

# MEMORANDA OF UNDERSTANDING

Between Public Institutions  
and Affiliated Foundations





© 2024 Association of Governing Boards of Universities and Colleges  
1666 K Street, N.W., Suite 1200, Washington, D.C. 20006

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or using any information storage and retrieval system, without permission in writing from AGB.

Printed in the United States of America.

ISBN 978-1-951635-44-2  
ISBN 978-1-951635-45-9 (ePub)

## About AGB

At the Association of Governing Boards of Universities and Colleges (AGB), we believe in the power of higher education to transform lives, strengthen inclusive democracy, and support a thriving society. We believe that strong higher education starts with great governing boards. AGB provides advocacy, leading practices, educational resources, expert support, and renowned programs that advance board excellence for 40,000 AGB members from more than 2,000 institutions and foundations. For more than 100 years, AGB has been the trusted resource for board members, chief executives, board professionals, and key administrators on higher education governance and leadership. Learn more at [www.agb.org](http://www.agb.org).

## Acknowledgments

**Thanks to David Bass, AGB’s Executive Director for Philanthropic Governance, who authored the introduction on institution-foundation partnerships in a changing landscape and helped to develop and adapted the illustrative MOU for smaller, less complex foundations. Thanks to AGB General Counsel Thomas K. Hyatt, who authored the illustrative MOU for more complex partnerships, and provided commentary and analysis throughout.**

**Thanks also to the boards and staff of Oakton College and the Oakton College Educational Foundation for allowing AGB to adapt their thoughtfully developed MOU in this publication’s model for a smaller, less complex foundation.**



# CONTENTS

Executive Summary . . . . . 1

Institution-Foundation Partnerships in a Changing  
Higher Education Landscape . . . . . 3

    The MOU: Stakeholders and Process . . . . . 9

    Process for Developing or Updating an MOU . . . . . 11

    A Note on Systems and System Foundations . . . . . 12

*AGB Illustrative Memorandum of Understanding:  
Example for Less Complex Institution-Foundation Partnerships . . . . 15*

*AGB Illustrative Memorandum of Understanding:  
Example for More Complex Institution-Foundation Partnerships . . . . 25*

Notes . . . . . 48



# EXECUTIVE SUMMARY

Well-structured legal partnerships between institutions and their related foundations enable public colleges and universities to leverage opportunities and resources that are otherwise unavailable to state entities, such as the opportunity to recruit a high-caliber volunteer board. Foundation boards play an increasingly important role in fundraising, donor stewardship, endowment management, real estate projects, public-private partnerships, and alumni engagement. Any effective foundation-institution partnership must, however, be based on mutual understanding, trust, and a commitment to collaboration. Institution and foundation leaders must respectfully balance the legal independence of foundations and the fiduciary responsibilities of foundation boards to mitigate risk, provide transparency and accountability, and ensure operational and strategic alignment.

A carefully developed “memorandum of understanding” (MOU) serves as a contract between an institution and its foundation, establishing the roles and responsibilities of each entity, identifying and documenting state resources used by the foundation, describing the relationships between institution and foundation staff, and affirming the partnership in achieving the institution’s overall mission. An MOU is intended to provide stability and continuity, but it should be reviewed on a regular basis and amended as needed. Creating or amending an MOU provides a useful opportunity to build trust between institution and foundation leaders and for boards to codify the relationship between both entities.

This publication provides two illustrative MOUs that are intended to guide institutions and foundations that are developing new MOUs or updating established agreements. However, these examples are not intended as fill-in-the-blank templates. State legislation, case law, system policies, administrative structures, cultures, and the specific functions performed by a foundation may vary, so these agreements may not fit all the specific needs of an institution and their related foundation. This document also provides new guidance on the process of developing or significantly revising an MOU.





# INSTITUTION-FOUNDATION PARTNERSHIPS IN A CHANGING HIGHER EDUCATION LANDSCAPE

Institutionally related foundations play a vital role in advancing the missions of public colleges and universities. Initially created to segregate public and private funds and facilitate philanthropic initiatives that would be impossible or impractical for state entities working alone, foundations at many institutions evolved from gift repositories and asset managers into entities that have assumed primary responsibility for fundraising, donor stewardship, endowment management, support of real-estate projects, and public-private partnerships. More recently, foundations have merged with or integrated their operations with alumni associations with the goal of enhancing strategic alignment and the efficiency and impact of advancement functions. When well-structured, foundation-institution partnerships enable public colleges and universities to leverage opportunities and resources otherwise unavailable to state entities.

While the legal structure of foundations as public charities affords numerous benefits, the opportunity to recruit a high-caliber board focused on raising and managing private support is perhaps their greatest benefit. Public colleges and universities typically have little say over the composition of their appointed or elected boards. Institutions that are part of a system share a governing board with other, often very different, institutions. Foundations enable public colleges and universities to strategically recruit and engage volunteers from the ranks of distinguished alumni, philanthropists, and businesses and industries that are aligned with and supportive of the institution's specific mission and priorities. A carefully composed foundation board contributes expertise and vision to support the work of institution and foundation staff leaders. Foundation board members are often among the most generous supporters of the college or university they serve and provide philanthropic leadership for other potential donors.

Affiliated foundations provide a wide range of benefits to public institutions, but partnerships can also pose challenges. Both institution and foundation leaders must strike a balance between respecting the legal independence of foundations and the fiduciary responsibilities of foundation boards while also ensuring that policies and practices are in place to mitigate risk, provide transparency and accountability, and ensure operational and strategic alignment. The *AGB Board of Directors' Statement on Institution-Foundation Partnerships*<sup>1</sup> outlines principles and recommended practices supporting collaborative institution-foundation partnerships.