

# **R545, Prohibitions on and Disclosures of Foreign Donations to Higher Education Institutions<sup>1</sup>**

**R545-1 Purpose:** ~~The following policy has been codified as Utah Administrative Code R765-545.<sup>2</sup>To provide direction on required reporting of foreign donations to the institutions of the Utah System of Higher Education (USHE).~~

## **R545-2 References**

**2.1** ~~Utah Code § Section 53B-1-201, Definitions~~

**2.2** ~~Utah Code § Section 53B-1-202, Disclosure of Foreign Gifts to Higher Education Institutions – Prohibition on Restricted Foreign Entity Funds~~

## **R765. Higher Education (Utah Board of), Administration.**

### **R765-545. Prohibitions on and Disclosures of Foreign Donations to Higher Education Institutions.**

#### **R765-545-1. Purpose.**

~~This rule provides direction on required reporting of foreign gifts to Utah System of Higher Education (“USHE”) institutions and a prohibition on certain funding support.~~

#### **~~R545~~R765-545.2.-3 Definitions.**

**~~3.1~~ Foreign government** means a government other than the government of the United States (U.S.), or U.S. state, territory, possession or political subdivision.

**~~3.2~~ Foreign person** means an individual who is not a citizen or national of the U.S. or a U.S. territory or protectorate, or is a foreign government as defined in 3.1, or a foreign business, charitable organization or other entity that “has its principal place of business located outside the United States.”

~~“~~3.3~~ Gift” means is defined by subsection 53B-1-201(4) “an endowment, scholarship, gift, donation, or grant of money or property of any kind.” Gift and does not include payments to an institution for contract services that are contracted, or tuition or fees paid for a specific students.~~

<sup>1</sup> *Adopted June 25, 2010; amended XXX.*

<sup>2</sup> Codification of this Policy in the Utah Administrative Code is forthcoming.

**3.4 Conditional gift** means a gift as defined at 3.3 that is subject to conditions imposed, requested, or provided by a foreign government or foreign person. Conditions may include but are not limited to specific programs being supported, lectures, or subject matters to be taught.

### **R765-545.3. Restriction on Accepting Funds.**

A USHE institution may not seek or accept foreign funding support, including gifts, in violation of Subsection 53B-1-202(6).

### **R765-545.4. Disclosure Report.**

4.1(1) Annual report: When required by subsection 53B-1-202(1)(a) and (c), Each a USHE institution shall, pursuant to Utah Code Section 53B-1-202, provide the Board of Higher Education file a disclosure report with the Office of the Commissioner of Higher Education (“OCHE”) no later than July 31 of each year with an annual disclosure report submitted no later than July 31, for the recently concluded fiscal year. The report shall include all information required by subsection 53B-1-202(2) in a format prescribed by the Office of the Commissioner of Higher Education that includes:

- 1) The name of the person or entity, date, country of citizenship or entity origin (if known) and the amount of any gift of \$50,000 or more from a foreign person, considered alone or in combination with all other gifts from the foreign person.
- 2) The name of the person or entity, date, country of citizenship or entity origin (if known) and the amount of any gift of \$250,000 or more if the gift, considered alone or in combination with all other gifts is from a foreign person with a principal residence or principal place of business located in the United States and with a permanent resident status under Section 245 of the Immigration and Nationality Act for 10 years or more.
- 3) Every foreign gift that is conditional or has restrictions must have a description of the conditions or restrictions.

(2)

4.2 Status Determination: When determining whether an entity or person is foreign, Each institution shall, pursuant to Utah Code Section 53B-1-201(d), disclose based on their knowledge of an entity being foreign owned. Institutions may, pursuant to Utah Code Section 53B-1-202(b), rely on the “address of a foreign person to determine the citizenship or nationality of the foreign person if the citizenship or nationality is unknown.” Institutions shall make good faith efforts using their first-hand knowledge or the best and most reliable information that is readily available to them or their first-hand knowledge in making such determinations.

**4.2.1 Education Interim Committee:** The Commissioner’s Office shall annually compile the reports provided by institutions and provide a summary report to the Education Interim Committee listing all reportable gifts prior to the November interim meeting as required by law.