:
   - a. Current or future faculty positions
   - b. Current or future faculty fellowships or student scholarships
   - c. Current or future academic programs or curricula

2. Gift acceptance policies and practices at the university, with the object of recommending changes that guard against infringements of both academic independence and academic integrity.
### REVIEW OF GIFT AGREEMENTS AND PRACTICES

- Task force with representatives from:
  - BOV (2)
  - Students (2)
  - Administration (3)
  - Faculty (3)
  - Student body (2)
  - Independent third party (Baker Tilly)

- Review scope: all gift agreements with any account activity in past 5 years providing financial support of faculty

- Committee established Gift Review Criteria, based on (1) concerns identified plus (2) benchmarking of leading practices from seventeen academic and other relevant institutions
  - Gift agreements were reviewed – any notable language marked for further review
  - Review and benchmarking of leading practices → recommendations for gift agreement practices and policies.
The Committee organized recommendations into three categories:

1. Specific recommendations regarding existing gift agreement language
2. Broader recommendations for gift acceptance policies and practices
3. Issues beyond formal scope to consider for further review
Whereas it may be common practice to use temporary philanthropic funds to support the creation of permanent, tenure-line positions, but the long-term implications of this practice are currently unknown;

Therefore, be it resolved that:

The Faculty Senate recommends that the University put a temporary halt on any actual or planned expenditure of funds from any new gifts of this nature, until an external review of all gift acceptance processes is concluded, and further information and recommendations are available regarding the use of temporary funds to support permanent faculty positions at the University.
RELEVANT COMMITTEE RECOMMENDATION(S)

• Created a list of **escalation conditions** for gift agreements that require additional reviews, based on specific flags and threshold levels. This list should be developed with transparency as a leading principle (note that under no circumstances should the existence of a gift agreement be kept confidential). Escalation conditions for consideration, as specified in the section of the report entitled Policy and Gift Agreement Considerations by Criteria Area, include:

  • Gifts that potentially create immediate or future financial or administrative burden shall be escalated for review

  • A new chair or named position endowment may not be established for a lower amount than the established threshold set by the Gift Acceptance Committee, unless so approved by the Committee.
The Gift Acceptance Policy shall be amended to ensure that all George Mason University Foundation gift, pledge, and grant agreements are published in a permanent online database... For gifts, pledges, and grants for which the donor or grantor has requested anonymity and the Gift Acceptance Committee has determined no real or perceived conflict of interest...donor-identifying information may be redacted.

The online database should also include a categorization of the type of donor entity...
RELEVANT COMMITTEE RECOMMENDATION(S)

• Transparency should be encouraged at all levels and by all parties in the gift acceptance process. Upon request, a donor’s identity may be protected, but the President, Provost, Vice President for Advancement, Board of Visitors, and Gift Acceptance Committee must be aware of the identity and approve the request for anonymity.

• For gifts with an accompanying gift agreement, any associated conditions that govern the use of funds by the University, donor involvement, or donor notification, shall be made available, even when donor identity is protected.

• In practice, this may involve a gift agreement MOU process between Foundation and University that outlines terms of commitment.
To allow for shared governance and adequate faculty input, two tenured faculty will be elected by the Faculty Senate to serve on the Gift Acceptance Committee (GAC). If these faculty determine there are real or perceived conflicts of interest or risk of violation of academic freedom associated with a gift, pledge, or grant, or associated agreement, the full agreement must be reviewed by the full GAC before acceptance. In the event that the GAC approves a gift in spite of faculty representatives’ concerns, the GAC must deliver a report to the Executive Committee of the Faculty Senate....
RELEVANT COMMITTEE RECOMMENDATION(S)

• Revisit University GAC charge and composition to
  • increase faculty representation
  • review gift agreements with escalation considerations
  • Periodically review gift accounts to identify any gift agreements that may not have been reviewed by the GAC.

• Ensure an ongoing scan of the environment for emerging risks related to academic independence that may require adjustment of gift agreement-related policies or escalation criteria.

• Encourage transparency at all levels and by all parties in the gift acceptance process.
ADDITIONAL COMMITTEE RECOMMENDATIONS BEYOND SENATE MOTIONS

• Pursue clarifying language in active gift agreements highlighted by the Committee as potentially problematic based on Gift Review Criteria

• Multiple prohibitions of certain types of conditions, such as:
  • Gifts that interfere with or influence the University’s academic freedom or its capacity to fully control the management, operations, and direction of its affairs, including admission procedures, academic programs, and their integrity
  • While gifts that support research or study in a particular subject matter or discipline are welcomed, gifts directed toward a particular result or conclusion of scholarly work should not be solicited and shall not be accepted
  • Gifts that impede the work or scholarly activity of a faculty member, fellowship holder, or student shall not be accepted.
  • Gifts that are offered for purposes inconsistent with Mason’s missions of education, research, and service shall not be accepted.
ADDITIONAL COMMITTEE RECOMMENDATIONS BEYOND SENATE MOTIONS

• Create comprehensive list of escalation conditions that will trigger further review by the Gift Acceptance Committee
  • Appendix J (23 conditions)
  • Gifts related to recruitment/retention of specific individual

• Communication and training around policy changes

• The institution will follow University policy regarding donor reporting practices and exercise good donor stewardship; however, gifts cannot contain conditions that require notifications to the donor beyond normally accepted stewardship practices
ISSUES IDENTIFIED AS IMPORTANT BUT BEYOND SCOPE OF CHARGE

• Develop and implement a comprehensive institutional conflict of interest policy.

• Consider whether to require individual disclosures to accompany scholarly efforts and publications supported by gift funds.

• Further review of considerations related to gifts directed to centers and institutes affiliated with Mason but outside of the University’s direct control.
  • Note: report did not include mention of whether to review existing agreements related to student scholarships, academic programs – but there have been discussions of this possibility

• Consider developing process to evaluate reasonableness and appropriateness of spending related to gift agreements.
**NEXT STEPS**

- **Nov.** - President, Provost and VP Advancement are
  - Reviewing language in 27 active gift agreements and developing specific strategies to contact the donor to revise/amend agreements as needed
  - Starting the process of developing policy amendments/changes for the university according to the committee’s recommendations.
- **Dec. 12** - Present first set of specific policy recommendations to Board of Visitors
- **Dec./Jan./Feb.** - Faculty Senate input on specific policy recommendations