

For many years, educational institutions have struggled to balance the wishes and desires of our donors with the state and federal regulations that govern our activity. Scholarship gifts are among the most personal of philanthropic gifts from donors as they are often reflections of themselves or loved ones – areas of study, personal attributes, their time on our campus, and many other factors. But unfortunately, scholarship criteria is singlehandedly the most complex area to administer and the most fraught with either unallowable or unsustainable criteria.

We have worked hard over the past 20 years to reframe, update, and repurpose funds at our organizations that have unallowable scholarship criteria. The most common illegal criteria we still find in our fund purposes are protected class violations such as minority status, gender, and U.S. citizenship. These types of criteria must either be removed from the fund purpose all together, or reworked within current definitions.

Given the civil unrest in our country right now, coupled with heightened awareness of social and financial inequity, some organizations are facing conversations with donors who are asking to place minority and black student restrictions into their scholarship funds. They wish to address this burning issue with financial resources for those who may be struggling. As education organizations, we are extraordinarily grateful for this insight, empathy, and financial backing. But we cannot, under current legal framework, include race-based criteria in our fund purposes. We can continue to use phrasing such as “recipient must be a member of an under-represented population” as this can cover any number of minority factors – race, gender, citizenship – unique to the individual organization or area of study.

Coming out of 2020, it’s possible federal and education regulations may change in this regard. But we are not there yet and must abide by current legislation. As fundraisers and donor relations professionals, we must inspire philanthropic investment that meet our donors’ vision and abides by legal precedent.

Prep your development officers to have these conversations with donors. Prepare them with sample language, acceptable alternatives, and a strong base of understanding in this area. You can still meet the donor in the middle, adhere to their wishes, and create sustainable funding for your organization. But it takes nuance and knowledge.

Knowledge is power.

RESOURCES:

4th Amendment Equal Protection Clause –“Every public entity shall treat each person equally, regardless of their race, religion, or other protected status.”

Title VI of the Civil Rights Act of 1964 – Prohibits discrimination based on race, color, or national origin in programs or activities receiving federal financial assistance.

Title IX of the Education Amendments of 1972 – Prohibits discrimination based on gender in education programs and activities that receive federal financial assistance.

Age Discrimination Act of 1975 – Prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.

Title II and III of Americans with Disabilities Act of 1990 and Section 504 of Rehabilitation Act of 1973 – Prohibits discrimination on the base of disability in programs and activities receiving federal financial assistance.

Uniform Prudent Management of Institutional Funds Act (UPMIFA) 2006 - sets regulations for spending and investing of donor funds by a charitable organization.