



# The INTELLIGENT DONOR'S GUIDE to COLLEGE GIVING

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*Transformative Philanthropy in Higher Education*

THIRD EDITION

Fund for Academic Renewal  
American Council of Trustees and Alumni



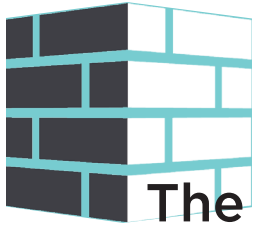
ACTA  
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The **American Council of Trustees and Alumni** (ACTA) is an independent, nonprofit organization committed to academic freedom, academic excellence, and accountability at America's colleges and universities. Founded in 1995, ACTA is the only national organization dedicated to working with alumni, donors, trustees, and education leaders across the United States to support liberal arts education, uphold high academic standards, safeguard the free exchange of ideas on campus, and ensure that the next generation receives an intellectually rich, high-quality education at an affordable price. Our network consists of alumni and trustees from nearly 1,300 colleges and universities, including over 23,000 current board members. Our quarterly newsletter, *Inside Academe*, reaches over 13,000 readers.



A program of the American Council of Trustees and Alumni, the **Fund for Academic Renewal** (FAR) serves alumni and college donors who aim to support a renewal of the highest standards on college campuses through targeted philanthropy. With access to a network of on-campus contacts, FAR assists donors in maximizing the impact of their campus investment by helping craft gift agreements that are carefully tailored to achieve their goals. Because every gift is different, FAR offers personalized guidance for individual philanthropists. Thanks to a generous grant from the Diana Davis Spencer Foundation, FAR provides these services, including legal consultation from Arnold & Porter, at no cost to donors.



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**American Council of Trustees and Alumni**  
1730 M Street NW, Suite 600 • Washington, DC 20036  
Phone: 888.ALUMNI.8 or 202.467.6787  
Email: [info@GoACTA.org](mailto:info@GoACTA.org) • Website: [GoACTA.org](http://GoACTA.org)

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Giving big is valued, but giving smart is truly valuable.

—Jeffrey J. Cain, Founding Partner  
American Philanthropic

## PREFACE

In the United States, it is tempting to take our access to quality education for granted. For decades, our colleges and universities have been hailed as the envy of the world. Today, however, our institutions of higher learning face unprecedented challenges that have resulted in astronomically high tuition costs, low graduation rates, and a lamentable lapse in the quality of curriculum. Targeted philanthropy can make a difference, not only in the individual experiences of students but on the direction of higher education as a whole.

Philanthropy has the power to drive academic freedom, academic excellence, and accountability at our colleges and universities. Yet, intelligent giving is often more complicated than donors imagine. The first *Intelligent Donor's Guide to College Giving* was published in 1998, only three years after the founding of the American Council of Trustees and Alumni (ACTA). While the landscape of higher education is changing more rapidly than ever, the principles of intelligent college giving remain the same: Give well, give often, and give with strings attached.

The third edition of this guide offers donors straightforward advice based upon ACTA's quarter century of experience in reforming our nation's colleges and universities. We feature updated profiles of thriving academic centers, lessons donors can learn from past philanthropic endeavors, and steps that reflect a commonsense approach to giving well. We hope that this publication serves to guide donors through the giving process with confidence. Your gift matters, and, if you give carefully, it can have an outsized impact.

While many fear for the future of our institutions of higher learning, we are optimistic. Americans are disproportionately generous, and history shows that we are at our best when the odds are against us. Dr. Freeman Hrabowski III, president of the University of Maryland–Baltimore County, says it well: “The success of our nation depends on how we manage our higher education enterprise in a twenty-first century that demands informed, educated, engaged, and thoughtful citizens, as well as a skilled and knowledgeable workforce that can drive our economy.” Generous, directed philanthropy is critical to ensuring a bright future for our nation's colleges and universities and, in so doing, maintaining our free society.

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Targeted philanthropy is one of the most effective ways to deliver the focus and intellectual integrity higher education so desperately needs. The Fund for Academic Renewal can help donors restore excellence to higher education through thoughtful, selective giving.

—Jane Barrows Tatibouet  
Emeritus Regent, University of Hawaii



## BEFORE YOU BEGIN

**H**igher education presents a unique challenge to donors. The inner workings of colleges and universities are complicated and often insular, requiring a great deal of patience on both sides. Yet, these institutions are a vital part of a healthy democratic society. Rather than signing over a blank check, it is worth taking the time to craft a gift that can set our colleges and universities on a path to academic excellence.

The guiding principle of intelligent college giving is that your money is your money. You have a right to do with it what you want. Because it is your money, and a significant investment of resources, the most important decision to make up front is the decision to select carefully. The most successful investors do not buy every stock listed on the New York Stock Exchange. They pick and choose in light of risk and earning potential, or they find a smart fund manager who will do the work for them. You should be as wise in your higher education giving as you would be in selecting a stock or mutual fund.

However, most donors give the easy way. They contribute to the annual fund or a capital campaign. In so doing, they are supporting the bad along with the good. Other donors employ the “no harm” strategy. To avoid subsidizing programs that contradict their own educational values, they target their funds to projects, such as buildings, that they think can do no harm. But money is fungible. “No harm” gifts actually free up funds for the very programs that donors do not want to support.

Intelligent giving requires as much care as any other investment. Forming a clear and simple goal—such as advancing academic quality—can help you identify what kind of gift best serves your vision. From supporting a specific academic program to endowing a lecture series with a clearly defined purpose, targeted philanthropy can set the course of our academic institutions toward excellence.

When you give to a college or university, you do not expect a material return. After all, you are investing in values. You do, however, want to know that your gift accomplishes your goals. If you were to invest in a commercial project, you would expect to see it completed—fully, on schedule, and to the level of quality promised. As an intelligent donor, you should expect no less of your gift to an institution of higher learning.

This guide gives you the logical steps to ensure confidence in your investment. Whatever you do, do not just walk away. Higher education is too important for that. The fact is that your gift can help your college live up to its highest ideals. You can make a difference. This guide will show you how.

## GET ALL THE HELP YOU CAN

**I**n this guide, you will find some of the best practices and common pitfalls in higher education philanthropy. Our goal is to help you be confident that your gift is making a difference. However, this guide does not give legal or tax advice, and donors should always consult their personal advisors before making a major gift.

There are several organizations that exist to serve donors as they navigate the philanthropic world. Consider joining the Philanthropy Roundtable. Based in Washington, DC, the Philanthropy Roundtable is a national association of charitable donors whose mission is to foster excellence in philanthropy, to protect philanthropic freedom, to assist donors in achieving their philanthropic intent, and to advance liberty, opportunity, and personal responsibility in America and abroad. The Roundtable publishes a periodical, *Philanthropy*, as well as studies of specific topics.

Another valuable resource is Exponent Philanthropy, a national membership association based in Washington, DC. Exponent Philanthropy provides programming and consulting to individual donors or small foundations in order to increase their impact. Donors can glean essential advice for beginning their philanthropic journey, from setting up foundations to grantmaking.

For over two decades, the American Council of Trustees and Alumni (ACTA) has been a trusted expert in higher education reform, partnering with trustees, administrators, policymakers, and faculty across the country. ACTA created the Fund for Academic Renewal (FAR) to help donors practice philanthropy with confidence, given the problems facing colleges and universities. Through a generous grant from the Diana Davis Spencer Foundation, FAR provides services, including legal consultation from Arnold & Porter Kaye Scholer LLP, at no cost to donors.



### **The Shelby Cullom Davis Professorship of American Business and Economic Enterprise at Trinity College**

In 1976, Wall Street investor Shelby Cullom Davis donated \$750,000 to Trinity College. By 1981, the Davis endowment fund had doubled in size and was large enough both to create the Shelby Cullom Davis Professorship of American Business and Economic Enterprise and to support associated endeavors such as bringing in speakers from the business community. At that time, the president of Trinity College asked for permission to change how the endowment funds were allocated “as conditions evolved and opportunities arose”—a request that Mr.

Davis categorically rejected. “It is my wish that the funds and income from the endowment be used for the various purposes . . . described,” he wrote, “and for no other purposes.”

Economics professor Gerald Gunderson was awarded the professorship in 1981, and the Davis endowment fund continued to grow. By 2007, it was worth \$13.5 million—3% of Trinity’s endowment—and brought in an income of \$500,000 per year. Professor Gunderson proposed that the college spend the full income of the Davis endowment fund on an additional professorship and for programs such as the business executive-in-residence, as specified in the donor’s initial gift agreement. But his repeated requests were denied. Then, in 2008, Professor Gunderson learned that the president of Trinity had approached some of Mr. Davis’s descendants about using the funds to offer scholarships to foreign students.

Concerned that Trinity was violating Mr. Davis’s intent, Professor Gunderson informed the Connecticut attorney general. A review revealed that Trinity had for some years been drawing on the Davis endowment fund for an internship program for which approval had never been granted. Professor Gunderson asked that the money be returned, and, some six months later, as the *Wall Street Journal* undertook an investigation, Trinity reimbursed the endowment fund \$193,000 for the amount it inappropriately withdrew.

Decades later, this experience animated Mr. Davis’s daughter, Diana Davis Spencer, to make a grant to the American Council of Trustees and Alumni (ACTA) to reinvigorate the Fund for Academic Renewal (FAR). Recognizing the need for donors to have a knowledgeable, trusted resource to turn to for advice when giving to higher education, she wanted to ensure that future donors did not have a similar experience to her father.

FAR guides donors and their advisors through every step of the gift-making process, from initial planning to drafting a gift agreement to monitoring and evaluating program success. Since its relaunch in 2016, FAR has advised over \$100 million in gifts to higher education, some of which are included in this edition of *The Intelligent Donor’s Guide to College Giving*.

*“If colleges like Trinity undermine donors’ confidence that they will respect their wishes, they place at risk the generous support they receive from our foundation and so many others—and the benefits that inure to millions of students from this largesse.”*

**—Diana Davis Spencer, President, Diana Davis Spencer Foundation**

## DEFINE YOUR GOALS

**If you know where you are going, you are more likely to get there.** The first step to intelligent giving is to define your goals: What do you care about most in higher education? What would you like to achieve? It is your money, and you have a right to invest in programs that reflect your interests and values.

Defining your goals may sound like a daunting task, but there is no right or wrong way to do it. If you care about something very specific, such as the American Founding or economic literacy, and you already know that you want to support certain kinds of activities, such as visiting lecturers, you can go straight to the next step.

Perhaps your goals are more general. Perhaps you care about students and about the quality of teaching, and you worry that students graduate without knowing the essentials. These priorities are somewhat vague, but they are sufficient for a beginning. As you move through the next few steps, you will find a range of options and a variety of resources to help you. Your goals will become clearer along the way.

Being able to articulate your goals is an essential step in the giving process. Donors and universities both benefit from clearly establishing donor intent in the gift agreement because it helps preclude potential misunderstandings about the purpose of the gift. Throughout the guide, you will see examples of how clearly articulating donor intent, or failing to do so, has decided the success or collapse of a gift.



### The Pizzagalli Chair of Free Enterprise at the University of Vermont

Angelo Pizzagalli, a highly successful business leader, had long been a generous donor to his alma mater, the University of Vermont (UVM). Through a gift made in 2017, he sought to create a lasting legacy, one that would emphasize and explain the role of free enterprise in an open society, attracting and inspiring students with an entrepreneurial spirit. He enlisted the help of the Fund for Academic Renewal (FAR) to establish a chair that would fulfill his intent.

Mr. Pizzagalli formed a specific vision for the endowed chair: It ought to be filled by a professor capable of communicating to students the integrated nature of capitalism and democracy. FAR advised the crafting of the gift agreement between Mr. Pizzagalli and the UVM Foundation so that his vision would be fulfilled while respecting academic freedom. In order to do this, the gift

agreement included a statement of purpose from Mr. Pizzagalli outlining his intentions in creating the new position. The agreement also included a clear, but brief, list of fundamental concepts that the chair should cover in his or her teaching.

A reverter clause, or “clawback” provision, was a critical element of the gift agreement. Should the university fail to abide by the gift’s terms, or fail to select a chair recipient by the agreed-to criteria within the agreed-to time frame, then the agreement is nullified, and the university foundation must return the gift to the family. This clause provides a strong incentive for the institution to honor donor intent.

In 2019, Andrey Ukhov was inaugurated as the first holder of the Pizzagalli Chair of Free Enterprise in the Grossman School of Business at the University of Vermont. “We are very appreciative of the donation from Angelo Pizzagalli and the Pizzagalli Foundation that made it possible for the University to attract such extraordinary talent to our faculty,” said UVM President Tom Sullivan. Dean Sanjay Sharma echoed President Sullivan’s sentiments, stating that the hiring of Dr. Ukhov “adds greatly to the intellectual depth of our school and will help elevate our global reputation.”

Through targeted giving, donors like Mr. Pizzagalli play an important role in restoring viewpoint diversity and academic excellence to our institutions of higher learning. A well-crafted gift agreement helps ensure that the university respects donor intent while being able to exercise its right to academic freedom.



### **The Herbert W. Vaughan Lecture at Harvard Law School**

The late Herbert W. (Wiley) Vaughan supported higher education in a variety of ways, and his gifts offer excellent examples of intelligent giving. Before making his first gift, Mr. Vaughan consulted a “faculty friend”—a former associate who was on the Princeton University faculty. The professor observed that many of Princeton’s finest scholars and dedicated teachers were retiring. He further noted that support for rising scholars often went to those who were caught up in the intellectual fashions of the moment. Concerned by these trends, Mr. Vaughan established

a trust to support young scholars whose work meets traditional standards of significance, factual accuracy, and analytical rigor. This trust aims to ensure that time-honored academic approaches to research and teaching continue to thrive.

In 2007, Mr. Vaughan noticed another need in higher education—students and faculty both lacked a deep understanding of the founding principles and core doctrines of our system of government. To meet this need, he gave his alma mater, Harvard Law School, a special gift. The donation instituted the endowed biennial Herbert W. Vaughan Lecture, which invites outstanding scholars and jurists to campus every other year to discuss the U.S. Constitution and its doctrines. United States Supreme Court Justice Antonin Scalia delivered the inaugural lecture, addressing a packed house on the topic of originalism in constitutional law.

In the alternate year, the gift funds academic activities on America's Founding principles, to be sponsored or co-sponsored by the law school's student-run Federalist Society chapter.

Two aspects of Mr. Vaughan's latest gift are especially noteworthy. First, it is a two-pronged program. In the years when the lectures are not held, his gift funds an academic activity sponsored by the Federalist Society chapter. Because both Harvard Law School and the Federalist Society are regularly called upon to oversee the designated programs, they must stay focused on the continuing applications of the restricted gift. Second, his gift agreement stipulates that a statement outlining his reasons for funding the lecture and academic activities must be read before the lecture or program each year. Through these two mechanisms, Mr. Vaughan made certain that the recipients of his gift would honor his intent. Thanks to his intelligent giving, students at Harvard Law School now hear and engage perspectives that enhance their classroom experience.

## TAKE A CLOSER LOOK

**T**he first impulse of many donors is to give to their alma mater. However, most alumni view their alma maters through the rosy lens of nostalgia. Intelligent giving requires separating fact from fiction, reality from illusion. You have heard the joke, “Nostalgia isn’t what it used to be.” Unfortunately, your college may not be what it used to be, either. Many alumni are shocked and amazed to learn what is happening on campus these days.

Here are some factors that you can evaluate to determine whether a college is a good fit for your philanthropy.

- **College Mission Statement.** Is it coherent and consistent? Does it set valid educational goals? Or does it sound so generic that it could apply to any college?
- **Graduation Requirements.** Do they reflect a serious conception of “what every educated person should know”? Are general education requirements met by a few comprehensive, well-planned, integrated courses or by a grab bag of dozens of unrelated courses? Can students meet requirements with alternatives that lack breadth and rigor?
- **Catalog and Departmental Websites.** Look up the programs and departments for the fields with which you are most familiar. Are students being exposed to an appropriate range of ideas within those fields? Do the course descriptions appear substantive and responsible? Or are they jargon-ridden, narrow, or trivial? What are the major requirements? Do faculty credentials reflect academic quality and intellectual diversity? Always begin by reviewing the catalog and departmental websites, but never stop there. Official course descriptions are often not updated for years and may not reflect what is actually being taught. You may even want to read syllabi or other available course materials to get a clearer picture; increasingly, professors are posting such materials online, and they provide vivid insights into the expectations and goals of the course.
- **Comparison to Peer Institutions.** See how your college or university compares to other similar institutions on metrics such as graduation rates, quality of curricula, tuition, and spending. The American Council of Trustees and Alumni’s website [WhatWillTheyLearn.com](http://WhatWillTheyLearn.com) offers an excellent starting point for assessing your college’s curriculum and graduation rates. This

project annually evaluates the state of core curricula around the country and identifies schools that seek to improve and strengthen their core requirements. HowCollegesSpendMoney.com, another ACTA project, can tell you about expenditure on administration in comparison with spending on instruction, its comparison with state median income, and rise over time in tuition costs.

- **Track Record of Past Gifts.** You want to be sure that the college or university will respect the terms of your gift agreement. If the institution has recently been involved in a dispute over mishandling donor funds, it would be wise to think twice before entrusting your gift to the school. A history of excellent stewardship over donor intent is a good sign. “If institutions truly want long-term success in fundraising, they should help donors ensure that the terms of their gifts are thought through carefully—and that they are documented,” says philanthropist Frank Weil. “Providing genuine stewardship is a real asset to long-term success in fundraising.”

You can only direct your funds in the most effective way if you look candidly at the college as it is today and not as you remember it in the past. Even if your college has resisted compromising its values, remember that it may be subject to the same pressures that have eroded academic integrity at other schools. You will want to contribute to programs that help the college maintain a standard of excellence.

If your college has veered off course, do not give up. These days, most colleges are a mix of good and bad, maintaining both strong and weak programs and professors. With guidance, donors and alumni can identify good programs and good professors at every school. They can create an independent academic program with the potential to improve the whole institution. Below, we will help you discover how to find and support such programs or create them yourself.



## KNOW THE LANDSCAPE

**Universities tend to rush after the latest scholarly, pedagogical, or administrative fashions.** The desire to be innovative and at the cutting edge is excellent when directing STEM studies at a research university. But in other areas, like attracting students through glamorous athletics programs and luxurious accommodations, the desire to follow the latest trends does more harm than good—driving the cost of college up with little academic or instructional return on investment. For example, at Louisiana State University and the University of Central Florida, donors supported lavish capital projects of lazy rivers, one of which is open only to athletes and boosters.

The addiction to trends leads to truly bizarre results when it comes to academic curricula. Traditional texts are so out of fashion that even Shakespeare has been dropped as a course requirement for English majors at three-quarters of the 70 leading institutions surveyed in ACTA's study, *The Unkindest Cut: Shakespeare in Exile 2015*. Fewer than one-fifth of schools surveyed by ACTA for our What Will They Learn?® project require graduates to take a foundational course in U.S. government or history; just over 3% of schools surveyed require economics. Western Civilization requirements have all but vanished from course catalogs across the nation, and classics departments often find their courses under-enrolled and forgotten. Courses on pop culture, sex, and politics—such as “Pets in Society” and “Atomic Lizards, Robots, Rocket Monsters & Cute Kitties”—are taking the place of the Great Books. Yet, we know from alumni satisfaction surveys that students report a strong retrospective appreciation for rigorous academic programs. And we know from thriving programs focused on the texts that shaped Western Civilization and thought that students still yearn to read the Great Books. The problem is that some of the best academic programs are not in vogue today. Alumni can help inspire universities to build centers and offer majors that resist current trends.

This is more important than ever because ideals that may look hopelessly old fashioned—such as general education programs grounded in the liberal arts and sciences, high academic standards, careful analytical reading, clear writing, and rigorous thinking—are essential contributions to students' educations and instill the skills and abilities that employers prize above all. It is easy to forget that, for the typical student, pop music is tired and familiar; Aristotle and Adam Smith are dazzlingly different. Not to mention that such canonical works prepare young adults for a lifetime of informed citizenship and community engagement. Remember: The best program is not necessarily the most trendy one; the best program may be the one that favors the timeless over whatever happens to be in vogue.

Carefully targeted giving can have a profound impact on institutions, to the point of inspiring serious curricular reform. For reasons of cost and quality, some schools are contemplating a movement back to a more disciplined core curriculum. The reasons to move away from the common system of allowing students to complete their general education requirements with a random smattering of courses from several broad academic areas are obvious. General education, which makes up one-quarter to one-third of a student's academic program, is every bit as important as a student's major. Intelligent donors can help institutions abandon the smorgasbord approach to undergraduate education that so often leaves students feeling intellectually lost and aimless.

Imagine a campus where freshmen and sophomores have as a common topic of conversation their explorations of the *Federalist Papers* or Plato's Allegory of the Cave. Deliberate giving can help nudge colleges in that direction and create a new model of undergraduate excellence. With seed funding, universities could replace a broad array of narrow, niche courses with multiple sections of a deliberately structured foundational course for all undergraduates. Once such a core requirement is in place, it becomes self-sustaining and cost-effective. Or, when considering where to give, you may notice, like Angelo Pizzagalli did at his alma mater, that an important topic is missing from the school's courses. When Mr. Pizzagalli saw that students at the University of Vermont did not have exposure to education in free market economics, he created an endowed faculty chair to fill that gap. There are many ways for donors to have a positive influence on the curriculum at a university while respecting academic freedom.



### **The James Madison Program in American Ideals and Institutions at Princeton University**

Dr. Robert P. George is the McCormick Professor of Jurisprudence at Princeton University. In 2000, with the support of generous donors, he founded the James Madison Program in American Ideals and Institutions to further the study of Western Civilization and the underpinnings of the American political system.

Funded largely by foundations and individuals, the James Madison Program sponsors courses in politics and related subjects, appoints visiting scholars and postdoctoral fellows, and awards a senior thesis prize for outstanding work in the fields of constitutional law and political thought. The program also supports

the James Madison Society, an international academic community that holds conferences, lectures, seminars, and colloquia.

Committed to encouraging interaction between students, rising academics, and eminent scholars, the James Madison Program helps undergraduates to develop a deep, mature understanding of liberty, freedom, and justice.

Professor George has stated that “[t]he freedom we defend is . . . freedom for excellence . . . It is not an ‘anything goes’ freedom, but rather a freedom truly worthy of those who exercise it in the pursuit of truth.” This philosophy guides his leadership of the program. In an academic environment frequently driven by the latest intellectual fads and trends, the James Madison Program offers students a unique opportunity to learn how, not what, to think.

## SELECT THE BEST

**M**ost universities offer a wide range of deserving programs and activities. Many of these already receive handsome support. In general, a university's endowments receive larger gifts than specific academic programs. Physical facilities receive more funding than educational activities. Research and publishing are often better supported than teaching. Graduate and professional education receive much more assistance per student than undergraduate education. Your dollars will have the greatest impact if you direct them to areas that receive less funding.

Donors who really want to make a difference may wish to consider programs that uphold classical educational values. The late Gertrude Himmelfarb, a distinguished historian, called on donors to support "oases of excellence" at our institutions of higher learning. Funding a specific academic initiative has several advantages. It is part of the intellectual life of the university. For students, access to courses with high standards that have not been overly politicized or dumbed down offers a challenging alternative to standard campus fare. For professors, a special academic initiative provides an opportunity to draw young people into the life of the mind.

For the institution, outstanding programs set a standard that puts competitive pressure on other departments. Honors and Great Books programs have had this impact at several colleges, as students are attracted to the more demanding and prestigious course of study. The American Council of Trustees and Alumni has compiled brief descriptions of programs that donors may wish to consider. You can find a list without the descriptions in Appendix C. The best program to support may be the one that creates an Oasis of Excellence at your alma mater.

Ideally, colleges and universities expose students to a wide range of viewpoints. But too often, campuses fall short of this ideal, either failing to ensure intellectual diversity among speakers or even disinviting speakers who are deemed too controversial. Donors can make a major difference by supporting speakers who will expose students to new ideas. They can also support a faculty or student group on campus or a national organization that makes speakers available to colleges and universities. Supporting outside speakers is an excellent way to stimulate discussion and bring intellectual diversity to campus.

Think twice before you fund a building or an endowed chair. If your aim is to improve education or research, a building does little to enhance the intellectual content, pedagogy, or methodology of either. The key to education and research is not the building itself, but what goes on inside the building. Most donors who endow chairs have an image of the kind of scholar or teacher who will hold the chair. That image may

bear little relation to reality, as schools historically have given donors little or no role in selecting the holder of the chair. Even if you approve of the first person to hold the chair, you do not know—and will have even less control over—who subsequent holders will be. One donor who funded a chair in Western Civilization was shocked to learn that the holder was deconstructing Western Civilization. There was nothing he could do.

And remember: Money is fungible. If your chair goes to a current faculty member, all you are doing is freeing up funds to be used elsewhere. If you want to help your college live up to its highest ideals, make a gift that will really have an impact on the intellectual life of the campus.



### The Tocqueville Program at Furman University

A vision shared between the donor and the organizational partner is a key predictor of a gift's success. In 2006, Virginia "Ginny" and Sandy MacNeil's generosity and tireless efforts helped to establish the Tocqueville Program at Furman University. Since then, the program has grown to reach even more students while maintaining the original vision of the gift.

After retiring to North Carolina, the MacNeils decided to devote their time and energy to improving higher education through philanthropy. They wanted to encourage academic dialogue, leadership, and character development, and it was important to the MacNeils that their gift have a significant impact on students.

Furman University Professors Benjamin Storey and Aristide Tessitore had the same goals of promoting academic excellence and providing leadership training for their students. After a trusted, mutual acquaintance connected the MacNeils with these professors, the MacNeils inspired other donors to contribute, thereby maximizing the effectiveness of the founding gift. Their philanthropy and the insight of their academic partners helped to create a new academic program at Furman. Named for the great student of democracy, Alexis de Tocqueville, the Tocqueville Program is an intellectual community dedicated to examining the moral and philosophic questions at the heart of political life.

The program began as a course enriched by an endowed lecture series. It has grown substantially over the past decade. The Tocqueville Program now offers a series of courses, a first-year engaged living program, a sophomore-

senior fellowship program, a Friday afternoon reading group, a postdoctoral fellowship, and an undergraduate summer placement program. Its curricular and extracurricular activities help students engage with the best arguments behind diverse and competing points of view. The program is currently directed by Professors Benjamin Storey and Jenna Silber Storey. For more information, please visit [Furman.edu/Tocqueville](http://Furman.edu/Tocqueville).

The MacNeils and other donors regularly attend program events and hear firsthand from students and parents what a difference the program is making. Ginny MacNeil noted, "It's been very rewarding to be involved with something that is so meaningful to many students, and they've just taken off with it. Their success is our reward. That's really what it is."

The Tocqueville Program's exemplary success speaks to the importance of knowing and clearly communicating your vision for a gift as well as choosing the right partners who share your goals and will work diligently to implement your vision on campus.

## CHOOSE THE RIGHT VEHICLE

**O**nce you have defined what you would like to accomplish through your philanthropy, finding the right vehicle for your gift is much easier. There is no one right way to structure your gift to higher education. In this step, we include three commonly used approaches. Each method offers strategies to protect donor intent, but some have more safeguards than others.

**Give to your college directly.** A direct gift to an institution is the most common form of higher education philanthropy, whether through an annual donation or in response to an ask from the development office. If you wish to support an institution generally, then a no-strings-attached gift is the easiest to execute—simply sign the check and mail it. On the other hand, accomplishing specific goals requires careful planning. Whether you are endowing a chair, establishing a lecture series, or supporting research, you can craft a gift agreement that you and the university both find appropriate. If you choose to give the college a one-time major gift, be aware that it is difficult to enforce restrictions once the money transfers.

If you are planning a major gift, we recommend giving in annual installments rather than in a lump sum. Donor advisor Dr. Frederic Fransen writes, “By creating a series of annual gifts subject to review, you assure accountability and create a way out, should the institution change its mind (as they often do). If you prefer an immediate tax deduction, consider setting up a donor advised account.” It is perfectly acceptable to require reports on the university’s use of the gift as part of the gift agreement. Doing so signals to the college or university that you are invested in the long-term success of your philanthropic project.

**Set up a private foundation.** As an alternative approach, you may want to think about establishing a private foundation. By doing so, you will be able to choose the board—and the board, rather than the college, will control the awarding of grants. If you do this, there are several considerations you should keep in mind:

- Consider adding a requirement that all funds be expended in a 30-year period. Studies have shown that board members are unlikely to be faithful beyond the generation who knew the founder firsthand. Expending your funds over a shorter period of time will have a greater impact. Instead of dribbling out 5% a year, a time-limited foundation could give away several times that amount every year. Truly worthwhile projects will attract notice and be able to raise their own funds after your gift has been expended.
- State explicitly the purposes and activities eligible for support.

- Select board members who understand and share your values. When choosing members for your board, think beyond attorneys and family members. Concerned with efficiency, attorneys often abide by the letter, but not necessarily the spirit, of the trust. Family members may be tempted to view a trust as more of a personal inheritance than funds that should be spent according to the original donor's values. Joanne Florino, vice president of philanthropic services at Philanthropy Roundtable, addresses this complicated issue extensively in chapter five of *Protecting Your Legacy: A Wise Giver's Guide to Honoring and Preserving Donor Intent*.

**Create a Donor Advised Fund.** Donor Advised Funds (DAF) are an increasingly popular philanthropic vehicle. They confer many of the same advantages as a private foundation but require less of the administrative work. Like a private foundation, you can give a grant from a DAF subject to a grant agreement that includes restrictions and requirements in how the funds can be used. If an institution veers off course, shuts a program you funded, or fails to honor the terms of the gift agreement, the sponsoring organization administering the DAF has the power to enforce the terms and conditions of the gift. On the other hand, you do not have legal control over the DAF, but only advisory rights. You have the right to make only non-binding recommendations about grants that the sponsoring organization should make from the DAF. It is unusual for a sponsoring organization to decline to follow a donor's recommendation, but it is a possibility.

Each giving vehicle has its own advantages and potential disadvantages. Ultimately, you want to pursue whichever option best serves your needs and allows you to meet your philanthropic goals. These three methods are common, but there are many ways to give. Whichever vehicle you choose, it is important to keep in mind that institutions of higher education move much slower than you might expect. The process from coming up with an idea for an academic program to seeing it enacted on campus can take years, but it is worth the effort and the time.



### The John W. Altman Charitable Foundation

With so many options, choosing the right vehicle for philanthropy can be overwhelming. Fortunately, depending on how you give, it can be relatively simple to modify your choice down the road. For instance, one donor, Dr. John W. Altman, recently updated the bylaws of his charitable foundation to reflect his values and the lessons he has learned over many years of philanthropy.



Dr. Altman, a distinguished entrepreneur and philanthropist, was the first professor of entrepreneurship at his alma mater, Miami University in Oxford, Ohio, and served on its board of trustees. Through the years, he has generously contributed to Miami University and other organizations. As part of his philanthropy, Dr. Altman endowed the John W. Altman Institute for Entrepreneurship at Miami University.

As chairman of the John W. Altman Charitable Foundation, Dr. Altman is clear on his philanthropic values, especially freedom of speech. He writes, “A top priority for me is free speech on campus. I have seen free speech get shut down on many a university campus. As a U.S. citizen and veteran, that’s disturbing to me. The day that freedom of speech disappears on a college campus, one must really question whether you can justifiably continue to give.”

After years of philanthropy, Dr. Altman has learned how to leverage his gifts with increasing effectiveness. He adjusted the bylaws of his foundation to reflect clear priorities, articulating the following requirements for university gifts:

- They must use a “skin-in-the-game” approach—if the university does not want to match our gift, then it is not committed to what it is asking for.
- They must adopt the Chicago Principles on Freedom of Expression, or a similarly strong commitment to freedom of speech, and qualify to be listed by the Foundation for Individual Rights in Education.
- They must earn at least a “B” grade in ACTA’s *What Will They Learn?* report.
- They must agree to an annual outside audit in perpetuity that ensures compliance with the three requirements, listed above.

The foundation bylaws show potential grantees his commitment to the search for truth, freedom of speech, academic excellence, and accountability. In 2019, Miami University showed that it values freedom of speech by becoming the 69<sup>th</sup> institution to adopt the Chicago Principles on Freedom of Expression. With years of experience in higher education itself as well as in targeted philanthropy, Dr. Altman has well-defined goals and a personal understanding of how universities function. Practicing intelligent giving, he decided that his foundation would serve as the best vehicle for achieving his vision and, over time, adapted that vehicle to better suit the needs he identified in higher education.

## RESPECT ACADEMIC FREEDOM

**C**olleges and universities are unlike any other institutions. They have their own rules and rituals, complex politics, and often arcane protocols. Although you cannot change this, you can work with it productively.

Although slogans such as “institutional autonomy” and “shared governance” can be used to cover a host of sins, they are essential values of American higher education. Academic decisions should be made solely on academic grounds. While colleges should accept outside help that strengthens academic programs, they rightly reject efforts to make them comply with someone’s particular political, religious, or personal agenda.

This principle of independence is sound—and not nearly so restrictive as it may seem. You cannot support a program to advocate your ideas. But you can support a program to study topics and ideas that you deem important. And you can encourage and fund faculty who share some of your own beliefs about the nature and importance of these topics and ideas.

There are two key facts to keep in mind: First, your money is yours to spend as you see fit. You have a right to direct a gift for any purpose you find compelling. Second, the college does not have to accept your money. The college has a duty to accept only those gifts that will contribute to the mission of the college. In practice, this means that intelligent giving involves evaluation on both sides. For example, you may want, wisely or unwisely, to fund a program in underwater archaeology. The college is free to accept your gift, even with very elaborate restrictions, if your proposed program furthers its mission. However, the college may, wisely or unwisely, view the program as too expensive to maintain. That is the college’s decision to make, not yours.

So, what are your rights and responsibilities when it comes to college giving?

- **The right to offer the gift.** While you can offer any gift you like, the college has a right to decline. No donor should try to force a college to do something that it does not want to do. To be successful, a program needs institutional cooperation on a day-to-day basis. If the college does not like your idea, try out another idea or see if you can find another college that is receptive to your proposal. ACTA can help you identify appropriate institutions.
- **Respect academic procedures.** Colleges and universities are not like businesses, and the college president is not a CEO who can make commitments without consultations. Even if key faculty and administrators are eager to start the program you want to support, specific aspects of it, such as new courses and new faculty hires, need the approval of faculty committees,

the board of trustees, or both. Before you sign on the dotted line, you should ask what procedural steps will be necessary to finalize approval for your gift and clarify in writing what will happen to your gift if those approvals are not forthcoming. In other words, you and the college should come to a sort of academic prenuptial understanding before the final gift agreement.

- **Do not micromanage.** Once you fund a program or activity, you are free to make suggestions, but you cannot participate in the management of the program. Academic autonomy is the sanctum sanctorum of faculty governance. You may be able to play a role in the selection process or define a topic that you will fund, like “Entrepreneurship” or “American Founders,” but you cannot dictate faculty appointments or course content. The faculty may like the books you suggest for a syllabus; but, at the end of the day, it is up to them to decide.

In sum, your legitimate involvement occurs at four points:

- Before you make the gift, you can describe what you are willing to fund.
- In making the gift, you can set requirements so long as they are compatible with the principles discussed above.
- You can monitor the implementation of the gift.
- You can decide whether to renew the gift.

All of this is tricky business. Usually, a college or university will not simply turn down a gift. Administrators may try to persuade you to modify the terms of your gift in ways they would find acceptable. That is their right, and you should listen to them—but that does not mean that you should automatically yield to their requests. You may be able to find common ground; you may not. In the end, you should not give a gift unless you are convinced that it will achieve your educational goals.



### The Stephen S. Smith Center at Xavier University

It is difficult to craft a gift that balances a strong conviction for how higher education can improve while respecting academic autonomy. A partnership built on a shared vision between the donor and on-campus allies can be the key to striking that balance. Developing a robust faculty partnership also allows for flexibility, a crucial aspect for successfully establishing an academic program.

The Stephen S. Smith Center at Xavier University exemplifies how one donor and his on-campus allies found the balance that allows their program to flourish.

The original vision of the gift was to establish a research center for the study of capitalism. Yet, after a year, it became clear that the center needed to pivot in order to thrive. Taking a year to research their options, the faculty approached Stephen S. Smith with another plan: while maintaining the center, to create a minor focused on the study of freedom and free market solutions to problems in society. The center would promote faculty and undergraduate research and create a new honors program for business students through a minor in political economy. Understanding how these changes would fulfill his vision, Mr. Smith approved the strategic pivot.

An ongoing partnership with the program leaders guided Mr. Smith's philanthropy. This close relationship simplified potentially fraught conversations with the university about how best to fulfill Mr. Smith's intent while also respecting academic freedom. The most vivid example of this partnership is the minor program developed by the Smith Center faculty. Xavier University already requires a core curriculum of classes for undergraduate students. The Smith Center built on this requirement so that a cohort of students in the business school would take core classes that combined the Great Books with economics.

The collaboration between Mr. Smith and the center's faculty leaders has generated a flourishing program that supports research and scholarship for both undergraduates and faculty and hosts speakers and discussions on pressing topics like the opioid crisis and second-chance employment. The shared vision between Mr. Smith and his on-campus allies inspired the creation of the Smith Center, and their solid partnership allowed the center to adapt the original vision to include a thriving academic program as well, now in its third cohort of students. With excellent faculty, new research initiatives and fellowships, as well as expanded outreach efforts, the program is positioned to grow even more robust in years to come.

## FIND ALLIES ON CAMPUS

**T**he challenges of intelligent college giving will be vastly simplified if you can find a friend, ally, or advisor on campus. He or she will be your best guide to the “three P’s” of academic life—principles, procedures, and politics. In fact, if you want to support an academic program or activity that will be an official part of the college, you almost always have to find an academic friend within the institution to support your endeavor. Once you find a faculty member or an administrator with strong faculty roots who wants to do what you want to do, you are almost home free. Your guide and ally at the college can help map your goals into an action plan. He or she will know how to design a feasible program, how to get other faculty and students interested in it, and how to negotiate the institutional politics. Academic culture has its own rules—and routinely one of them is that outsiders are not welcome to participate in it. Let your inside ally handle the work of recruiting institutional support and navigating the system.

Deans, provosts, and college presidents who have an understanding of and a rapport with the faculty are all good friends to have. However, presidents turn over about every eight years; tenured faculty tend to stay forever. It is not unusual for a president to implement a new curriculum in response to a major foundation grant—and for the next president to attempt to substitute something substantially different.

While administrative allies are helpful to start a new program or endowed chair, faculty will be a durable engine to see your project through. Professors determine a program’s quality and intellectual content, and they are essential for implementing your academic priorities.

Starting with a faculty friend can make all the difference. Take the case of the donors who were interested in funding the study of free market economics at Vanderbilt University. At the donors’ request, ACTA’s Fund for Academic Renewal identified a faculty friend at the university who shared the donors’ interests. The faculty member then assembled an outstanding interdisciplinary course on the economics, history, and philosophy of liberty. He succeeded in securing administrative support and faculty approval for the new course, which would carry credit toward the university’s general education requirements and give students a perspective different from typical campus fare.

How do you find an academic ally at an institution? There are several ways.

- **Ask an insider for advice.** You may already know faculty members whose judgment you trust. Tell them your idea and ask if they know other allies who might be interested in your project.
- **Do some research.** Look at faculty profiles, course descriptions, and the bios of administrators. You may find someone whose teaching, research, or policy commitments align with your interests. Faculty profiles are usually available from the department office or on the college's website. If operating as a foundation, you might even put out a request for proposals (RFP) if you do not find promising material among existing faculty profiles or course offerings. (An RFP states the kind of activity you are willing to support, establishes a time frame, sets a dollar limit, and may stipulate other relevant conditions.) When evaluating the responses to your RFP, make sure, of course, that you thoroughly research applicants' backgrounds and reputations before committing your funds.
- **Contact a trusted organization.** There are several impressive organizations that work in higher education who can connect you with faculty or administrators, like the Institute for Humane Studies, the Jack Miller Center for Teaching America's Founding Principles and History, and the Intercollegiate Studies Institute. ACTA would also be happy to help you locate a friend on campus. We have a wide academic network, from our own distinguished Council of Scholars to the faculty of our Oases of Excellence. We are also in touch with other groups that conduct activities on campus and have extensive faculty contacts. There is a good chance that we can locate faculty and/or administrators who share your educational goals or connect you with another organization that can help.



### **The Institute for Religion, Politics and Culture at Washington College**

Understanding the important civic role that colleges would play in sustaining the new nation, our Founding Fathers both advocated for and invested in higher education. While in office, our nation's first president lent his name and donated money to establish Washington College, the first college chartered in the sovereign United States of America in 1782.

More than 200 years later, the Institute for Religion, Politics and Culture at Washington College builds on George Washington's legacy by preparing students to embrace their roles as responsible and informed citizens.

Led by Joseph Prud'homme, professor of political science, the institute offers lectures, symposia, a vibrant scholarship program, a cohort of student fellows, outreach programs with high school students nationwide, a peer-reviewed book series, and opportunities for students to study in significant locations abroad.

The institute is made possible by the support of donors, including the Burton family. Their engagement with and investment in the institute demonstrates the power of building a true partnership with a faculty ally on campus.

Alumnus David Burton began attending institute events in 2012 and was so impressed that he decided to dedicate his annual gift to Washington College to the center. Over the next eight years, the Burton family continued to attend events and developed a close working relationship with Professor Prud'homme. In 2019, the family decided to ensure the institute's efforts would continue. Partnering with Dr. Prud'homme and leadership at Washington College, the Burton family made an endowed gift to the institute in 2019.

Both Professor Prud'homme and Mr. Burton share a common understanding of how the institute can fill a critical need on campus. By stressing openness to argument, the institute encourages sensitivity to contending viewpoints, a skill all too rare in this world of increasing polarization.

The Burton family's transformative gift was nearly a decade in the making. By taking time to get to know the program and the people involved, the Burtons made certain that their gift to the institute reflected their vision and values. Finding an on-campus ally like Professor Prud'homme gave the Burton family confidence in their investment. In his first annual address to the college, George Washington said, "Knowledge is in every country the surest basis of public happiness." The Burton family's gift will support the pursuit of knowledge at Washington College for decades to come.

## BE SPECIFIC

**Once you have defined your philanthropic goals, being specific with your instructions is essential for achieving your vision for the gift.** Often, even restricted gifts are made on little more than a smile and a handshake. The donor is given romantic descriptions of all that his or her gift will accomplish, but nothing is written down. Donors are later shocked to find that something quite different has been done with the money. It is quite likely that many major disputes over donor intent, including several on which FAR has advised, could have been easily resolved had the donors been clear about their intent in writing before finalizing the gift.

Specific instructions do not imply that you mistrust the university. Instead, clarity speaks to the value you place on your gift and on your relationship with the school. It also helps guide the university in implementing the gift appropriately for many years in the future. Being specific in your gift agreement helps accomplish several goals.

- **Avoid misunderstandings with the college.** The fact is that a college can only honor donor intent if the donor is up front about the vision of his or her gift. As attorney Richard S. Gallagher puts it: “If the donor chooses to accomplish his or her intent through a restricted gift . . . he needs to make his intent so clear and unambiguous that there will never be any challenge, even when circumstances change.” In addition to communicating donor intent, make sure that you articulate any conditions that, in your mind, must be met for the program to succeed and to fulfill your vision. Focus clearly on the issues that matter to you, but do not include aspects that are not really essential. Sometimes, it is helpful to specify an alternative recipient, should the primary recipient prove unable or unwilling to honor the terms of the gift.

The accompanying case study for this step, featuring the Coyle family’s gift to the University of Wisconsin (UW), illustrates why specificity is so important. Had the original donor expressed in writing that the bequest was solely for the purpose of funding tennis scholarships, UW would likely not have been able to expedite using the funds for a capital project instead. Although a written gift agreement with clear instructions is not an absolute guarantee that donor intent will be honored, it makes it much more likely.

- **Prevent fungibility.** It is best to acknowledge up front that money is fungible, but there are a few ways to avoid fungibility. Suppose your college has an outstanding political science department and you direct all your support to it. For all you know, the dean just subtracts that amount from the department’s



allocation. If that happens, your gift does not actually do anything to enhance the political science department. Instead, it merely frees up the dean to spend money on other endeavors—ones you may not find worthy of funding. Specify in your instructions that your funds must be used to supplement, not replace, institutional funding.

- **Negotiate out of administrative fees.** Most donors are unaware that many schools assess an administrative charge on their gift. In addition to administrative fees, most universities also charge a special fee on endowments, sometimes without disclosing it. While investigating the late Michael Moritz's endowment for scholarships at Ohio State University, his family discovered that the university had been charging an undisclosed annual fee to fund the development office. The endowment is now the center of a public dispute between the family and Ohio State University. There is no guarantee that your school will agree to forego an administrative charge or endowment fee, but it is worth clarifying this point at the outset and negotiating it as appropriate.

How specific should instructions be? When Abraham Lincoln was asked how long a man's legs should be, he is said to have answered, "Long enough to reach the ground." Restrictions should be specific enough to do the job—to make it clear to the grant recipient what would and what would not fulfill your intent. If you want to give money to the classics department with no strings attached, go ahead—but understand, too, that saying your gift is "to strengthen the classics program" does not offer anything in the way of a clear directive about your wishes.

Stating your restrictions in clear and unmistakable terms will save both you and the college many a heartache.



### Coyle Family Gift to the University of Wisconsin

The Coyle family's gift to the University of Wisconsin (UW) demonstrates the importance of a written gift agreement with specific, unambiguous language about the intent for the funds. Although the Coyle family had a clearly defined goal for their gift—scholarships for the tennis program—the absence of a written gift agreement, and the university's lax stewardship policies, allowed UW to redirect the funds toward a capital project to build new recreational tennis courts.

In July 2015, the Coyle family notified UW that it would receive a \$500,000 bequest from Mrs. Marion Lou Coyle, in honor of her late husband, Douglas Coyle. Her will, as written in 2013, specified that this gift should be used “to fund the UW tennis program.” The university received the gift in June 2016. In September 2016, the board of regents voted to approve an exception to its policy of placing all bequests greater than \$250,000 into an endowment, based on a memo from the UW athletic director that stated, “Coyle indicated support for designating this gift to tennis facility needs.”

Richard Coyle, Marion Lou Coyle’s son, disputes this interpretation of their conversation. According to Mr. Coyle, his mother intended to create the Douglas Coyle Tennis Scholarship, in honor of her late husband. The family understood the gift to be an endowment exclusively for scholarships. “The disappearance of a heartfelt donor bequest, designed to forever fund tuition for a deserving student-athlete, took less than three months,” wrote Mr. Coyle.

Although Mrs. Coyle informed the university several years earlier that she planned to include this gift in her will, no explicit gift agreement was put in place. At the time that UW received Mrs. Coyle’s bequest, it had begun a \$2.5 million capital campaign to raise funds for new recreational tennis courts. In its endeavor to meet the fundraising goal, the university converted the Coyle bequest from an endowment to a capital expenditure. Unfortunately, this conversion ran counter to the family’s understanding of the purpose of the gift and has led to conflict between the donor and the institution.

When the Coyle family learned that no scholarships would be supported with their gift, they began exploring options to recover the funds. However, without explicit documentation of donor intent, recovering the funds will prove a challenge. A written gift agreement that clearly outlined the purpose of the gift would have prevented this unfortunate misunderstanding.

## LEGACY GIVING

**T**he story of the Ford Foundation is perhaps the most famous cautionary tale of legacy giving. In 1977, Henry Ford II publicly resigned from the Ford Foundation board because the foundation had strayed so far left from his grandfather's ideals that it was actively betraying them. The simple fact is that donors have more control over their wealth during their lifetimes and are able to monitor actively the implementation of their gift.

When planning an estate gift, you can insert certain provisions in order to protect your intent as best you can. Including a time horizon as well as someone to monitor the gift beyond your lifetime will go a long way toward ensuring that your legacy is honored.

You have several options for choosing a recipient. You could leave a gift directly to the college of your choice, having clearly expressed your intent for the gift. Or, if you wish to add a layer of accountability, you could give through a foundation or DAF. You could also designate an alternative beneficiary to receive the funds if it were discovered that the original recipient had broken the terms. As a co-beneficiary, the third party will have legal standing to challenge the university's use of your funds if it appears that the school is not following your intent as stated in the gift agreement.

The role of a third-party monitor may be filled by a foundation or outside organization. An alternative beneficiary has an incentive to monitor the original recipient as well. However, it is wise to designate explicitly a trusted person or organization to oversee the gift and to give them authority to pursue legal action if the terms of the gift agreement are not honored. While giving someone legal authority does not guarantee standing in court were an issue to arise, it is an indication of how seriously you take your purpose.

Although giving in perpetuity is an attractive idea, realistically, this type of gift runs a high risk of drifting away from the donor's original intent. Randolph Foundation President and Director Heather R. Higgins writes, "The idea of perpetuity presents both temptations and perils; temptations in the form of a genuinely seductive idea proposed with high promise and noble intentions; and perils that are evidenced by a history of repeated disappointment and frustrating experience." After 25–30 years, very rarely do foundations, much less colleges or universities, make decisions about using funds based on the original donor's intent.

No matter how specific you are about the use of your gift, and no matter how many mechanisms you create to ensure that your intent is fulfilled, there is no guarantee that gifts in perpetuity will always be used as you desire.

Regardless of which path you decide to take in legacy giving, beware of the illusion that you can buy immortality in what you build or endow. By being mindful and creative with your giving, you will enjoy a different and better form of legacy. If recognition is important to you, discuss that with your college or university before giving. Find out how it recognizes donors, and make sure that you agree on what is expected.

## BE CREATIVE

**D**efining your goals helps you know how best to direct your gift. It may be that none of the options in the Select the Best section above are the right fit for your philanthropic vision. The examples listed in this guide are meant to provide principles for intelligent giving so that your gift can reflect your vision and values. FAR offers individual consultations to help you achieve your goals through innovative philanthropy. Here are some ways we recommend considering as creative options:

- **Think beyond your alma mater.** While it is laudable to give back to your alma mater, your gift may have a bigger impact at another institution. If your goal is to influence the direction of higher education, giving to a small institution without a large endowment can greatly enhance the academic quality of the institution and the opportunities for students.
- **Create a new program.** If you have researched programs and departments on your chosen campus without finding anything that matches your values, consider creating your own program. Ginny and Sandy MacNeil were in a similar position when they found likeminded faculty friends at Furman University. The MacNeils gave a gift of \$250,000 and engaged with other donors with similar values to establish the Tocqueville Program. Now on our list of Oases of Excellence, this program and ones like it can be quite successful and influential in the lives of students.
- **Fund a research project.** There is a critical need to support the research of scholars, especially untenured faculty, whose work is excellent but not “trendy.” These scholars often cannot secure funding from campus, foundation, or government sources—and much good can be done even with modest gifts. In 2000, Harvard University alumnus Robert Krupp gave \$25,000 to support Professor Harvey Mansfield’s new translation of Alexis de Tocqueville’s *Democracy in America*. The gift had a much greater impact, and was much more satisfying to the donor, than just throwing money into the annual fund. Supporting outstanding individual scholars may be the best way to help your college.
- **Adapt a traditional model to fit your goals.** While we caution donors about endowed chairs or capital projects, sometimes an endowed chair may be the best method for achieving your goals. For instance, Peter Sulick, a successful businessman, wanted to provide students with the opportunity to learn from

mentors with recent, high-level industry experience in accounting. He created a rotating chair to be filled for three-year terms in order to achieve this goal.

- **Give to a community college.** Although community colleges are often overlooked by philanthropists, they provide a unique opportunity for donors to have an outsized impact on the accessibility and flexibility of higher education. For instance, a gift from the Sturm Family Foundation to Arapahoe Community College (ACC) allows high school juniors to begin taking classes through ACC and seamlessly transition to universities in the Colorado State University network in order to complete their bachelor's degrees. Through partnerships with local industries, students can also participate in work-based learning programs.



### Peter Sulick's Gift to The Citadel

Peter Sulick's gift to establish a named chair in accountancy at The Citadel demonstrates how innovative thinking can yield positive results for donors. With advice from FAR, Mr. Sulick created a rotating endowed chair, bringing in a new faculty member with recent industry experience for a three-year term.

Mr. Sulick is the CEO of Dynasil Corporation, and he credits his strong accounting education at The Citadel for his success. He wanted to support his alma mater to ensure that future graduates could enjoy the same opportunities he experienced. Given his own career trajectory in the private sector, Mr. Sulick felt that he was in a unique position to give back financially.

"I wanted to do something that was meaningful for me, for my family, for the college. I didn't want to make a gift that was going to be a new fence or was going to be a new grassing of the football field. That I was not interested in at all," said Mr. Sulick. "It became a question of coming up with what I felt was the right mechanism and how it would make an impact on the students. At the end of the day, that's what this is all about."

Mr. Sulick created a position on campus for someone with high-level industry experience in the accounting field who would fulfill a three-year contract and take a special interest in mentoring Citadel students. Prior to the end of the three

years, a new search committee will be formed, which will include a member of the Sulick family and will be led by the outgoing chair.

Students from The Citadel will benefit from Mr. Sulick's gift for generations to come. Reflecting on the gift, Citadel President Glenn Walters stated, "Our graduates give back to this country in so many ways, and by investing in our students today, our donors ensure that The Citadel is better equipped to meet the challenges and opportunities of the future."

## MONITOR YOUR GIFT

**I**t is not safe to assume that the program you fund will be successful without your oversight. Giving clear instructions does not guarantee that they will be followed. Occasionally, a university may decide not to implement a program you have funded. Yale University alumnus Lee Bass discovered, four years after giving \$20 million for a Western Civilization program, that the program had been buried—and the administration did not even bother to inform him! To ensure compliance and evaluate success, you have to monitor your gift on a periodic basis. As President Ronald Reagan said to Soviet leader Mikhail Gorbachev, “Trust, but verify!”

There are several ways that you can monitor a gift:

- **Require an annual report to yourself and a third party.** When you make the gift, specify when you would like to receive progress reports and what those reports should include. Requesting financial details, if appropriate, is one effective method of monitoring the use of your gift. State the goal of the gift in such a way that it is possible to devise clear criteria for evaluating results. At the very least, require an annual report, specify the contents of that report, set a deadline for its submission, and clarify to whom it should be sent. The more specific you are, the better.

For example, if you funded a lecture series, you might want to know who the speakers were and how many people attended the events. For an academic program, you could ask for the syllabus with detailed descriptions of assignments.

We also urge that you designate a third party to receive an annual report from the university. This reminds the college that someone else also cares what is happening to your money. ACTA would be happy to serve as your third party in this role. We have done this in the past and are happy to do it in the future.

- **Designate an alternate beneficiary.** One effective method of monitoring your gift is to designate an alternative beneficiary should the original recipient of your gift not honor the terms of the agreement. Sherlock Hibbs took this approach when crafting his legacy gift to the University of Missouri. Mr. Hibbs made his gift conditional on the University of Missouri hiring “dedicated and articulate disciples of the Ludwig von Mises (Austrian) school of economics.” If it were discovered that the terms were not followed, he designated Hillsdale College as an alternate beneficiary. In 2019, Hillsdale College sued the University of Missouri, claiming that it had violated the terms of the



agreement, and the case was settled by splitting the endowment between the two universities.

- **Involve the board of trustees.** If you are making a particularly large targeted gift, you may also want to condition the gift on regular review by the board of trustees. At some institutions, the board approves gifts above a certain dollar value. However, many boards rarely see or know the details of donations—before or after they are made. Boards usually review the institution's operating budget and other financials, but you cannot assume that they will review your gift before the university accepts it or know whether the conditions you set are followed.

Boards would be well-advised to take steps to affirm their commitment to following donor intent. They could, for starters, create a stewardship committee responsible for the review and monitoring of large targeted gifts and also explore other ways to address donor concerns. Tim Walter, former CEO of Exponent Philanthropy, has noted with concern that “there is a gap of trust to be bridged between university leaders and experienced donors with regard to gifts to endowments. Clarity of expectations and clear communication of results would certainly help.”

## A DONOR'S RECOURSE

**Philanthropy is an optimistic enterprise.** Thinking through what might go wrong is an exercise that few donors relish, but it is essential to intelligent giving. By forming a contingency plan at the start, you are more likely to avoid needing it in the future.

A strong gift agreement includes provisions for what will happen if a project does not meet clear benchmarks or strays from the original intent. You should be prepared to go to court if necessary to enforce the terms of your gift. Requesting a return of your gift is sometimes an option, but it is important to discuss the legal and tax implications with your professional advisor before you seek that remedy.

When writing an agreement, it is a wise move to retain the right to monitor the gift's progress or to empower another party to do so. A carefully thought out and well-crafted reversionary clause, specifying that your gift will be returned if certain conditions are not met, may be appropriate to include. Consider adding a provision that stipulates an alternate recipient to receive the residuary of your gift should the university depart from your stated intent. This arrangement may provide an additional incentive for the university to follow your intent, by setting up the third party as a watchdog of sorts. But, remember, there are no guarantees with such a provision, as the alternate beneficiary is under no obligation to step into a watchdog role or to accept your gift even if it might have a legal right to do so.

A donor's legal recourse to enforce the terms of a gift is sometimes a complex maze and often requires advice from knowledgeable legal counsel to find the way through. Fortunately, you may not need to resort to legal action. "Donor demands refund" is not a headline that college presidents want to read over their morning coffee. If you let them know that you are serious, they may see the situation your way.

One experienced donor who started a program that did not work as planned simply told the university: "I don't want to cause you any trouble or embarrassment, but this program is no longer meeting my philanthropic goals. Do you have something else I could support?" After all, you may not want to sour relationships on a campus in which you have invested so much time and energy. The university may not want to pick a fight with you—especially if it knows that you articulated the conditions of your gift so clearly that you may be able to enforce your right to get your money back in the legal court or that of public opinion.

If a conversation with university leadership is not enough to right the course of a gift gone off track, you may need to petition the courts for their intervention. However, this is a difficult, time-consuming, and costly option, with no guarantee of success.

While cases such as *Robertson v. Princeton* have established donors' legal standing, the courts are not always a reliable avenue of redress. In a Connecticut lawsuit, for example, the University of Bridgeport successfully contended that only the state attorney general, not the individual donor, could bring suit. Similarly, a Minnesota court ruled that St. Olaf College was within its rights to sell a donor-supported campus radio station and deliver the proceeds—more than \$10 million—to its endowment.

Oversight of charitable giving falls squarely on the shoulders of the state attorneys general, offices that are generally overburdened, understaffed, and underfunded. Violations of donor restrictions are only subject to the scrutiny of the attorney general when they implicate significant sums or include truly reprehensible behavior.

But there is no reason to despair. When it comes to donors' rights, there is good news as well. The attorneys general in several states have shown greater willingness to protect donor intent. In 2010, Connecticut's attorney general announced his intention to review Yale University's prize donations and endowed funds to ensure that they were being used in accordance with donor intent. This followed the attorney general office's active involvement in a matter concerning donor intent at Trinity College.

According to the American College of Trust and Estate Counsel, over 30 states and the District of Columbia have amended their laws to enable donors to enforce restrictions on their gifts. Still, lawsuits are tough and absorb time and money that could have been devoted to your cause. And as the economy contracts, colleges and universities are increasingly seeking to use restricted gifts for purposes other than those for which they were intended.

The best protection ultimately is to make only short-term gifts. The simple remedy, if your gift is not being used as you intended, is not to renew it. You may find better uses for your money elsewhere.



### ***Robertson v. Princeton***

The dispute between the Robertson family and Princeton University over a large gift exemplifies the problem with gifts made in perpetuity. Charles and Marie Robertson donated \$35 million in 1961 to a charitable foundation established to finance the education of Princeton graduate students for careers in government service through the Woodrow Wilson School, now known as the Princeton School

of Public and International Affairs, with particular emphasis on international relations—a goal that they put in writing. At the time, this was the largest gift ever given to the university, and by 2007, the foundation, which Princeton controlled, had assets nearing \$1 billion. Over the years, the Robertsons passed away, and Princeton's original stewards were replaced by people who were not present when the gift was made.

Along the way, fewer and fewer students in the program sought government careers in foreign policy and diplomacy. Many entered the private sector after graduation, taking jobs in the banking and financial industries. The program that the Robertsons had created to train America's best and brightest for government service was no longer fulfilling its goal. This shift troubled the Robertson children, who were board members of the foundation and feared that Princeton was not living up to its agreement with their parents. Looking more closely, the Robertson heirs discovered that funds were also being used to pay professors outside the Woodrow Wilson School, to erect buildings, and even to cover the university's general operating expenses.

Unable to reach an understanding with Princeton over the disposition of the funds, the Robertsons filed suit in 2002, seeking control of the foundation so that the funds could be used to support programs at other colleges more willing to carry out their parents' intentions. Tens of millions of dollars in legal fees and more than six years later, Princeton agreed to pay over \$100 million to settle the case.

This story is a parable about the pitfalls of perpetual gifts: The case illustrates the extraordinary costs—in time, resources, and impact—that arise when parties are at odds about the donor's vision after the donor's death.

## IN CONCLUSION: BEFORE YOU SIGN

**J**effrey J. Cain, founding partner of American Philanthropic, writes, “Giving big is valued, but giving smart is truly valuable.” Smart philanthropy requires thinking carefully about your gift and not signing on the dotted line unless you are confident that you have safeguarded your intent. Before you sign, have in place:

- **A clear, well-crafted gift agreement.** This document should articulate your intent and vision for your gift as well as protect against fungibility. Include any elements that you think are necessary to deem the gift successful while respecting academic freedom. Both you and the university should feel comfortable signing onto this document.
- **A plan for monitoring and enforcing the terms of your gift.** Include a plan for monitoring whether the original recipient of your gift is upholding the terms of the agreement as well as for what you can do if you discover that your funds have been misappropriated.
- **Input from trusted professionals.** Before signing anything, consult with your lawyer and accountant. You may also want to talk to an organization that shares your values and understands the current landscape of higher education.

Institutions of higher education that advance excellence and intellectual openness are essential to our success as a nation and survival as a democracy. Donors who are active stewards of their gifts provide a valuable service to their colleges and benefit their country. As the late Yale University provost Frank Turner explained, “The much maligned ‘strings’ attached to restricted funds are in truth the lifelines that link colleges and universities to the marketplace of ideas within a democratic society.” You have an opportunity to create a gift that counts. We encourage you to make the most of it.

# Appendices

## APPENDIX A: CASES REFERENCED

*Carl J. Herzog Foundation, Inc. v. University of Bridgeport*, 243 Conn. 1 (Conn. 1997).

*In re WCAL Charitable Trust*, No. A09-703 (Minn. Ct. App. December 29, 2009).

*Robertson v. Princeton University*, Civ. Action No. C-99-02 (N.J. Super Ct. Ch. Div., June 20, 2003).

## APPENDIX B: Recommended Reading

### Philanthropy and Nonprofits

Brest, Paul and Hal Harvey. *Money Well Spent: A Strategic Plan for Smart Philanthropy*. Stanford: Stanford University Press, 2<sup>nd</sup> ed., 2018.

Buchanan, Phil. *Giving Done Right: Effective Philanthropy and Making Every Dollar Count*. New York: PublicAffairs, 2019.

Florino, Joanne and David Bass. *Protecting Your Legacy: A Wise Giver's Guide to Honoring and Preserving Donor Intent*. Washington, DC: Philanthropy Roundtable, 2020.

Greer, Lisa and Larissa Kostoff. *Philanthropy Revolution: How to Inspire Donors, Build Relationships, and Make a Difference*. London: HarperCollins, 2020.

Miller, John J. *Strategic Investment in Ideas: How Two Foundations Reshaped America*. Washington, DC: Philanthropy Roundtable, 2003.

Rosenwald, Julius. "Principles of Public Giving." *The Atlantic Monthly* (May 1929): 600–601; and "The Trend Away from Perpetuities." *The Atlantic Monthly* (December 1930): 749.

Tierney, Thomas J. and Joel L. Fleishman. *Give Smart: Philanthropy That Gets Results*. New York: PublicAffairs, 2011.

White, Doug. *Abusing Donor Intent: The Robertson Family's Epic Lawsuit Against Princeton University*. St. Paul, MN: Paragon House, 2014.

Wooster, Martin Morse. *Great Philanthropic Mistakes*. Washington DC: Hudson Institute, 2006; *The Great Philanthropists and The Problem of "Donor Intent."* Washington, DC: Capital Research Center, 3<sup>rd</sup> ed., 2007.

Zunz, Olivier. *Philanthropy in America: A History*. Princeton: Princeton University Press, rev. ed., 2014.

### Higher Education

American Council of Trustees and Alumni (ACTA). *What Will They Learn? 2020–2021: A Survey of Core Requirements at Our Nation's Colleges and Universities*. Washington, DC: ACTA, 2020.

Arum, Richard and Josipa Roksa. *Academically Adrift: Limited Learning on College Campuses*. Chicago: University of Chicago Press, 2011.



Bok, Derek. *Our Underachieving Colleges: A Candid Look at How Much Students Learn and Why They Should Be Learning More*. Princeton: Princeton University Press, rev. ed. 2008; and *Higher Expectations: Can Colleges Teach Students What They Need to Know in the 21st Century?* Princeton: Princeton University Press, 2020.

Cahn, Steven. *Saints and Scamps: Ethics in Academia*. Lanham, Maryland: Rowman and Littlefield, 2011.

Carey, Kevin and Mark Schneider (eds.). *Accountability in American Higher Education*. New York: Palgrave Macmillan, 2010.

Hrabowski, Freeman, III., Phillip J. Rous, and Peter H. Henderson. *The Empowered University: Shared Leadership, Culture Change, and Academic Success*. Baltimore: John Hopkins University Press, 2019.

Kors, Alan Charles and Harvey A. Silverglate. *The Shadow University: The Betrayal of Liberty on America's Campuses*. New York: The Free Press, 1998.

Lewis, Harry. *Excellence Without a Soul: Does Liberal Education Have A Future?* New York: PublicAffairs, 2006.

Maranto, Robert, Richard E. Redding, and Frederick M. Hess (eds.). *The Politically Correct University: Problems, Scope, and Reforms*. Washington, DC: American Enterprise Press: 2009.

## APPENDIX C: OASES OF EXCELLENCE

The following is a list of current members of the American Council of Trustees and Alumni's Oases of Excellence network. These programs introduce students to the best of the foundational arts and sciences, protect free inquiry into a range of intellectual viewpoints, teach the importance of American heritage, and reaffirm the value of informed and engaged citizenship. More information as well as links to individual sites can be found at [www.GoACTA.org/initiatives/oases-of-excellence](http://www.GoACTA.org/initiatives/oases-of-excellence).

### **American University**

*American University Center for Innovation;  
Political Theory Institute; Lincoln Scholars  
Program*

### **Amherst College**

*James Wilson Institute on Natural Rights and  
the American Founding*

### **Arizona State University**

*School of Civic and Economic Thought and  
Leadership*

### **Ashland University**

*Ashbrook Center*

### **Baylor University**

*Baylor in Washington*

### **Boise State University**

*American Founding Institute*

### **Boston College**

*Clough Center for the Study of Constitutional  
Democracy*

### **Brown University**

*Political Theory Project*

### **Christopher Newport University**

*Department of Leadership and American Studies*

### **City Colleges of Chicago**

*Wilbur Wright College Great Books Curriculum*

### **Claremont McKenna College**

*Henry Salvatori Center for the Study of  
Individual Freedom in the Modern World*

### **Clemson University**

*Clemson Institute for the Study of Capitalism*

### **Colgate University**

*Center for Freedom and Western Civilization*

### **Columbia University**

*Center for Law and Liberty*

### **Cornell University**

*Program on Freedom and Free Societies*

### **Dartmouth College**

*The Daniel Webster Project in Ancient and  
Modern Studies*

### **Duke University**

*Program in American Values and Institutions*

### **Eastern University**

*Philadelphia Commons Institute*

### **Emory University**

*Program in Democracy and Citizenship*

### **Florida Atlantic University**

*Adams Center for Entrepreneurship; Phil Smith  
Center for Free Enterprise*

### **Florida State University**

*Gus A. Stavros Center for the Advancement of  
Free Enterprise and Economic Education*

### **Furman University**

*The Tocqueville Program*

### **George Fox University**

*John Dickinson Forum*

### **Georgetown University**

*Georgetown Institute for the Study of Markets  
and Ethics; Tocqueville Forum on the Roots of  
American Democracy*

### **Grove City College**

*Institute for Faith & Freedom*

### **Hamilton College**

*Alexander Hamilton Institute for the Study of  
Western Civilization*

### **Hampden-Sydney College**

*The Wilson Center for Leadership in the Public  
Interest*

### **Harvard University**

*Program on Constitutional Government;  
Abigail Adams Institute*

### **Indiana University**

*Tocqueville Program*

**Louisiana State University**

*The Eric Voegelin Institute*

**Marshall University**

*John Deaver Drinko Academy*

**Michigan State University**

*LeFrak Forum and Symposium on Science, Reason, and Modern Democracy*

**Monterey Peninsula College**

*Great Books Program*

**Northern Michigan University**

*Center for Academic and Intellectual Freedom*

**Ohio University**

*George Washington Forum on American Ideas, Politics, and Institutions*

**Pepperdine University**

*Pepperdine School of Public Policy*

**Princeton University**

*James Madison Program in American Ideals and Institutions*

**Rochester Institute of Technology**

*Center for Statesmanship, Law, and Liberty*

**Rockford University**

*Center for Ethics and Entrepreneurship*

**Skidmore College**

*The Franklin Forum*

**St. Olaf College**

*Institute for Freedom & Community*

**St. Vincent College**

*Center for Political and Economic Thought  
Center for Catholic Thought and Culture*

**Texas Tech University**

*Institute for the Study of Western Civilization*

**Trinity College**

*Churchill Institute for the Study and Extension of Western Civilization*

**University of Arizona**

*American Culture and Ideas Initiative; Center for the Philosophy of Freedom*

**University of California–Los Angeles**

*Center for Liberal Arts and Free Institutions*

**University of Colorado–Boulder**

*Bruce D. Benson Center for the Study of Western Civilization; Engineering Leadership Program*

**University of Colorado–Colorado Springs**

*Center for the Study of Government and the Individual*

**University of Illinois Urbana-Champaign**

*The Academy on Capitalism & Limited Government Foundation*

**University of Louisville**

*McConnell Center*

**University of Mississippi**

*Declaration of Independence Center for the Study of American Freedom*

**University of Missouri**

*Kinder Institute on Constitutional Democracy*

**University of Montana**

*Project on American Democracy and Citizenship*

**University of Nevada–Las Vegas**

*Great Works Academic Certificate*

**University of Richmond**

*John Marshall International Center for the Study of Statesmanship*

**University of South Dakota**

*W.O. Farber Center for Civic Leadership*

**University of Texas–Austin**

*Thomas Jefferson Center for the Study of Core Texts and Ideas*

**University of Virginia**

*Program on Constitutionalism and Democracy*

**University of Wisconsin–Madison**

*Center for the Study of Liberal Democracy*

**Utah State University**

*Center for the Study of American Constitutionalism*

**Utah Valley University**

*Center for Constitutional Studies*

**Villanova University**

*Matthew J. Ryan Center for the Study of Free Institutions and the Public Good*

**Wake Forest University**

*Eudaimonia Institute*

**Washington College**

*Institute for Religion, Politics and Culture*

**Wellesley College**

*The Freedom Project*

**Xavier University**

*Stephen S. Smith Center*

**Yale University**

*William F. Buckley, Jr. Program; Directed Studies Program*



American Council of Trustees and Alumni  
1730 M Street NW, Suite 600  
Washington, DC 20036

Phone: 1-888-ALUMNI-8 or 202-467-6787

Fax: 202-467-6784

Email: [info@GoACTA.org](mailto:info@GoACTA.org) • Website: [www.GoACTA.org](http://www.GoACTA.org)