



# Classification of Gifts and Sponsored Awards

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<b>Responsible Office:</b>	Research & Innovation Institutional Advancement
<b>Issuance Date:</b>	3/10/2022
<b>Effective Date:</b>	3/10/2022
<b>Last Review Date:</b>	2/16/2022
<b>Scope:</b>	Faculty, Staff, and Students

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## I. POLICY SUMMARY

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This policy describes the distinctions between and appropriate classification of Gifts and Sponsored Awards to ensure that external Support directed to the University of California (University) receives the proper acknowledgement, stewardship, accounting, compliance review, administrative oversight, and monitoring. This policy applies to all Support received by the University that must be classified as a Gift or a Sponsored Award as defined below. This policy does not address (i) classification of different categories of Sponsored Awards including contracts, grants, and other agreement types, (ii) formulations for indirect cost rates, and (iii) review and determinations of conflicts of interest and conflicts of commitment.

## II. DEFINITIONS

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**Chief Executive:** The position with primary authority over a Location. In the context of the University of California, this means a Location's President, its Chancellor, the Director of Lawrence Berkeley National Laboratory, or the Vice President-Agriculture and Natural Resources, or their designees.

**Determinative Indicator:** A characteristic of Support that must always direct the classification of such Support as a Sponsored Award.

**Development Office:** The Location office responsible for central fundraising, donor engagement, acceptance of Gifts, and partnering with others to help solicit private Sponsored Awards. This office may initiate prospective development and supports a Location's Gift stewardship and management.

**Funder:** The individual or entity providing monetary or other Support to the University. This is a neutral term that may apply either to Funders of gifts (e.g., donors) or Funders of Sponsored Awards (e.g., sponsors).

**General Indicators:** Characteristics of Support that are often associated with either a Sponsored Award or a Gift but do not automatically determine the classification.

**Gifts:** Voluntary contributions made to the University that are motivated by a Funder's charitable intent, for which the Funder receives no substantial return benefit and over which the Funder does not retain control.

**Gift Fees:** Location-assessed fees on Gifts. Such fees may be used to recoup costs incurred in raising and administering gift Support and/or for other purposes as determined by the Location. Gift Fees are distinct from Indirect Costs and may locally be referred to by other names.

**Indirect Costs:** (Also known as overhead, facilities and administrative (F&A) costs, or shared expenses.) Expenses incurred in the conduct of Sponsored Awards which cannot be easily attributed to a specific sponsored project. The Code of Federal Regulations (CFR) defines these in part in [2 CFR § 200.56](#) as: "Costs incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved."

**Location:** A discrete organization or entity governed by the Regents of the University of California. Locations include, but are not limited to: campuses, laboratories, medical centers and health systems, as well as satellite offices, affiliates, or other offices controlled by the Regents of the University of California.

**Sponsored Awards:** All arrangements in which the University is providing a return benefit, or agrees to provide a defined deliverable to the Funder or to complete a set of activities in exchange for Support (e.g., grant, contract, materials transfer agreement, etc.). While Sponsored Awards are typically made to support research, it is possible that Support for a purpose other than research may be classified as a Sponsored Award.

**Sponsored Projects Office:** The Location office(s) responsible for reviewing and authorizing proposals for submission and for interpreting, negotiating, and accepting/executing Sponsored Awards from governmental agencies (domestic and foreign), foundations, private industry, and other public and private sources.

**Support:** Monetary or other resources provided to the University from Funders.

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### III. POLICY TEXT

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Each Location must classify Support from a Funder as a Gift or Sponsored Award pursuant to this policy. University employees must not participate in or support attempts to avoid Indirect Costs or Gift Fees by mischaracterizing the Support.

#### **Determinative Indicators for Sponsored Awards**

Support must always be classified as a Sponsored Award when the following characteristics exist:

- Support is from the United States federal government;
- Testing or evaluating of proprietary materials (including software) provided by, or on behalf of the Funder, is involved; or
- University intellectual property rights are given to the Funder, and/or the Funder directs the dissemination and/or management of University results, including intellectual property.

In the absence of a Determinative Indicator, the classification is based on a review and analysis of the General Indicators for Sponsored Awards and Gifts below. A preponderance of General Indicators for either Sponsored Awards or Gifts suggests the likely classification for the Support. (Also see the tool provided in Appendix A of this policy.)

#### **General Indicators for Sponsored Awards**

In general, Sponsored Awards may have the following characteristics:

- The funded activity is directed to satisfying specific Funder requirements (e.g., terms and conditions originating from the Funder stating a precise scope of work to be conducted rather than a general area of research).
- The Funder requires specific reporting, such as a detailed technical report of research results or a line-item report of expenditures.

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- Funding is from a U.S. state or local government agency or foreign government. (For funding from the U.S. federal government, see Determinative Indicators above.)
- A specified period of performance is prescribed by the Funder.
- The Funder requires unexpended Support be returned to the Funder at the end of the specified period.

### General Indicators for Gifts

In general, Gifts may have the following characteristics:

- Support is motivated by charitable intent.
- The Funder provides Support to the University without expectation of direct economic or other substantial return benefit.
- Support is for an endowment or a capital project.
- Support is awarded irrevocably. While the area of work to be supported may be specified by the Funder, the University retains control of usage of the funds.

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## IV. COMPLIANCE / RESPONSIBILITIES

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### A. Implementation and Enforcement

For Support under their respective jurisdictions, Chancellors, Laboratory Directors, and Vice Presidents (or their designees) are responsible for implementing and enforcing this policy.

### B. Classification of Gifts and Sponsored Awards

For Support under their respective jurisdictions, Chancellors, Laboratory Directors, and Vice Presidents (or their designees) are authorized to:

1. Categorize Support as a Gift or Sponsored Award in accordance with this policy; and
2. Design the Location's procedures for the processing/ acceptance/ administration of Support consistent with this policy. Each Location's process must limit signatories of Gifts and Sponsored Awards to authorized personnel only.

### C. Reporting of Gifts and Sponsored Awards

Chancellors, Laboratory Directors, and Vice Presidents (or their delegates) are required to report their Location's Gifts and Sponsored Awards to UCOP, in the manner and form determined by UCOP.

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## V. POLICY IMPLEMENTATION

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In classifying Support as a Gift or Sponsored Award, the Location must:

1. Obtain and consider all of the relevant documentation, including solicitations, agreements, and any other information that relate to the same scope of work in determining the appropriate way to classify Support.

2. Exercise judgment in making classification determinations in accordance with the intent of this policy and the classification characteristics herein. In many situations, not all of the characteristics will be present. *Except when Determinative Indicators are present, the analysis of whether Support should be classified as a Gift or a Sponsored Award should be made using the General Indicators described in Section III above.* Locations must consider all of the information associated with the Support to make a judgment as to its proper classification. Locations may also use the tool provided in Appendix A to this policy to assist in making these determinations.
3. Rely on the Determinative and General Indicators in making classification determinations. Although the terms “gifts,” “grants,” and “grant awards” may be used interchangeably both in conversation and in the instruments providing the Support, such terminology does not determine the internal University classification nor treatment as either a Gift or Sponsored Award.
4. Establish additional guidelines and develop processes and procedures to ensure appropriate and timely classification of Support in compliance with this and other applicable policies. When there is a question about the classification, offices at the Location involved in the classification process will work together to determine the appropriate classification. If necessary, the final authority regarding classification will be the Location’s Chief Executive or their designee.

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## VI. RELATED INFORMATION

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### A. University Policy and Delegation of Authority References

1. Presidential Policies
  - a. [Disclosure of Financial Interests and Management of Conflicts of Interest in Private Sponsors of Research, Policy COI 700](#) (applies to Gifts and Sponsored Awards)
  - b. [Policy on Naming University Properties, Academic and Non-Academic Programs, and Facilities, 2012](#)
  - c. [Requirement to Submit Proposals and to Receive Awards for Grants and Contracts through the University](#)
2. [Regents Policy 5203 \(Policy on Support Groups, Campus Foundation and Alumni Associations\)](#)
3. [Research Policies & Guidance](#)
4. [RPAC Memo 12-05: New Data Elements and File Layouts for Proposal and Award File Submissions](#)
5. [RPAC Memo 21-02: Updates to SPX – Inclusion of Other Transactions and Chart of Account Changes](#)
6. [Business and Finance Bulletins](#)
7. [University Accounting Policies](#)

8. [Delegation of Authority to Return Gifts, DA 2579, February 4, 2014](#)
- B. [GASB 33 \(Accounting and Financial Reporting for Nonexchange Transactions\)](#)
- C. [University Indemnification of Donors for Claims Unrelated to Donor Activity – March 6, 2003 Regents’ Item](#)
- D. [Approval of Indemnification Terms in Certain Limited Agreements in Support of Research – May 17, 2007 Regents’ Item](#) and the related [Delegation of Authority, September 14, 2009](#)
- E. [UCOP Institutional Advancement Development Reference Guide](#)

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## VII. FREQUENTLY ASKED QUESTIONS

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### 1. Why is the Policy being updated?

Locations requested clarification of the existing policy, which was adopted in 1980 (1980 Policy). Significant increases in external support – especially from private foundations (including family foundations) and from corporations – has led to the need for greater clarity in properly classifying Support.

This revised policy is intended to assist University staff in making consistent and timely decisions, and to help articulate to external parties (including Funders) the rationale for certain decisions. This policy is not intended to mandate how Locations delegate various Sponsored Awards among centralized contracting offices.

### 2. Why doesn’t UC simply rely upon the terminology used in the agreement with the Sponsor?

While the Funder’s terminology of Support provided to the University (e.g., as a Gift or Sponsored Award) may reflect the Funder’s intent, it does not dictate how the University should classify the Support. For example, corporations may classify Support as a “gift,” but require certain deliverables that make it difficult, if not impossible, for the University to classify and administer the Support as a Gift. Similarly, private foundations almost always use the term “grant” for all of their charitable distributions – including Support that would be classified as a Gift by the University.

### 3. What are the major changes/differences between the 1980 Policy and this policy?

The 1980 Policy emphasized a review of specific factors that are often determinative of how Support should be classified, but did not identify which factors were determinative versus general indicators. This revised policy recognizes this distinction. For example, the presence of Intellectual Property rights for the Funder would automatically classify Support as a Sponsored Award – even if all other factors might suggest a Gift. Conversely, the requirement for general reports in the absence of other Sponsored Award-like factors should not preclude classifying Support as a Gift. This takes into account the fact that, as “stewardship” practices have evolved, Funders often request progress reports, but that such reports do not constitute the kind of “deliverable” or benefit that would make an award a Sponsored Award.

Additionally, the policy is renamed to reference Sponsored Awards instead of “grants” as Sponsored Awards encompass a broader array of non-Gift funding mechanisms. Please see Definitions section above.

**4. Can Gift agreements include restrictions?**

Support restricting the use of funds for specific purposes may be appropriately categorized as a Gift. However, while terms for such Gifts may specify particular activities and general budgets for those activities, they usually do not include other Sponsored Award indicators, specify how the Support will be internally administered, or require deliverables from the University beyond acknowledgement, summary narrative, and financial reporting to ensure proper Gift stewardship.

**5. Does the fact that a Funder agrees or declines to pay for Indirect Costs determine whether Support should be classified a Gift or a Sponsored Award?**

No. Whether Support allows for or prohibits Indirect Costs does not affect the determination of whether it represents a Gift or a Sponsored Award. The classification of Support as a Gift or a Sponsored Award depends on the terms and conditions accompanying the Support.

**6. May Support be classified as a Gift to reduce Indirect Costs or as a Sponsored Award to reduce Gift Fees?**

No. University employees must not attempt to avoid Indirect Costs or Gift Fees by mischaracterizing the Support. As a public entity, the University has a fiduciary responsibility to manage the solicitation, receipt, and expenditure of Support appropriately and consistently.

**7. Should Development Offices report Sponsored Awards as private Support for reporting campus fundraising totals?**

Yes. Development Offices should report Sponsored Awards that are private grants as private Support. Support from governmental sources, however, cannot be reported as private Support.

**8. Are “sponsorship payments” or “corporate sponsorships” Gifts?**

Sponsorship payments, sometimes called corporate sponsorships (not to be confused with Sponsored Awards), may be classified as Gifts depending upon the analysis of Determinative and General Indicators as set forth above. For example, [Section 513\(i\) of the Internal Revenue Code](#) defines a “qualified sponsorship payment” as a payment for which there is no arrangement or expectation of any substantial return benefit to the Funder, other than the use or acknowledgement of the Funder’s (or its product lines’) name or logo. Such payments are typically classified as Gifts, regardless of how the Funder may classify them for its own tax purposes.

**9. Is crowd-sourced Support treated as Gifts or Sponsored Awards?**

Crowd-sourced Support may be classified as Gifts or Sponsored Awards depending upon the analysis of Determinative and General Indicators as set forth above. Crowd-sourced Support should be reviewed on a project-by-project basis and processed in accordance with the factors set forth in this policy and the Location’s applicable policies and guidelines.

**10. What are some examples of factors that could appear in agreements that are irrelevant to the classification of the Support?**

- Restrictions on Indirect Costs or administrative or Gift Fees
- Use of certain terminology referring to the Support (e.g., "grant," "contract," or "donation")
- Prohibition on the use of Support for lobbying or electioneering
- Requirements for mediation or arbitration
- Specification of applicable laws or courts of jurisdiction
- Guidelines for, or required advance approval of, press releases, publicity, use of name, or recognition
- Indemnification or hold harmless obligations
- Requirement for the return of funds if the University loses its tax exempt status
- Requirement that Support be used for the specified purposes
- Rights to review or audit financial documents associated with the Support

**11. Does a Funder's request to be indemnified cause the Support to be classified as a Sponsored Award?**

No. Indemnification and hold harmless provisions are not Determinative or General Indicators for the classification of the Support as a Gift or a Sponsored Award.

**12. Will the University incur a tax liability if it misclassifies Support from a Funder?**

The University is responsible for making a good-faith determination regarding the appropriate classification of the Support. As a general rule, the tax treatment of the Support provided is determined by, and is the responsibility of, the Funder.

**13. Can a Sponsored Award be made for a purpose other than research?**

Yes. While most Sponsored Awards are made for research, it is possible that Support for another purpose could be classified as a Sponsored Award (e.g., public service or education projects).

**14. Does a requirement for reporting mean that the Support must be classified as a Sponsored Award?**

It depends on the type of reporting. A gift agreement may require, or best practices may suggest, that a University unit report on expended funds and balances as well as provide stewardship reports to the Funder that share evaluation information about the project, explain how the Gift was used, and/or describe the impact of the Gift. Such requirements, including stipulations or limitations regarding press and/or public announcements, are not determinative of whether Support should be classified as a Gift or Sponsored Award.

**15. Can a revocable agreement/commitment ever constitute a Gift?**

Yes. Although Support in the form of a Gift is typically considered irrevocable, initial documentation for a Gift may state that the Funder's obligation is not deemed to be a

binding, legal obligation on the Funder. For example, Funders are increasingly seeking utmost flexibility to satisfy some/all of a charitable commitment (most commonly referred to as a “pledge”) through a Funder-advised fund (commonly known as a “donor-advised fund” or DAF) or a family foundation. To ensure that such a pledge does not violate complex rules applicable to DAFs and private foundations, the initial commitment from a Funder may be documented as a non-binding, revocable pledge. However, when the pledge is ultimately satisfied and Support is transferred to the University, the Support is considered to have been awarded irrevocably.

It should also be noted that the law applicable to charitable gifts provides that gift Support is restricted for the purpose specified by the Funder, if any. Although rare, there are instances where circumstances change so that it becomes impossible or impracticable for the University to adhere to such restrictions. To account for such circumstances, some gift agreements may include language that provides for return of the Gift to the Funder. As a technical matter, such a Gift might be interpreted as revocable. However, any such return of Support is addressed by applicable University policy, which sets forth a rationale and process for return of a Gift that complies with applicable law. See [Regents Bylaw 30](#) and [Delegation of Authority 2579](#).

**16. What constitutes “intellectual property” in the Determinative Indicator category for Sponsored Awards (“University intellectual property rights are given to Funder, and/or Funder directs the dissemination and/or management of University results, including intellectual property”)?**

For purposes of this Determinative Indicator, intellectual property rights include, but are not limited to, options, licenses, any rights in and to patentable or potentially patentable IP, data, or tangible materials, but specifically exclude the use of UC logos, trademarks, or name for gift acknowledgement purposes. Language requiring University to follow UC policies and practices for the management of IP should not be considered the Funder directing “the dissemination and/or management of University results.” However, requiring open source release of UC results constitutes control and/or management of UC intellectual property and therefore is a Determinative Indicator of a Sponsored Award.

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## VIII. REVISION HISTORY

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**March 10, 2022:** This policy replaces the UC Policy on Review of Gifts and Grants for Research issued July 1, 2012. For a summary of the changes made to the the policy please refer to the Frequently Asked Questions, question 3, *What are the major changes/differences between the 1980 Policy and this policy?*

**July 1, 2012:** A directive set forth in a July 8, 1980 letter from President Saxon to the Chancellors et al. was reformatted and added to presidential policies as the UC Policy on Review of Gifts and Grants for Research.

This policy is also reformatted to meet [Web Content Accessibility Guidelines \(WCAG\) 2.0](#).

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## IX. APPENDIX A: GIFT VS. SPONSORED AWARD CHECKLIST

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See Appendix A.

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## GIFT vs. SPONSORED AWARD CHECKLIST

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This checklist is intended to assist in applying Section III of this policy to individual circumstances, and its use is optional.

**1. Obtain all documentation associated with the Support, including all correspondence with the Funder directly related to the Support. This could include:**

- Correspondence requesting Support, such as a request letter or proposal
- Documents describing the activities to be supported and the intent/purpose of the Support
- Documents or communications that describe or define Funder’s expectations (e.g. funding document, agreement, or budget)

**2. Review documentation for indications that will help you to complete the questions below for determining if the Support should be considered a Sponsored Award or a Gift.**

**I. Determinative Indicators**

Are any of the Determinative Indicators present? The Determinative Indicators are:

- Support is from the United States federal government
- Testing or evaluating of proprietary materials (including software) provided by, or on behalf of the Funder, is involved, or
- University intellectual property rights are given to Funder, and/or Funder directs the dissemination and/or management of University results, including intellectual property.

IF YOU ANSWERED YES, THE SUPPORT IS A SPONSORED AWARD. DO NOT PROCEED TO SECTION II.

**II. Analyze General Indicators (Only applicable if no Determinative Indicators are present)**

Review the following table and select all items that apply in the specific circumstance.

- A preponderance of checks in column A below likely indicates that the Support should be classified and administered as a Gift. Please contact your Development Office to confirm this determination.
- A preponderance of checks in column B below likely indicates that the Support should be classified and administered as a Sponsored Award. Please contact your Sponsored Projects Office to confirm this determination.

**University of California – Policy**  
**Classification of Gifts and Sponsored Awards**

General Indicators Table (Only applicable if no Determinative Indicators are present)	
A. Gift	B. Sponsored Award
<b>Funder</b>	
<input type="checkbox"/> Support is provided by an individual (not an organization)	<input type="checkbox"/> Funder is a foreign or U.S. state/local government, or the Support originates from one of these entities.
<b>Research Focus/Scope of Work</b>	
<input type="checkbox"/> Broad research focus <input type="checkbox"/> Support is intended for endowment <input type="checkbox"/> Support is intended for capital projects	<input type="checkbox"/> Detailed scope of work required
<b>Persons Performing Funded Activities</b>	
<input type="checkbox"/> Left to discretion of University, school, department or one or more named individuals	<input type="checkbox"/> Key personnel named in the proposal and changes must be pre-approved by the Funder
<b>Budget</b>	
<input type="checkbox"/> General project budget	<input type="checkbox"/> Detailed line item budget (e.g., detailing project costs by budget categories, listing personnel percentage of effort, etc.)
<input type="checkbox"/> No prior approval required for variance from proposed budget	<input type="checkbox"/> Requires Support to be spent in accordance with the proposed/approved budget, or requires prior approval for re-budgeting in excess of an established threshold
<b>Period of Performance</b>	
<input type="checkbox"/> Not specified, at the discretion of UC	<input type="checkbox"/> Project start and end dates specified by the Funder
<b>Financial Terms and Reporting</b>	
<input type="checkbox"/> Stewardship and general fiscal accountability and reporting to the Funder	<input type="checkbox"/> Detailed financial reporting (e.g. line item detail, percentages of effort, etc.)
<input type="checkbox"/> No terms and conditions for the disposition of tangible property	<input type="checkbox"/> Terms and conditions for the disposition of tangible property (e.g., equipment, records, technical reports, theses, dissertations, or other deliverables)
<input type="checkbox"/> Future payments/Support not contingent on technical reporting (note: progress toward goals provided in a stewardship report may still be appropriate for a Gift)	<input type="checkbox"/> Future payments/Support contingent on programmatic and fiscal reporting and/or progress
<input type="checkbox"/> Support is awarded irrevocably	<input type="checkbox"/> Unexpended Support to be returned at the end of a designated period of performance, and/or Funder has the ability to terminate the agreement and/or demand repayment if the University doesn't meet its obligation
<b>Narrative Reporting</b>	
<input type="checkbox"/> General description of progress, few or no specific requirements/guidelines	<input type="checkbox"/> Technical report requires details on scientific results or accomplishments and progress towards a specific project plan