

Chi Phi Educational Trust

# RESTRICTED & ENDOWED FUND POLICY

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*adopted by the Chi Phi Educational Trust on November 6, 2010;  
amended December 14, 2010; amended January 7, 2011; amended March 21, 2011*

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## I. Introduction and Purpose of this Policy

- A. To optimize funding from individuals and other entities, the Chi Phi Educational Trust (the "Trust") must be capable of responding quickly, and in the affirmative where possible, to all gifts offered by prospective donors, including those where a donor wants to place a restriction on the use of the gift.
- B. The Trust encourages donors to support the organization without encumbering the Trust with gifts which may prove to generate more cost than benefit, or which are restricted in a manner which is not in keeping with the goals of the organization.
- C. The Trust recognizes that many donors prefer to specify how their gift is used in a way that complies with IRS regulations and is consistent with the mission of the Trust.
- D. The Trust seeks maximum transparency and wants donors to understand the rules, management practices and fees associated with any restriction a donor may place on the donor's gift.
- E. The Trust seeks to provide a stable funding source in perpetuity for various programs and Chapters and needs a mechanism to manage and govern certain restricted funds in order to promote this interest.
- F. If the Trust is to maintain long-term financial stability, restricted and designated funds must contribute to the cost of the Trust's infrastructure. Activities supported by restricted funds represent a significant percentage of the total assets of the Trust. Unrestricted funds, alone, cannot bear the full burden of the infrastructure and administrative costs required to support these activities.

## II. Definition

- A. **Restricted Funds.** Restricted funds are dollars given to the Trust by outside donors or grantors who place specific guidelines on the use of those funds. The Board of Trustees of the Chi Phi Educational Trust can also place restrictions on certain Trust funds by resolution. Restricted funds must be accounted for separately from gifts given to the organization in furtherance of its general purposes. The Trust has a stewardship obligation to the donor or grantor to use

the funds in the manner specified and to be able to report, if necessary, on categories and amounts of expenditures that support the intent of the fund. By this policy, it is not the intent of the Trust to create any donor advised funds as the term is defined by the IRS. The Trust shall make all investment decisions as to any restricted fund and shall make all final determinations as the disbursements from restricted funds in a manner best to achieve the donor's intent consistent with the Trust's 501(c)(3) qualified purposes. Restricted Funds may be named for an individual (i.e. John Q. Sample Scholarship Fund) or designated for a specific chapter (i.e. Alpha Chapter Excellence Fund) pursuant to the Trust's Naming Policy.

III. **Restricted Fund Types.** The Trust establishes three different types of restricted funds as follows:

- A. **Permanently Restricted Funds** contain permanently restricted net assets as defined by the IRS. Permanently restricted net assets are assets donated with stipulations that they be used for a specified purpose, be preserved and invested to provide a permanent source of income. Permanently Restricted Funds are designed to provide a stable funding source with the same purchasing power in perpetuity. The funds within a Permanently Restricted Fund are permanently restricted and endowed. Subject to (1) exceptions granted by applicable law, (2) Trust policy or (3) terms of the gift agreement allowing it, the Trust can never invade or spend from the principal within a Permanently Restricted Fund. The annual investment returns from a Permanently Restricted Fund may provide some funds for spending in the Temporarily Restricted-Available Fund each year and may provide some funds for re-investing into the endowment's corpus with the hope that the corpus of the Permanently Restricted Fund grows with inflation over time. Likewise, the funds in a Permanently Restricted Fund may be reduced as a result of investment losses. Funds within a Permanently Restricted Fund are considered permanently restricted net assets as defined by the IRS. Every Permanently Restricted Fund will have a corresponding Temporarily Restricted - Available Fund and a corresponding Temporarily Restricted - Accumulating Fund.
- B. **Temporarily Restricted - Available Funds** are available for spending each year based on the percentage of the Permanently Restricted Fund and Temporarily Restricted - Accumulating Fund balance that should be transferred into and available for spending in its corresponding Temporarily Restricted - Available Fund. All funds in the Temporarily Restricted - Available Fund must be (1) spent, (2) transferred into the Permanently Restricted Fund or (3) transferred to the Temporarily Restricted - Accumulating Fund by the end of every fiscal year. Funds do not accrue within a Temporarily Restricted - Available Fund. Funds within a Temporarily Restricted - Available Fund are considered temporarily restricted net assets as defined by the IRS.

- C. **Temporarily Restricted - Accumulating Funds** are allowed to accrue from one year to the next subject to an annual review by the Trustees of the Chi Phi Educational Trust. Temporarily Restricted - Accumulating Funds can be transferred in their entirety based on this policy. The annual investment returns from an Temporarily Restricted - Accumulating Fund may provide some funds for spending in the Temporarily Restricted - Available Fund each year. Likewise, the funds in an Temporarily Restricted - Accumulating Fund may be reduced as a result of investment losses. Funds within an Temporarily Restricted - Accumulating Fund are considered temporarily restricted net assets as defined by the IRS. Temporarily Restricted - Accumulating Funds may be especially useful in the following situations:
1. When a Chapter establishes a fund where a majority of the funds raised during a pre-defined time period may be granted or loaned back to that particular Chapter;
  2. When a Chapter has a small Permanently Restricted Fund, and the annual balance transferred into the Temporarily Restricted Account is so low that awarding a scholarship or making an educational grant is not advantageous. Allowing the funds to accrue over several years might be more beneficial.

#### IV. **Creating a Restricted Fund**

- A. Only a donor can place a legal restriction on funds the donor contributes. A Chi Phi Chapter, Alumni Association, Alumni Club or other entity cannot place or modify a restriction on funds contributed by individual donors.
- B. The shape and form of the restrictions are defined in the “gift instrument.” The gift instrument is the document that establishes the use of the donated funds. Any gift instrument or agreement creating a restricted fund should reference and incorporate this policy.
- C. Any restricted fund must:
1. support the mission of the Trust,
  2. comply with applicable law
  3. comply with all other Trust policies.
- D. A Temporarily Restricted - Accumulating Fund and a Temporarily Restricted - Available Fund will automatically be created for every new Chi Phi Chapter upon their chartering with the Chi Phi Fraternity. A Permanently Restricted Fund will be created upon request of a Chapter's Alumni Association and approval by the Trustees of the Chi Phi Educational Trust.
- E. The Trust may create restricted funds in either of the following ways:
1. By entering into a gift agreement with one or more donors, or

2. By a resolution of the Trustees of the Chi Phi Educational Trust.

F. If the Trust establishes a Permanently Restricted Fund, it will automatically establish a corresponding Temporarily Restricted - Available Fund and Temporarily Restricted - Accumulating Fund.

V. **Minimum Funding Requirements.** Unless otherwise authorized by the Trust, the minimum pledge or gift required to establish a restricted fund "(other than a Chapter Excellence Fund) is as follows:

	<b>Pledge Payable over Five Years</b>	<b>Gift</b>
Permanently Restricted Fund	\$50,000	\$25,000
Temporarily Restricted - Available Fund	\$50,000	\$25,000
Temporarily Restricted - Accumulating Fund	\$50,000	\$25,000

VI. **Investing Restricted Funds**

A. The Trust shall invest the principal and any accrued earnings of each restricted fund as part of a pooled investment of all Trust funds pursuant to Trust policy. The choice of methods of, and vehicles for, investment of the restricted fund shall be at the sole discretion of the Trustees of the Trust. Neither the Trust, nor its Trustees, officers, nor employees, shall be liable for any diminution in value of the fund.

B. All investment income, expenses, capital gains and losses shall be prorated to each Permanently Restricted Fund and each Temporarily Restricted - Accumulating Fund based upon its share of the investment pool. Investment income, expenses, capital gains and losses shall not be prorated or charged to any Temporarily Restricted - Available Fund.

C. Title to property acquired by the Trust by purchase or otherwise with the funds of the restricted fund shall be taken in the name of the Trust.

D. The Trust may invest all or part of the restricted fund as the Trust's Board of Trustees may from time to time determine, and all or part of any property contributed to the restricted fund may be converted into cash, bonds, stocks, real estate mortgages, real estate or improvements thereon, or on any other income-producing property or securities, real or personal. If a loan or mortgage is not repaid or the investment incurs a loss, the Trust shall in no event have any duty or obligation to repay or replenish the restricted fund out of any other Trust funds.

VII. **Loaning Restricted Funds.** The Trustees must approve any special investment or loan using restricted funds.

A. **Minimum Criteria.** Any loan of restricted funds must meet the following minimum criteria:

1. The loan must be secured by a mortgage on property and/or one or more personal guarantees;
2. The terms for repayment shall be no greater than twenty (20) years;
3. Interest charged shall be at least equal to the Prime Rate plus 1.0%;
4. The loan must be for no more than 90% of the value of the Permanently Restricted and/or Temporarily Restricted - Accumulating account;
5. There shall be no pre-payment penalties if a borrower chooses to pay back the loan faster than originally anticipated;
6. The loan recipient must execute any and all appropriate loan documents requested by the Trust;

B. **Requesting a Loan.** Individuals and other entities must submit any loan request in writing by providing the following information to the Chairman of the Educational Trust:

1. A description of the history and status of the entity requesting a loan;
2. An explanation of the future plans of the entity requesting the loan and how the loan will benefit it;
3. The specific location of any property the requesting entity owns;
4. A list of required improvements to the property as well as costs of those improvements (if applicable);
5. The requested loan amount and how you will use the loan proceeds;
6. The requested terms of the loan (length, interest rate, etc.);
7. An amortization schedule for loan repayment;
8. A list of the collateral available to secure the loan along with current market values
9. A list of the individuals who are personally guaranteeing the loan and a description of the assets they will pledge as collateral;
10. A current income statement;
11. A current balance sheet;
12. A list of any existing debt owed;
13. A copy of your most recent tax return;
14. Important legal documents (Articles of Incorporation, Bylaws, etc.)
15. Private quotes and/or estimates for equipment or construction to be paid with loan funds.

C. **Repaying a Loan.** Unless the Trust specifies otherwise:

1. **Principal Payments.** Principal payments will be deposited into the Permanently Restricted Fund or the Temporarily Restricted - Accumulating Fund for the restricted fund in whatever proportion these two funds served as the source of the loan.

2. **Interest Payments.** Interest payments will be deposited into the temporarily Restricted - Available Fund for the restricted fund that served as the source of the loan and shall be available for Grants and Scholarships up to 5% of the outstanding principal balance of the loan.

VIII. **Donations.** Unless otherwise specified by the donor and agreed upon by the Trust, all donations designated for a particular restricted fund will be deposited into its Temporarily Restricted - Available Fund.

IX. **Fees & Expenses**

- A. **Donations.** Unless otherwise determined by the Trust, the Trust will assess a fee of five percent (5.0%) of any contribution made to a restricted fund to offset the costs of fundraising and other administrative expenses incurred by the Trust. The Trust will also assess any other fees or expenses identified in the Chi Phi Educational Trust Gift Acceptance Policy.
- B. **Fundraising.** Any direct costs raising funds for a restricted fund may be assessed against donations or charged to the restricted fund. Fund raising costs shall be those costs incurred in acquiring contributions specifically for the restricted fund including but not limited to (1) feasibility studies and professional fundraising fees when performed by pre-approved outside third parties (2) printing, (3) postage and mailing expenses, (4) long distance, conference call and other telephone solicitation costs, (5) donor recognition purchases (plaques, etc.), (6) approved travel and (7) events.
- C. **Investment and Administration.** A standard fee for management and administration of the fund by the Trust shall be charged to every Permanently and Temporarily Restricted - Accumulating Fund balance on a quarterly basis, or such other time period as the Trust determines facilitates accounting needs and the payment of the professional portfolio manager's fee. The Trust's standard annual administration fee shall be one and one-half percent (1.5%) of the fund balance plus whatever the prorated costs of any financial advisor/broker fees, which is currently one percent (1.0%) for a total of two and one-half percent (2.5%). The annual administration fee may be adjusted from time to time at the discretion of the Trust at a rate to fairly compensate it for administering the fund. Any change in that rate shall be reported in the minutes of the Trust and sent to the Fund administrator, if one exists. The Trust will not assess an Investment and Administration fee on any Temporarily Restricted - Available Fund.
- D. **Special Investments.** In the event the Trust agrees to invest any restricted fund in a special investment including but not limited to a mortgage, loan, or

real estate, the Trust, in its sole discretion, may charge any direct costs incurred in managing the special investment to the restricted fund.

- X. **Spending.** The Trustees of the Chi Phi Educational Trust shall review this spending policy on an annual basis to make sure it complies with applicable law and prudent standards for spending from endowment funds. The Trustees may amend this spending policy at any time. Any change to this policy shall be reported in the minutes of the Trust and sent to the Fund administrator, if one exists.
- A. **Permanently and Temporarily Restricted - Accumulating Funds.** To provide for long-term growth of the Permanently Restricted and Temporarily Restricted - Accumulating Fund, each year, five percent (5.0%) of all cash or cash-equivalent assets of the respective fund balance, shall automatically be transferred to its corresponding Temporarily Restricted - Available Fund within 30 days of the start of the Trust's fiscal year. This transfer will only occur after the respective fund balance reaches \$5,000.00 in cash or cash-equivalent assets. No transfers will occur until a fund balance totals at least \$5,000.00. Funds invested in mortgages or other special investments that are not easily convertible to cash, although assets, are not counted for the purposes of determining the distribution or transfer to the Temporarily Restricted - Available Fund.
- B. **Temporarily Restricted - Available Fund.** Temporarily Restricted - Available Fund balances are not permitted to accrue over time. By the end of the Trust's fiscal year, all funds in the Temporarily Restricted - Available Fund must be awarded in the form of scholarships and grants or transferred into either the corresponding Permanently Restricted Fund or Temporarily Restricted - Accumulating Fund. The Trustees may spend funds in a Temporarily Restricted - Available Fund based on the following conditions:
1. **For Chapter-specific Funds:** If the Temporarily Restricted - Available Fund is established to support a particular Chi Phi Chapter exclusively, the Alumni Association officers of that particular Chapter have until 30 days prior to the end of the Trust's fiscal year to make recommendations to the Trust on the use of available funds for scholarship and educational purposes (or other purposes consistent with its mission and meeting the criteria for a 501(c)(3) organization) or for transfer into the corresponding Temporarily Restricted - Accumulating Fund. Alumni Association officers must make recommendations to the Trust using forms and procedures the Trust has established. The Trust shall have ultimate decision authority based on IRS regulations.
  2. Any funds remaining in a Temporarily Restricted - Available Fund at the end of the Trust's fiscal year may be spent, subject to the Trust's discretion, as follows:

- a) Unspent funds may be reinvested into the corresponding Permanently Restricted Fund or Temporarily Restricted - Accumulating Fund;
- b) In the case of a Temporarily Restricted - Available Fund established to support a particular Chi Phi Chapter exclusively, unspent funds may be spent by the Trust as follows:
  - (1) For scholarships to members of the designated Chapter so long as student recipients meet all other Trust scholarship criteria;
  - (2) As educational grants for members of the designated Chapter to participate and attend the Chi Phi College of Excellence, Regional Leadership Alliance, the NIC Undergraduate Interfraternity Institute, and other Trust-approved educational activities.
  - (3) The Trust may not spend unspent funds from one Chapter-Temporarily Restricted - Available Fund on members of another Chapter unless the Trust receives a recommendation to do so from the Alumni Association officers of the Chapter.

## XI. Modifying, Releasing and Dissolving Restricted Funds

- A. **By the Donor and Trust.** Subject to approval by the Trust, every donor to a restricted fund may agree to modify or terminate the restriction.
- B. **By the Trust.** The Trust can modify or remove a restriction subject to this policy, applicable law and any written gift instrument establishing a restricted fund between the Trust and a donor based on the following two guiding principles:
  - 1. To facilitate this process, any restricted fund agreement between the Trust and a donor should contain the following language or something substantially similar:
    - a) If at any time in the future the specific purpose, program, or use of the restricted fund no longer exists, no longer serves the objectives and purposes of the Trust, would adversely affect the Trust, jeopardizes the Trust's exemption under section 501(c)(3) of the Internal Revenue Code (or comparable provisions of any federal income tax statutes that are subsequently enacted), or if the Trust Chairman determines that fulfilling the purpose of the restricted funds becomes impracticable, inappropriate or impossible to implement, then he shall seek action by the Board of Trustees. If a majority of the Trustees determine that one of

the conditions above make fulfilling the purpose of the restricted fund impracticable, inappropriate, or impossible to implement, then the Donor hereby, and now, agrees that the Trust may remove or revise the restriction on the fund and use the fund's assets for such purposes most in keeping with the purpose of the original restricted fund, as outlined in this agreement and approved by a majority of the Trustees. If there is any doubt as to what such purpose should be, the Donor hereby agrees that the income from the fund may be used for scholarships pursuant to the policies of the Trust's scholarship program.

2. If at any time in the future the specific purpose, program, or use of the restricted fund no longer exists, no longer serves the objectives and purposes of the Trust, would adversely affect the Trust, jeopardizes the Trust's exemption under section 501(c)(3) of the Internal Revenue Code (or comparable provisions of any federal income tax statutes that are subsequently enacted), or if the Trust Chairman determines that fulfilling the purpose of the restricted funds becomes impracticable, inappropriate or impossible to implement, then he shall seek action by the Board of Trustees. If a majority of the Trustees determine that one of the conditions listed above has been met and fulfilling the purpose of the restricted fund becomes impracticable, inappropriate, or impossible to implement, then the Trust may remove or revise the restriction on the restricted fund and use the fund's assets for such purposes most in keeping with the purpose of the original restricted fund, as approved by a majority of the Trustees. If there is any doubt as to what such purpose should be, the Trust will review any written gift instrument to determine donor intent.

C. **By Law.** The Trust or a Donor may employ any available legal remedies to modify or release a restriction.

XII. **Exceptions.** By a majority vote of the Trustees of the Chi Phi Educational Trust, the Trustees may make exceptions to this policy.

XIII. **Annual Review.** Annually, the Trustees shall review and make decisions about:

- A. The percentage of the Permanently Restricted Fund balance to transfer into its corresponding Temporarily Restricted - Available Fund;
- B. Temporarily Restricted - Accumulating Fund balances and whether funds should be transferred back into the corresponding Permanently Restricted Fund or Temporarily Restricted - Available Fund.

# RESTRICTED & ENDOWED FUND POLICY SUMMARY

	Permanently Restricted Fund	Temporarily Restricted - Available Fund	Temporarily Restricted - Accumulating Fund
IRS Classification	Permanently Restricted	Temporarily Restricted	Temporarily Restricted
Can spend from corpus?	No	Yes	n/a
Balance available for spending each year	No	Yes	Yes - if transferred to Temporarily Restricted - Available
At the end of the fiscal year	Nothing happens	All funds must be spent or moved into Temporarily - Accumulating or Permanent	Funds can accrue
At the start of the fiscal year	5% of fund balance moves into Temporarily Restricted - Available Fund so long as fund balance is at least \$5,000	Receives funds from Permanently Restricted & Temporarily Restricted - Accumulating Fund	5% (or more with Trust authorization) of balance moves into Temporarily Restricted - Available so long as fund balance is at least \$5,000
Created for Chi Phi Chapters	Upon request and Trust approval	Automatically upon Chartering	Automatically upon Chartering
Created for other Donors	Upon written gift instrument	Upon written gift instrument	Upon written gift instrument
Minimum requirements to create by a pledge payable over five years	\$50,000	\$50,000	\$50,000
Minimum requirements to create by a cash gift	\$25,000	\$25,000	\$25,000
Investment gains and losses allocated to Fund	Yes	No	Yes
Special investments allowed	Yes	No	Yes
Donations deposited in this Fund	No - unless specified by donor	Yes	No - unless specified by donor
Fee for contributions	5%	5%	5%
Investment and administration fee on fund balance	2.5%	0%	2.5%
Balance allowed to accrue over time	Yes	No	Yes
Spending rules	No spending allowed; balance accrues subject	Within each fiscal year, must be spent	Balance accrues subject to transfers

	to annual return moved to Temporarily Restricted - Available Fund	based on fund purpose or transferred into Temporarily Restricted - Accumulating or Permanent	for spending to Temporarily Restricted - Available Fund
Balance reviewed annually	Yes	No	Yes



Chi Phi Educational Trust Restricted Funds Management  
Chapter Excellence Funds

