





# THE UNIVERSITY OF NORTH CAROLINA SYSTEM

## OFFICE OF LEGAL AFFAIRS

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TO: UNC Chief Legal Officers

FROM:   
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Deputy General Counsel

  
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DATE: May 8, 2018

SUBJECT: Use of Funds Given to Create an Endowment in Support of a Distinguished  
Professorship

We have recently been asked whether funds that have been given to a constituent institution to create an endowment in support of a distinguished professorship pursuant to the State's Distinguished Professors Endowment Trust Fund (NCGS Chapter 116, Article 1, Part 4A) and that meet at least the minimum statutory requirements for a distinguished professorship may be used to support the purposes of the gift prior to the State match being received. As explained below, under certain circumstances, our advice is that the income paid out of such endowment funds may be used in support of the professorships prior to the match being received.

## BACKGROUND

The Distinguished Professors Endowment Trust Fund (NCGS 116-41.13 et seq.; BOG Policy 600.2.3) was established in 1985 to assist the constituent institutions in obtaining distinguished scholars, and with the recognition that "private support will help strengthen the commitment of citizens and organizations in promoting excellence throughout all State universities." GS 116-41.13.

The program established a trust fund to provide challenge grants for the endowment of distinguished professorships within the universities. Constituent institutions that raise a certain amount of private dollars towards an endowment to fund a professorship are awarded State matching funds. Upon establishing an endowment for a professorship, the institutions must submit a plan to the President for review and approval. See Section 600.2.3 of the UNC Policy Manual ("Distinguished Professors Endowment Trust Fund"). Once approved, and once the appropriate amount of private dollars have been received, the endowment enters the system wide queue to await the approval of the State matching funds.

In recent years, the queue of endowments awaiting State matching funds has grown, and some endowments have been waiting for years to receive a match. This long wait time is often frustrating to the private donors, who want to see their gifts be utilized promptly, and, as a result, may have a chilling effect on potential donors in support of this program. In recognition of this situation, in 2014 the General Assembly provided in the Appropriations Act (S.L. 2014-100) that:

**SECTION 11.1.(b)** Notwithstanding the provisions of G.S. 116-41.13 through G.S. 116-41.19, for the 2014-2015 fiscal year, no State match shall be required to use donations and gifts that were or are intended by the donor as matching funds for a State appropriation for distinguished professorships. If the terms of a particular donation or gift require a State match, then this subsection shall not apply without the written consent of the donor.

While this helped the University utilize these gifts, this one-time exception did not address the overarching issue, and there are still currently 84 endowments in the queue, 75 of which have fully met the private funding thresholds.

#### **APPLICATION TO CURRENT CONTEXT**

In order to expedite the use of such endowments for the purpose of supporting outstanding professors, constituent institutions may use a portion or all of the income paid out of a Distinguished Professor Endowment Fund to establish an endowed chair prior to the receipt of the State matching funds if all of the following conditions are met:

1. The required amount of funds from private sources pursuant to GS 116-41.15 has been collected;
2. The plan for the chair has been approved by the President;
3. The donor(s) has provided written permission allowing the interest earned on the endowment to be used to support the purposes of the gift prior to the receipt of the State matching funds and that the donor(s) understands that the title of "Distinguished Professor" is limited to those endowments that have received State matching funds; and
4. The professorship does not carry the title of "Distinguished Professorship" until the State matching funds have been received.

With regard to the item #3, to the extent an institution has already officially entitled an endowed chair a "Distinguished Professorship" and appointed or filled the chair prior to the receipt of the matching funds, this requirement shall not be imposed retroactively. All endowed chairs approved subsequent to this memo, however, shall not be called "Distinguished Professorships" until the institution is in receipt of the matching funds.

We believe that this shift in operating procedure complies with the statutory requirements and BOG policy, while serving to reduce the time between the initial commitments by private donors and the actual establishment of the endowed chairs, thereby allowing donors to realize the intent of their gifts in a timely fashion.

If you have any questions, please feel free to contact either of us.

cc: Kevin Howell, Senior Vice President for External Affairs  
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