



INSTITUTIONALLY RELATED FOUNDATIONS FOR STATE FLAGSHIP UNIVERSITIES OUTSIDE OF NEW ENGLAND

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FREEDOM OF INFORMATION LAWS

Freedom of Information (FOI) laws identify records held by public agencies that must be made available for public inspection and copying. This public information must be disclosed unless federal or state law specifically exempts it from disclosure.

ISSUES

How does the relationship between UConn and the UConn Foundation compare with flagship public universities outside of New England and their foundations? Specifically:

1. are these foundations exempt from their respective states' Freedom of Information (FOI) laws,
2. are they the primary fundraising entities for their respective universities, and
3. how much money have they raised for their related institutions over the past several years?

SUMMARY

To answer these questions, OLR compared the UConn Foundation with the foundations of four flagship public universities located outside of New England:

1. University of Florida Foundation,
2. University of Georgia Foundation,
3. Iowa State University Foundation, and
4. The Ohio State University Foundation.

Among the state laws governing these foundations, Connecticut explicitly exempts public university foundations from FOI, while Florida exempts the majority of foundation documents. In two other states, Iowa and Ohio, courts held that university foundations are subject to state FOI laws since they act as public agencies. Iowa, Ohio, and Georgia have limited FOI exemptions for foundation donor records in their respective state laws.

Each foundation serves as its related institution’s primary fundraising arm. Table 2 (see below) describes each foundation’s fundraising efforts in recent years.

PUBLIC ACCESS TO FOUNDATION RECORDS

Connecticut law specifically exempts public university foundations from the state’s FOI Act. Florida law has broad, but not all-encompassing, FOI exemptions for foundations. The remaining states (Georgia, Iowa, and Ohio) have limited exemptions for foundations. Generally, the exemptions cover donors’ and prospective donors’ identities and personal financial records, but the laws vary in terms of which specific records they exempt from disclosure.

We also found two court cases that held that the university foundations were public agencies for purposes of FOI laws (Iowa and Ohio).

Table 1 lists the five states in our sample. The second column lists (1) university foundation records that state law specifies are not exempt from disclosure and (2) citations to the Iowa and Ohio cases. The third column lists FOI exemptions that apply specifically to university foundations.

Please note that the table includes FOI provisions that apply to university foundations only. It does not include broader FOI exemptions applicable to all public agencies that foundations may also assert (e.g., trade secrets and attorney-client communications).

Table 1: State FOI Laws Applicable to University Foundations

State (statute citation)	Foundation Records Not Exempt from Public Disclosure	Foundation Records Exempt from Public Disclosure
Connecticut CGS §§ 4-37e and 4-37f(9)		All records: university foundations are exempt from the state’s FOI Act
Florida Fla. Stat. Ann. § 1004.28(5)(b)	The auditor’s report, management letter, and any operation records requested and received by the (1) Board of Governors of the State University System, (2) university board of trustees, (3) auditor general, or (4) Office of Program Policy Analysis and Government Accountability	All other foundation records
Georgia Ga. Code Ann. § 50-18-72(a)(29)	Records containing donor names and donation amounts when donors, or entities in which donors have more than 25% asset or stock ownership, transact	Records containing personal information concerning donors or potential donors, except as noted in the previous column

Table 1 (continued)

	<p>business with the higher education institution within three years of making a donation</p> <p>By law, a business transaction is the sale or lease of any personal property, real property, or services in an amount exceeding \$10,000 in a calendar year</p>	
<p>Iowa Iowa Code § 22.7(52)</p>	<p>Foundations are subject to state's FOI law (<i>Gannon v. Board of Regents</i>, 692 N.W.2d 31 (2005))</p> <p>Additionally, state law specifies that foundation records are not exempt from disclosure if they:</p> <ul style="list-style-type: none"> • contain the donor's identity if the donor is a publicly held business corporation; • relate to the receipt, holding, and disbursement of gifts, including fund-raising policies and documents evidencing fundraising practices; • contain the donation amount and date; • contain any donor-designated use or purpose; • contain any donor-imposed restrictions; • disclose any privilege, benefit, employment, program admission, or other consideration, for the donor or certain relatives, on which a pledge or donation is conditioned; and • relate to the receipt, holding, and disbursement of gifts, including written fundraising policies and documents evidencing fundraising practices 	<p>The law exempts records:</p> <ul style="list-style-type: none"> • disclosing a donor's or prospective donor's personal, financial, estate planning, or gift planning matters; • received from a donor or prospective donor regarding his or her prospective gift or pledge; • containing information about a donor or a prospective donor regarding the appropriateness of the solicitation and dollar amount of the gift or pledge; • identifying a prospective donor and providing information on the appropriateness of the solicitation, the form of the gift or dollar amount requested by the solicitor, and the name of the solicitor; and • disclosing a donor or prospective donor's identity when he or she has requested anonymity in connection with the gift or pledge

Table 1 (continued)

<p>Ohio Ohio Rev. Code §§ 149.43(A)(1)(n) and 149.43 (A)(6)</p>	<p>Foundations are subject to state's FOI law (<i>State ex rel. Toledo Blade v. University of Toledo Foundation</i>, 65 Ohio St.3d 258 (1992))</p> <p>Additionally, state law specifies that records containing the following information are not exempt from disclosure:</p> <ul style="list-style-type: none"> • donor names and reported addresses and • the donation date, amount, and conditions 	<p>Donor profile records, which include all records of donors or potential donors, except for the records in the previous column</p>
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FUNDRAISING DUTIES

Each flagship university foundation in this sample serves as its related institution's primary fundraising arm, soliciting new gifts for the university and overseeing its endowment.

Table 2 describes each foundation's fundraising efforts in recent fiscal years. Fundraising totals are from the foundation's audit reports, financial statements, and official websites.

Table 2: Foundation Fundraising Efforts and Totals

<i>Foundation</i>	<i>Fundraising Efforts</i>	<i>Fundraising Totals</i>
<p>UConn Foundation http://www.foundation.uconn.edu</p>	<p>The foundation is the main fundraising arm of the university, overseeing private gifts and grants from alumni and corporations and managing the university's endowment.</p>	<p>Over the past four fiscal years, the foundation has secured an average of \$37.5 million per year in new contributions.</p> <p>FY 14: \$34.6 million FY 13: \$44.4 million FY 12: \$39.0 million FY 11: \$32.1 million</p>
<p>University of Florida Foundation http://www.uff.ufl.edu/</p>	<p>The foundation is the university's chief fundraising entity, responsible for raising, receiving, and administering gifts and other revenues on behalf of the university. Gifts are outright or deferred contributions received from</p>	<p>Over the past five fiscal years, the foundation has secured an average of \$106.8 million per year in new contributions.</p> <p>FY 14: \$111.8 million</p>

Table 2 (continued)

	private contributors (e.g., individuals, partnerships, corporations, foundations, trusts, and other organizations).	FY 13: \$109.6 million FY 12: \$100.4 million FY 11: \$106.4 million FY 10: \$105.7 million
University of Georgia Foundation https://dar.uga.edu/uga_foundation/	The foundation accepts and manages donor funds on behalf of the university, assists with development of fundraising activities, and provides fiduciary care for foundation assets for the long-term benefit and enhancement of the university.	Over the past three fiscal years, the foundation has secured an average of \$53.9 million per year in new contributions. FY 14: \$62.8 million FY 13: \$61.7 million FY 12: \$37.2 million
Iowa State University Foundation www.foundation.iastate.edu	The foundation is dedicated to securing and stewarding private gifts and grants that benefit the university. It provides fundraising services and manages the university's endowment.	Over the past four fiscal years, the foundation has secured an average of \$68.7 million per year in new contributions. FY 14: \$84.0 million FY 13: \$58.2 million FY 12: \$62.0 million FY 11: \$70.5 million
The Ohio State University Foundation http://www.osu.edu/giving/	The foundation is the university's primary fundraising and gift-receiving organization. It helps advance the university's mission by pursuing and securing private support to benefit students, faculty, programs, and facilities.	Over the past five fiscal years, the foundation has secured an average of \$160 million per year in new gifts. FY 14: \$192.3 million FY 13: \$218.9 million FY 12: \$199.9 million FY 11: \$106.1 million FY 10: \$82.7 million

Sources: Foundations' audit reports, financial statements, and official websites