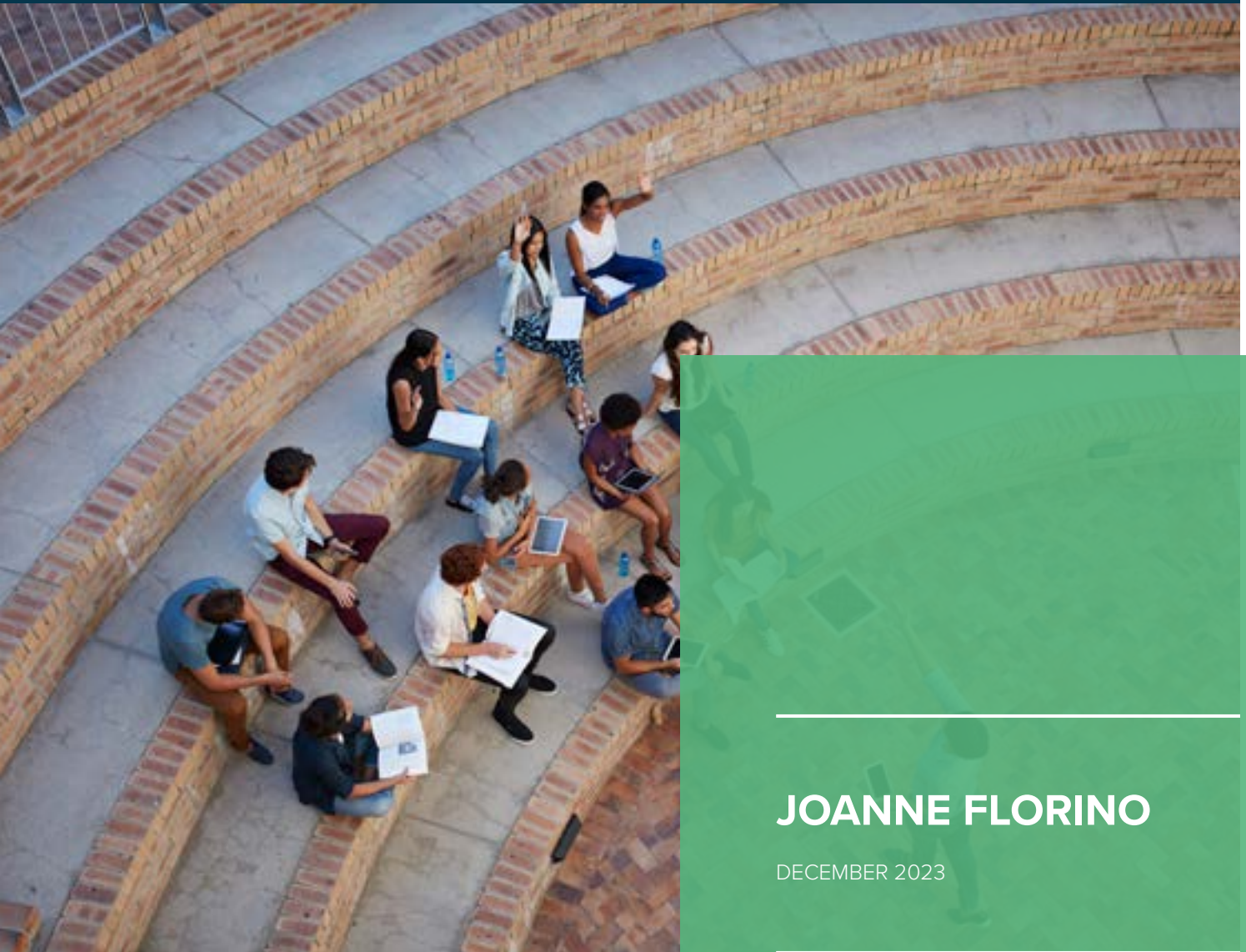


# TOP TEN TIPS FOR HIGHER EDUCATION FUNDERS



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# INTRODUCTION

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Higher education can be among the most rewarding and meaningful areas for your donor dollars. With private giving to colleges and universities totaling nearly \$60 billion in fiscal year 2021-22<sup>1</sup>, this sector attracts a significant portion of our nation’s philanthropic support. But higher education is also the most challenging sector for both donor intent and grant compliance and an increasing number of Americans of all ages are questioning<sup>2</sup> the financial and educational worth of the traditional four-year college experience.

The skepticism is particularly noticeable among two cohorts – those who believe the often-noted “college income bump” is now limited to students who choose a business or STEM degree, and those concerned that the nation’s campuses have abandoned a classic curriculum and viewpoint diversity for indoctrination into left-wing ideology.

Generous givers have developed justifiable concerns about free speech, campus climate, the loss of viewpoint diversity among faculty members, and slippage in academic standards and expectations. In the wake of the October 7, 2023 terrorist attacks on Israel, philanthropists to some of the nation’s most prestigious US universities have staged what is being called

a “donor revolt,” withdrawing financial support from what have been their most favored grantees – or, at the very least, threatening to do so.

Despite the challenges, however, donors who are committed to supporting higher education should not shy away. The nation needs wise philanthropists who invest judiciously and strategically in this area. This paper will provide helpful guidance in the form of Top Ten Tips to ensure your grantmaking in higher education is aligned with your values, effective in making the change you desire, and protective of your donor intent. Whatever route you choose for your higher education philanthropy, be mindful of three primary recommendations:

- ◆ Ally with an institution genuinely interested in what your support will fund.
- ◆ Establish with the institution a clear grant agreement that protects donor rights.
- ◆ Maintain strong working relationships with faculty and administrators, and channel your gifts as much as possible through campus allies rather than general administrators.

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1 Virgie Townsend, Case, Feb. 15, 2023, <https://www.case.org/resources/giving-us-colleges-and-universities-increased-125-fiscal-year-2022>

2 Douglas Belkin, The Wall Street Journal, March 31, 2023, <https://www.wsj.com/articles/americans-are-losing-faith-in-college-education-wsj-norc-poll-finds-3a836ce1>

## TIP #1

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# CONDUCT INITIAL RESEARCH

Gather reliable information about the current state of higher education and the key concerns being raised by its trustworthy critics. Follow the higher education work of key national, regional, and issues-based think tanks aligned with your values. Where possible, speak with faculty, students, and other donors of the institutions of most interest to you. Become more knowledgeable about the area(s) where you want to focus your giving. These may include:

- ◆ Supporting existing values-aligned institutions and academic centers.
- ◆ Supporting new institutions and academic centers that better reflect your values.
- ◆ Defending/restoring liberal education to increase viewpoint diversity in academic departments and protect free speech in campus life.
- ◆ Cultivating values-aligned academic talent.
- ◆ Exploring new accreditation options.



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**TIP #2**

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# FIND FACULTY AND ADMINISTRATION FRIENDS AND FORM RELATIONSHIPS



Success in higher-education giving requires forming trusted relationships with individuals within a college or university. Most important, look for friendly faculty members who can advance your ideas internally. They are the most critical players—they will execute your project and are the ones most likely to serve as guardians of your donor intent because you share the same goals. At the same time, remember that faculty members may leave or be reassigned.

Tenured faculty are less prone to switching institutions, but it does happen. Any unwritten understandings you had with an individual will be forgotten when personnel changes, so take care to also cultivate relationships with deans, provosts, college presidents, and trustees to build more support and continuity for your project.

**TIP #3**

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# AVOID THE TRAPS OF UNRESTRICTED AND ENDOWMENT GRANTMAKING

While unrestricted gifts could make sense in other philanthropic realms—particularly for recipients with whom you have a close working relationship—they are fraught with peril in higher education, where philanthropic dollars are easily shifted around. Giving officers often steer donors toward unrestricted gifts precisely because they offer maximum flexibility to the recipient institution. Unless you are very specific with your desires, and put them in writing, your gifts could be used for something you find abhorrent.

Endowment gifts are equally problematic for donor intent. Endowments that support professorships or scholarships in a specific field of study ignore the chance that field may become far less popular or relevant over time or that a beneficiary of your generosity may have an agenda quite different from what you intended. And once a donor is out of the picture—through either death or disinterest—funds may be mismanaged or deliberately diverted to purposes other than those originally specified.

It may seem cynical to assume that institutions pay more attention to living donors, but it is true that mischief in higher education philanthropy often occurs after a donor's death. College faculty and administrators are

more likely to discover new “pressing” needs that outweigh the instructions of the original benefactor once that person is no longer in the picture.

The solution is simple: do your giving while you're alive and reevaluate your decisions as needed. Giving while living also provides the unique chance to have an outsized influence through larger gift amounts, and it brings more joy to see the impact of your philanthropy.

Donor intent and accountability are best served by grants made in increments over a limited term, with continued donations dependent on scheduled progress reports. You may, for example, structure a \$10 million grant to start a new program over a 10-year period to provide \$3 million up front to enable the university to hire personnel and create the necessary infrastructure. You can then schedule the remaining \$7 million in regular payments, periodically reviewing to ensure the school is on track. If your grantee fails to make adequate progress toward stated goals, or is no longer aligned with your stated values, you will have the right to terminate the grant agreement and halt all further payments.

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## TIP #4

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# BE STRATEGIC IN FUNDING ALIGNED ACADEMIC CENTERS

Higher education donors have frequently opted to fund academic centers at colleges and universities, either by creating them from scratch or sustaining existing ones. The Charles Koch Foundation, for example, has supported well over one hundred such centers focused on economic freedom, criminal justice and policing reform, tolerance and free expression, foreign policy, and technology and innovation. If you are interested in launching such a center at a university, consider these recommendations:

- ◆ Find a strong (ideally tenured) faculty member with both academic and administrative skills who shares your commitment to the proposed center's mission, and build the program around him or her.
- ◆ Ensure the center lives within a department and will play an important role in the university's academic life. A significant risk is a center will be isolated and languish in a remote corner of the institution, so involve other faculty members and trustees as partners early in the process.
- ◆ Ensure any new permanent faculty brought into the center are full members of the department in which the center is housed. Equip the center to bring in visiting faculty as well to enhance the center's research and teaching potential.
- ◆ Ensure the institution's development office will give the new center the necessary attention.
- ◆ Ensure top administration leaders, right up to the president, respect academic freedom, particularly if you are launching a more controversial center, such as one centered around free markets or free expression.
- ◆ Always allocate your funding in a year-to-year arrangement. Academic and administrative personnel will certainly change, and future arrivals may not share your interest in the center.
- ◆ Ensure the center allows for diversity of thought and opinion, which on most campuses means protecting right-of-center viewpoints.

**TIP #5**

# CONSIDER CREATING AN INDEPENDENT NONPROFIT

Higher education donors have also created institutes informally connected to—but administratively and financially independent from—institutions of higher education. The Witherspoon Institute is one such nonprofit. It was founded in 2003 by individuals associated with Princeton University’s James Madison Program and several national foundations. Its proximity to the Princeton campus allows it to draw on the university’s faculty expertise and offer occasional events in collaboration with university departments and programs.

But Witherspoon has ample resources to operate its own research and education programs, and the institute offers higher education donors a distinct financial bonus: grants made through Witherspoon to support faculty members at Princeton or other universities with which the institute is collaborating carry a maximum ten percent overhead charge. The Foundation for Excellence in Higher Education assists in supporting such independent institutes, among them the Abigail Adams Institute (Harvard University), the Houston Institute (Rice University), the Zephyr Institute (Stanford University), and the Elm Institute (Yale University).







## TIP #6

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# CONSIDER SHOPPING YOUR PROPOSAL TO MULTIPLE INSTITUTIONS

Higher-education donors frequently focus on their alma maters, which may not be the best institutions for the programs they are considering. In these instances, donors are likely to encounter administrators who persuade them to modify their gifts to suit institutional priorities. At the same time, if you push an unenthusiastic institution to accept

your gift and your terms—especially if you are paying for the entire undertaking—you will be dissatisfied with the half-hearted effort that results. One acid test for whether a university is truly on board is to require joint funding, i.e., an arrangement where the university commits its own funds to the project as well.



## TIP #7

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# CONSIDER LESS TYPICAL GIFTS AND INSTITUTIONS

Academic centers, buildings, professorships, and scholarships are the staples of higher education giving and will always be popular choices for donors. But look more broadly at the possibilities. Gifts that support independent study and leadership development among students can have potent effects on individuals. For example, gifts that support graduate students committed to individual liberty, the rule of law, and economic freedom can alter the ideological profile of the future professoriate. Gifts that promote debate—whether student or faculty directed—can bring new and different points of view to a campus and change its level of intellectual diversity and free speech.

Look beyond the elite four-year colleges and universities to find high-performing community colleges, trade schools, technical institutes, and online programs where your gifts can have profound impact. These institutions are on the cutting edge of economic progress, and make important contributions to regional prosperity through workforce development and upskilling programs.

Community colleges offer one of today's most underutilized investment opportunities for post-secondary education funders, as they serve not only students who advance to four-

year institutions for a bachelor's degree, but also those taking advantage of certificate and micro-credential programs. Gifts to alternative institutions have become more attractive as companies like Walmart, IBM, Accenture, and Google are abandoning the college degree requirement in favor of experience for many positions, including some corporate roles.



**TIP #8**

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# DEVELOP A CLEAR AND COMPREHENSIVE GRANT AGREEMENT

Don't assume colleges and universities understand or share your goals. Be clear in all communications, including not only formal grant agreements, but also in personal conversations about your gift. To be most effective in these conversations and in a formal grant agreement, consider doing the following:

- ◆ Collaborate to reach agreement about the details of your donation before the gift agreement is written. That makes it more likely the folks you're speaking with will follow through. Ask that the university put all the agreed-upon terms in their final proposal to you, which you can then accept and integrate into the gift agreement. This makes the shared mission and shared obligations obvious to all involved parties and will provide more clarity for future faculty and administrators.
- ◆ A complete gift agreement should include the amount of the gift, how and when it will be paid, a clear statement of purpose, a description of how—and on what timeline—the grantee will fulfill that purpose, your reporting requirements, the kind of involvement you would like to have in the funded program (e.g., meeting scholarship recipients), the conditions under which the grant will be renewable (if appropriate), and the circumstances which will lead to termination. The gift agreement should also include your wishes regarding whether and how the institution can publicize your gift and – if applicable – the agreed-upon terms of any naming rights involved.
- ◆ Always use a contingency plan that either provides for a different—and specific—use of your funds in clearly defined situations, or requires the institution to request permission from you or a designated representative before a grant is “repurposed.”
- ◆ In addition to a contingency plan, donors may well consider including in their grant agreements a reversion clause whereby a gift will be returned to the donor if a grantee fails to adhere with restrictions in the original grant agreement.



- ◆ Don't automatically accept a grant agreement from a university—these documents are designed to protect the university's interests, not yours. Drawing up an original agreement is well worth the time and expense. While there are outstanding university development officers who are careful to tease out a donor's ultimate intentions, you should also put in the time needed to precisely delineate your philanthropic goals.
- ◆ Never waive your right to a cy pres review by the courts in a grant agreement. In many instances, universities automatically include a clause essentially banning a third-party arbiter (such as the state's attorney general or a court) from stepping in to mediate should a donor intent dispute arise. Look for language in a grant agreement stipulating that, if it becomes "illegal, impossible, impractical, or wasteful" to continue as is, the university is free to change the grant agreement however it wishes.
- ◆ Respect academic freedom. The wishes of donors are sometimes at odds with academic freedom. While you have every right to bring your values to your philanthropy and fund only those faculty members and programs that align with those values, you cannot interfere with internal academic processes. You may define a broad subject area—American political history or free enterprise, for example—but you cannot dictate the actual curriculum. Generally, well-endowed universities will refuse to allow any donor involvement in the selection and approval process for academic appointments. In some instances, however, donors have been permitted to attend selection committee meetings and/or have a voice in the final decision among candidates deemed qualified by others. This is a matter a donor must discuss with the recipient institution during the development of the grant agreement. In all cases donors may wish to affirm their support of open inquiry, viewpoint diversity, and academic freedom in their grant agreements.

- ◆ Consider designating a contingent beneficiary with standing to sue if a college or university fails to follow your wishes. Acting as a contingent beneficiary, Hillsdale College brought a 2017 suit against the University of Missouri alleging misuse of a \$5 million endowment left to Missouri by Sherlock Hibbs in 2002. In late 2019 the two institutions reached a settlement stipulating that Hillsdale would receive \$4.6 million—half of the remaining endowment. While evidence produced during litigation suggested there may well have been some violation of donor intent, Hibbs’ decision to name a contingent beneficiary to monitor the original grantee (and take legal action if needed) successfully limited further erosion of his legacy gift.
- ◆ Consider giving through an intermediary. An intermediary funder might be a mission-driven donor-advised fund sponsor such as DonorsTrust, Bradley Impact Fund, or the National Christian Foundation. You might also consider a trusted charity that shares your principles and with whom you have an established

relationship. Giving to a college or university through such an intermediary is a good choice for higher education donors who lack the time, expertise, or inclination to monitor and administer a complex, multi-year grant agreement. An intermediary can assist you in defining your intentions, evaluating potential grantees, brokering the relationship between you and your grantee, monitoring compliance with grant terms, and making payments on a defined schedule.

- ◆ Don’t hesitate to ask questions, even in later stages of the process. Colleges and universities are complex institutions, and you have a right to understand policies and processes that may affect your gift. Donors to public institutions should clearly understand the relationship between the university and the university’s foundation. Donors to all colleges should understand how indirect costs are assessed, and develop written policies to address them. Some donors refuse to cover any indirect costs. Others, including the Gates and Templeton Foundations, cap their coverage at a maximum rate.

- ◆ Finally, while the terms “gift” and “grant” are used interchangeably in practice (and in this paper), it is advisable for individual donors to adopt the typical foundation use of “grant” for all donations that include binding terms. Research universities make a clear distinction between “gifts”—which are deemed irrevocable, unrestricted, and free of donor expectations—and “grants” for which donors have prescribed a precise scope of work to be performed in a specified time period. The latter are revocable if conditions are not fulfilled, and it is understood that subsequent funding is dependent on the donor’s receipt of satisfactory reports.

## TIP #9

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# SEEK ADVICE FROM TRUSTED SOURCES

When you read the dire stories of failed grants and violations of donor intent it is easy to get discouraged, especially in higher-education philanthropy. But there are excellent resources available to advise donors in this area. They include faculty members who direct campus programs that align with donors' values and professors who can advise you on promising philanthropic opportunities on their own campuses and elsewhere.

In addition to knowledgeable faculty, you should consider private consultants, funders who have successfully navigated higher education hazards, and nonprofit organizations such as Philanthropy Roundtable, DonorsTrust, the Fund for Academic Renewal, the Institute for Humane Studies, and the Jack Miller Center for Teaching America's Founding Principles and History. If you are looking for a worthwhile program at your alma mater or elsewhere, have questions about specific issues like free speech on campus, or are having trouble developing your grant agreement—no matter where you are in the process—reach out to a trusted source for information and guidance on defining and securing your charitable intentions.





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**TIP #10**

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**BE PATIENT**

Often, a natural tension exists between the instincts of donors—frequently, business savvy men and women with an entrepreneurial streak, accustomed to moving quickly and having their orders obeyed—and the glacial process of academic procedures. Moreover, the shared governance structure in higher education—where a board of trustees or faculty senate might have a say in a university’s grant proposal and its gift acceptance—can cause added frustrations.

The best course forward is to take your time, consult and trust your advisors, engage with those in both academia and administration who will implement your vision, and avoid trying to micromanage the process. A solid gift agreement may involve multiple conversations, a great deal of editing, and a longer time commitment than you originally imagined. Don’t rush the process. A carefully designed and well-run program that reflects your values is exactly what our nation’s colleges and universities need – now and for the future.

## ◆ ABOUT THE AUTHOR

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Joanne Florino is Philanthropy Roundtable's Adam Meyerson distinguished fellow in philanthropic excellence. In that capacity she consults with and advises foundations and individual donors on operations, management and governance issues with a special focus on protecting donor intent. Joanne previously served the Roundtable as vice president of philanthropic services, and also as senior vice president for public policy. Prior to working at the Roundtable, she volunteered on the strategy committee of the Alliance for Charitable Reform from 2006 until 2013.

Joanne has worked at nonprofit and philanthropic organizations for her entire career. She was executive director of the Triad Foundation in Ithaca, New York from April 2003 through March 2013. She was also executive director of the Park Foundation, a program associate at The Atlantic Philanthropies and an instructor in American history at Cornell University and Ithaca College.

Joanne currently serves as an ex officio board member of the New York Council of Nonprofits and an advisory board member of the Legal Insurrection Foundation. She earned a bachelor's degree in history from Georgetown University and a master's degree in American history from Cornell University. She currently resides in Renton, Washington.

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Philanthropy Roundtable is a nonprofit organization dedicated to building and sustaining a vibrant American philanthropic movement that strengthens our free society. To achieve this vision, the Roundtable pursues a mission to foster excellence in philanthropy, protect philanthropic freedom and help donors to advance liberty, opportunity and personal responsibility.