

**R271-1. Purpose:** To confirm the authority of the Board and institutions of higher education to organize, or cause the organization of, nonprofit foundations and corporations to assist institutions of higher education in carrying out programs and achieving objectives of higher education (e.g., student loan servicing, fund raising, research and development, alumni relations, etc.), pursuant to 53B-2-106, 53B-2-103, and 53B-7-101.

### R271-2. References

- 2.1. Utah Code [§53B-7-103](#) (Powers of Institutions or Foundations Under Authorized Programs)
- 2.2. Utah Code [§53B-2-106](#) (Duties and Responsibilities of the President)
- 2.3. Utah Code [§53B-2-103](#) (Board of Trustees: Powers and Duties)
- 2.4. Utah Code [§53B-7-101](#) (Budgets and Funding)

### R271-3. Policy

**3.1. Applicability of Policy and Procedures:** The policies and procedures prescribed herein are applicable to institutions of higher education to govern the relationships between the Board, any nonprofit corporations or foundations organized or deemed to have been organized under authority of this policy, and the respective institutions of higher education.

**3.1.1.** These policies and procedures shall apply only to institutions of higher education in the course of their relationships to nonprofit corporations or foundations organized by such institutions or their officers, and include, but are not limited to, accounting and reporting requirements, contracting procedures, budget and finance procedures, and personnel practices of the institutions.

**3.1.2.** These policies and procedures have no application to nonprofit corporations or foundations organized by private persons, whether or not for the purpose, among others, of assisting or benefiting one or more institutions of higher education or any programs or activities thereof.

**3.2. Authorization to Form or Contract With Private Foundations and Corporations:** Pursuant to Utah Code Title 53B the State Board of Regents hereby delegates authority to, and ratifies and confirms the authority of, the President and institutional Board of Trustees of each institution in the State System of Higher Education to organize, and to enter into contracts with, nonprofit corporations and foundations to aid and assist the Board or institution in attaining its approved educational, research, public service, student loan and financial assistance, alumni relations, and financial development program objectives, consistent with the policies of the Board.

**3.3. Governing Board Membership:** A nonprofit corporation or foundation organized or deemed to have been organized by an institution of higher education or its officers under the authority of this policy shall have either:

---

<sup>1</sup> Adopted May 15, 1984; amended July 17, 1984 and August 1, 1996.

3.3.1. a majority of its governing board consisting of private citizens who were neither appointed by a person who holds, nor do themselves hold an official position with the State Board of Regents or any institution in the State System of Higher Education, in which case the nonprofit corporation or foundation is not a governmental entity for purposes of Board policy; or

3.3.2. a majority of its governing board consisting of persons who were appointed by a person who holds, or do themselves hold official positions with the State Board of Regents or one of the institutions in the State System of Higher Education, in which case the nonprofit corporation or foundation is a governmental entity for purposes of Board policy.

**3.4. Contract Between Institution and Private Foundation or Corporation:** The operating relationships between an institution and a foundation or corporation organized by an institution of higher education or its officers pursuant to this policy shall be provided by contract duly approved by the institutional Board of Trustees and the foundation or corporation board of trustees. The contract shall specifically deal with such topics as the extent to which the foundation or corporation is authorized to use institutional property and personnel in carrying out its functions; the method by which the operational costs of the foundation or corporation and institution collaborate or cooperate for the purpose of generating support for the institution, such as through jointly sponsored dinners, fund raising campaigns, etc.; and shall provide that no appropriated funds or property of the state of Utah or the institution may be transferred to the foundation or corporation except pursuant to the terms of the contract and for a reasonable consideration stated therein.

**3.5. Annual Audit of Contract:** The contract shall provide for an annual audit of the foundation's or corporation's activities by an independent certified public accountant , with the final report of the audit to be presented to the institutional Board of Trustees, Board of Regents, and any other public officials who may desire to see it, provided that personally identifiable information relating to any donor or officer or employee will not be disclosed without the written consent of the individual to whom it relates.

**3.6. Pre-existing Foundations or Corporations:** The organization before the effective date of this policy of a nonprofit corporation or foundation by any institution of higher education or its officers, for one or more of the purposes previously described in this policy, shall be brought into substantial conformance with these policies and upon so doing the organization of the corporation or foundation is hereby ratified, validated, and confirmed, and it shall be deemed to have been organized, to all intents and purposes, as if its organization had taken place under authority of this policy.