

# Foundations of Public Universities: Too Secretive?

06.14.16 | Linda J. Rosenthal, JD



They have been called “‘slush funds’ and ‘shadow corporations’ that too often operate in secrecy, ....”

“Public officials are raising questions about the spending practices of the nonprofit fundraising arms of public universities,” according to the Council of Nonprofits. They control huge amounts of money with little accountability.

Recently, in at least two states – North Carolina and Connecticut – this issue has been in the news. But expert observers including academics and journalists reveal that this is a problem nationwide. One of the biggest obstacles is that these foundations are considered by many to be quasi-public, but they are not necessarily subject to states’ open records laws. This hazy status creates opportunity for questionable financial transactions to flourish without scrutiny.

## *University of North Carolina System*

The UNC system has some 17 foundations connected with 11 campuses around the state. Their (apparent) role is to “raise money for their associated universities.” As of figures for a few years ago, jointly these foundations have almost \$1.66 billion in assets.”

There have been questions raised in the past, but there are renewed calls for a closer look at “the investment practices of the foundations and how they interact with university finance and property transactions.”

There is concern, as well, for the “lack of transparency.” Curiously, “the UNC system does not compile a comprehensive list of all campus foundations and their activities” so prying out information is difficult.

In particular, some unusual property transactions have raised eyebrows. “In

North Carolina, these foundations buy property and then lease space back to their universities.” The standard situation is that the university leases space to an affiliated entity, not *from* it.

According to Marty Kotis, a concerned governing board member, these foundations are buying university property and then “are...leasing space to the university, and some of the centers and institutes, ... which is just a little incestuous.” Mr. Kotis, who happens to be a real estate developer, adds: “You wonder in that scenario why does the foundation do that, and what happens with the money that flows into the foundation, or out of it, and what’s the oversight on that.”

Are the foundations, he wonders, “...a tool that’s being used to avoid having to go through the red tape of the General Administration, the Board of Governors, the state oversight in a lot of cases...?” There are “a lot of different colors of money in university operations” and foundations intermingle that money. “[O]nce they flow through the foundation, any money coming out of the foundation can be used for anything...”

#### *University of Connecticut System*

The UConn Foundation is the “private, nonprofit fundraising arm” for the University of Connecticut. “About half of the foundation’s annual operating budget comes from UConn, and it receives “some \$8 million a year of taxpayer funds.” The foundation raised about \$80 million last year. University officials note that, as state higher education funding has decreased, there is increased “reliance on the foundation and philanthropy to fund programs at the university.”

“Debate over access to records from the UConn Foundation has been a long-running issue at the legislature.” Some important information – though hardly all – is available from IRS filings.

The UConn Foundation “is the only type of university organization in New England that is not subject to freedom of information laws.”

The matter of disclosure and transparency is back at the state capitol once again. Under legislation now pending, the UConn Foundation would have to “disclose information about its spending broken down into broad categories.” It would also be required to dedicate 15% of new revenue for student financial aid.

This bill is different than earlier, unsuccessful attempts; it does not require applying freedom of information laws to the foundation.

While the foundation has been resisting disclosure, arguing that it would “cause a decline of individual donors.” The CEO believes “those public battles have hurt the foundation and led to fewer individual donors, although total donations have risen.”

Nevertheless, the foundation “is supporting the bill amid growing calls by critics to scrap the bill for even stricter legislation.”

This pleases transparency advocates like James H. Smith, president of the Connecticut Council on Freedom of Information. “Sometimes you get [disclosure] in one fell swoop and sometimes ... it literally takes years to get where you want to be. This is one of those cases.”

#### Conclusion

Experts like David Cuillier, director of the University of Arizona School of Journalism, note that it “...sometimes takes a high-profile gaffe to get the legislature to move, and pass a law saying [these types of ] foundations are subject to the public records laws.” He adds:

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*I think there are a ton of flags that need to be raised when it comes to university foundations. I think it’s one of the most underreported scams in America...What a great way to hide money for a university.*