

**S.C. COMMISSION ON HIGHER EDUCATION
CHAPTER 62**

Statutory Authority: : 1976 Code Section 59-118-10

**South Carolina Academic Endowment Incentive Act of 1997 /
South Carolina Higher Education Matching Gift Fund**

Synopsis

A. Pursuant to Section 59-118-10 passed by the General Assembly during the 1996-97 legislative session, the Commission on Higher Education shall promulgate regulations for the South Carolina Academic Incentive Act of 1997 and establish procedures to administer the program. Regulations include the establishment of the South Carolina Higher Education Matching Gift Fund and institutional endowments for purposes of this program, program oversight, policies and procedures for provision of matching funds to qualified colleges and universities, submission and documentation of requests for matching State funds, disbursements to qualified colleges and universities, application to receive matching State funds, transfer of funds to qualified institutions, reports on earnings, gifts, or donations used for the purposes of this program, and forwarding and retaining unused funds and earnings to the next fiscal year.

Instructions:

This regulation amends Title 59 of the 1976 Code by adding Chapter 118.

Text:

62-820 Purpose of the South Carolina Academic Endowment Incentive Act of 1997

A. The purposes of this Act are to further the State's efforts to promote the intellectual development of its citizens and to enhance statewide economic development through initiatives in higher education by providing incentives to individuals, corporations, or private funding organizations to create endowments to support teaching and learning, academic research, and academic student scholarships in South Carolina's public colleges and universities. The impact of newly created endowment gifts made on or after July 1, 1997, will be enhanced by creating the South Carolina Higher Education Matching Gift Fund. The Fund will be supported by appropriations made by the General Assembly and administered by the Commission on Higher Education as a source of matching funds for the new gifts made to endowments on or after July 1, 1997.

62-830 Eligible Institutions

A. Institutions eligible to participate in this program are state-supported, post-secondary baccalaureate degree-granting institutions as defined in Chapter 103 of Title 59 of the 1976 Code, which stipulates that "public higher education shall mean state-supported education in the post-secondary field." Public two-year institutions, technical colleges, and independent institutions are not eligible for participation in this program.

62-835 Definitions

A. "Endowments" refer to "endowment funds" as defined under the South Carolina Uniform Management of Institutional Funds Act of 1990 (34-6-10) as an "institutional fund," or any part of it, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument. An institutional fund is defined under the South Carolina Uniform Management of Institutional Funds Act (34-6-10) as "a fund held by an institution for its exclusive use, benefit, or purposes, but does not include (i) a fund held for an institution by a trustee that is not an institution or (ii) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund or (iii) funds other than endowment funds held by a governmental organization." A lead trust, term endowments, or quasi-endowments (governing board designated endowments) do not qualify as an endowment for purposes of this program. Only permanent endowments, whose principal must be maintained permanently, are eligible to participate in this program.

B. "Gift instrument" as defined under the South Carolina Uniform Management of Institutional Funds Act of 1990 (34-6-10) means a will, deed, trust, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.

C. Endowment funds may be constituted of permanent gifts or donations to the qualifying college or university or to its principal foundation of, among others, cash, income producing securities, an income producing business, real property, personal property, fixed assets, mortgage notes, and life income gifts or bequests. Research grants, training grants, and other funds received by the institution in the performance of a contractual obligation do not qualify as endowment funds for purposes of this program.

D. "Principal foundation" means a foundation designated by the Board of Trustees of the qualifying college or university and registered with the South Carolina Secretary of State.

E. Endowment "earnings" refer to the amount which may be appropriated for expenditure from an endowment fund as defined under the South Carolina Uniform

Management of Institutional Funds Act (34-6-20), which is "so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent."

F. "Historic dollar value," as defined under the South Carolina Uniform Management of Institutional Funds Act (34-6-10), means "the aggregate fair value in dollars of (i) an endowment fund at the time it became an endowment fund, (ii) each subsequent donation to the fund at the time it is made, and (iii) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund."

G. "Newly created endowments" refer to "new" gifts made to existing or to new endowments on or after July 1, 1997. Gifts received or pledged prior to July 1, 1997, are not eligible to participate in this program. Gifts must be placed in an endowment for purposes of this program; they become eligible for State matching funds as described below only when a revenue stream is produced. As in the case of a gift of real estate, for example, the real estate must generate a revenue stream through its sale, rental income, etc. in order to be eligible for State matching funds. Similarly, pledges may not be credited toward this program until the gift is in hand and generating revenue through earnings (income) of the endowment fund. A payment made on or after July 1, 1997, on a pledge made prior to July 1, 1997, may not be credited toward this program.

H. "Year" means a state fiscal year beginning on the first day of July and ending the following June thirtieth.

I. "Academic purposes" are defined as those activities directly related to (i) the teaching and learning of graduate or undergraduate students enrolled in credit programs, including student support services; (ii) tuition assistance and academic scholarships for such students; and/or (iii) academic scholarship and research conducted by faculty related to their fields of study, including endowed chairs. Endowment disbursements used for support of public service activities that have no teaching or research components are not eligible for matching monies from the State Higher Education Matching Gift Fund. Similarly, disbursements from endowments established to construct athletic facilities, provide athletic scholarships, or support auxiliary enterprises are not eligible for match. However, earnings on endowments established for the construction of academic teaching or academic research facilities or for instructional or academic research equipment are eligible for match from the Gift Fund. Monies from the State Higher Education Matching Gift Fund must be expended on comparable "academic purposes" as defined above. The Commission on Higher Education shall make the final determination as to what constitutes an "academic purpose."

62-840 Incentives for Donors

Institutions will apprise all new or potential new donors of the opportunity for state matching funds related to earnings from eligible endowments, as defined above, and will make information on the South Carolina Education Matching Gift Fund available to such donors or potential donors. Qualifying earnings from eligible institutional endowments will be matched on a 1:1 basis; thus, each dollar in qualifying earnings will be matched by one dollar from the Matching Gift Fund, not to exceed the available funds in the Matching Gift Fund.

62-850 Determination of Qualifying Earnings

A. Qualifying earnings eligible for Matching Gift Funds consist of current earnings generated by eligible endowment gifts as defined in 62-835 above. Individual institutions determine how much of an endowment's earnings may be paid out in a given year and how much must be reinvested. Thus, to ensure equity among institutions whose spending rates with respect to endowments vary, qualifying earnings eligible for matching gift funds will be limited to an annual spending rate of five percent (5%) of the qualifying endowments' total market value of new gifts made on or after July 1, 1997 as defined in 62-835. G, so long as this calculation does not exceed the total annual earnings from the endowment. This spending rate will be evaluated each year in light of monies available in the Matching Gift Fund and current institutional endowment income spending rates. This rate may be adjusted by the Commission on Higher Education in consultation with the Council of Public College Presidents as may be appropriate in subsequent years.

62-860 The South Carolina Higher Education Matching Gift Fund

A. State matching funds appropriated for use in this program will be placed in a separate account called the South Carolina Higher Education Matching Gift Fund which shall be managed by the State Treasurer. Of the total funds available in any given fiscal year, not more than sixty percent can be awarded to the University of South Carolina at Columbia, Clemson University, and the Medical University of South Carolina combined, in the initial disbursement of matching funds. For purposes of determining the amount of matching funds allowable for the University of South Carolina, qualifying earnings on the Columbia campus only will be used for determining the match from the Gift Fund. University of South Carolina-Spartanburg and University of South Carolina-Aiken are eligible to participate in the program with the other four-year teaching colleges and universities.

B. The match from the Gift Fund will be determined in accord with the following principles:

1) Sixty percent of Gift Fund monies will be reserved for the three research universities for match on a dollar-for-dollar basis. In the event that funds qualifying for match exceed the amount available for match, Gift Fund monies will be distributed in proportion to the total requested for matching by the research universities.

2) Forty percent of Gift Fund monies will be reserved for the four-year teaching universities for match on a dollar-for-dollar basis. In the event that funds qualifying for match exceed the amount available for match, Gift Fund monies will be distributed in proportion to the total requested for matching by the four-year teaching universities.

3) In the event that Gift Fund monies remain unallocated to either the research universities or to the four-year teaching universities from their respective percentage pools, these funds will be distributed to institutions in the other sector as a secondary distribution in the same proportion as their own sector funds were distributed. If funds are still available, they will be carried forward to the next fiscal year.

4) In neither the initial nor in the secondary distribution nor in the sum of the initial and secondary disbursements may the Matching Gift Funds exceed a 1:1 ratio.

62-870 Availability of Matching Gift Funds

A. Matching Gift Funds are to be requested through the Commission on Higher Education on an annual basis. Matching Gift Funds approved for disbursement may not exceed available funds in the Gift Fund.

B. As a means of ensuring adequate communication with institutions on the management of the South Carolina Higher Education Matching Gift Fund, the Commission will develop a standing advisory committee, called the Gift Fund Advisory Council, comprised primarily of the chief development officers of the participating institutions. The Gift Fund Advisory Council will meet at least annually at the request of the Commission. The Advisory Council will provide to the Commission and its staff recommendations on the management of the Gift Fund, including advice on adjustments in the endowment spending rates allowable under this program and on other related matters.

62-880 Conditions Pertaining to Matching Gift Funds

A. Gift Funds are to be used to match that portion of the current earnings of qualifying endowment gifts consistent with the spending rate provision as defined in 62-850 above. Initially, that spending rate is established at five percent and may be adjusted in subsequent years. Requests for Matching Gift Funds are to be made on an annual basis and submitted on the appropriate CHE form to the Business Office of the Commission by September 30. Matching Gift Funds will be transferred through the Commission to the operating accounts

of the institutions. The Matching Gift Funds must be expended on academic activities as defined in 62-835.I above.

62-890 Procedures for Submission and Documentation of Requests of Matching Gift Funds

A. Matching Gift Funds are to be requested through the Commission on Higher Education annually, on or before September 15, based on the current earnings of qualifying endowments from the prior fiscal year. The Commission will distribute an appropriate Request for Matching Gift Funds form on which the institution will be required to display the name or identification code of the qualifying endowment(s), their dates of creation, and the endowment current earnings from the fiscal year ending on the prior June 30. After the initial year of the program, the Request Form will also require identification and verification of expenditures of the Matching Gift Funds distributed from the prior year on academic activities as defined in 62-835.I.

B. A summary report about the allocation and expenditure of Matching Gift Funds will be provided annually by the Commission to the General Assembly each February.

C. The information provided on the Matching Gift Fund Request Form is subject to program audits by the Commission on Higher Education. In the event that a Commission program audit reveals errors in the request made for matching funds, the amount disbursed, or inappropriate expenditures of matching gift funds, the institution's request for Matching Funds in the ensuing year will be adjusted accordingly.

62-900 Carry Forward of Matching Gift Funds

A. In the event that, in any given fiscal year, Gift Fund monies remain unallocated to either the research universities or to the four-year teaching universities after the distribution has been made in accord with the procedures described in 62-860 above, these funds shall be carried forward to the next fiscal year and will form part of the Gift Fund total for that year. These carry forward funds will be combined with any new appropriations designated by the General Assembly so that the percentage calculations for the next fiscal year of 60 percent for the research universities and 40 percent for the four-year teaching universities will be made on the combined sum of the carried forward funds and the new appropriation.

Fiscal Impact Statement:

The South Carolina Commission on Higher Education does not anticipate any fiscal impact with the implementation of this regulation.