The Importance of Donor Intent

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(Presentation delivered at a conference sponsored by Hillsdale College, Philadelphia, PA., October 11, 2019).

Last year individuals, corporations, and foundations donated $428 billion to US charities, according to *Giving USA 2019: The Annual Report on Philanthropy*, or about 2 percent of national GDP. There are now more than 1.5 million nonprofit organizations in the United States, ranging from schools and colleges to hospitals, research centers, museums and orchestras, food banks, and homeless shelters. These institutions employed more than 13 million people in 2018, or nearly 10 percent of the nation's workforce. According to Independent Sector, an umbrella group of nonprofit organizations, another 60 to 70 million adults volunteer each year to assist charitable organizations. The United States is unique in the world for the size, scope, and diversity of its charitable sector.

The practice of creating private voluntary associations is not a new development in America, but something that goes back in history to the founding of the country. Alexis de Tocqueville took note of this phenomenon when he visited the United States in the 1830s, and commented on it in Democracy *in America* (1835):

Americans of all ages, all conditions, all minds constantly unite. Not only do they have commercial and industrial associations in which all take part, but they also have a thousand other kinds: religious, moral, grave, futile, very general and very particular, immense and very small; Americans use associations to give fêtes, to found seminaries, to build inns, to raise churches, to distribute books, to send missionaries to the antipodes; in this manner they create hospitals, prisons, schools. Finally, if it is a question of bringing to light a truth or developing a sentiment with the support of a great example, they associate. Everywhere that, at the head of a new undertaking, you see the government in France and a great lord in England, count on it that you will perceive an association in the United States.

America's charitable institutions are supported by voluntary contributions, encouraged by federal tax law which allows taxpayers to deduct charitable donations from their gross income. Most of these donations come from individuals but also from private foundations, corporations, and estates.

These donors provide funds in the expectation that they will be used for specific purposes – for example, to support scholarships or research on cancer – and not wasted or diverted to support other programs or institutions. Sometimes these expectations are spelled out in gift agreements, though often donors send in checks in the innocent belief that their funds will be used as advertised in institutional brochures and publications. If donors did not have confidence that their donations would be put to good use or used for agreed upon purposes, then they would be unlikely to make those contributions in the first place.

For these reasons, protection of donor intent is a bedrock principle that allows America's charitable sector to flourish. To the extent donor intent is violated or dismissed, then to that degree donors will lose confidence in charitable organizations and the purposes they are created to address. Charitable giving is also a deeply personal activity for many people, regardless of the sums they donate, and in that sense is an expression of their personal ideals. Respect for donor intent is thus also an expression of respect for the donor and his or her ideals.

Unfortunately, institutions that receive charitable donations are not always respectful of the intentions of donors, and too often yield to the temptation to divert funds to other uses that may seem more urgent or more in keeping with new institutional priorities. In recent years, several schools and colleges have been accused of misdirecting donated funds, and have been hauled into court by donors or their families seeking to recover some of those funds. There is now a growing list of lawsuits and cases dealing with disputes of this kind. In addition, we have all heard about charitable foundations created by conservative businessmen, such as Henry Ford, John D. Rockefeller, Andrew Carnegie, and J. Howard Pew, that over the years have drifted in progressive and socialist directions in opposition to the views of the men whose wealth created them.

By coincidence, Hillsdale College is currently involved in such a lawsuit against the University of Missouri, asserting in court documents that the University has misspent funds donated by a deceased alumnus to promote the teaching of free market economics. Hillsdale stands to recover the funds because the gift agreement stated that Missouri would forfeit the gift to the College if it failed to honor the agreement. That is an unusual case due to nature of the gift agreement that gives Hillsdale College an incentive to monitor the expenditure of funds at the University of Missouri. Credit should be given to that donor for having the foresight to insert that protective clause in the gift agreement in case something should go awry with his gift. Examples of this kind of foresight by donors is, unfortunately, all too rare.

There is a reasonable chance that the court will rule in Hillsdale's favor – though in many cases donors have found that it is difficult to recover funds once they are in the possession of charitable institutions. In many states, donors and their descendants are not given standing to sue charitable organizations to enforce gift restrictions because (as courts have ruled) donors relinquish all rights to property when gifts are made. There are exceptions to the rule, and some signs in recent cases that state courts are reconsidering it. Nevertheless, the key point is worth remembering: it is difficult to claw back funds once gifts are made. It usually involves long and expensive litigation, with uncertain prospects of success.

This means that donors must be careful up front when they donate funds to make sure they are used in a manner consistent with their principles and intentions. This is especially true of conservative donors who wish to give funds to schools, colleges, and universities to support programs that reflect their beliefs about politics, government, and economics. The challenge is magnified by the fact that most of these institutions – Hillsdale College excepted – are liberal and progressive in nature, and are typically administered by people sharing those beliefs. One does not have to be a cynic to see that such people may eventually be tempted to redirect those donations to other purposes more in keeping with the general ideological thrust of their institutions. *Donor Beware* – that is a good maxim for conservatives to bear in mind when considering donations to colleges and universities.

The Problem of Donor Intent

The problem of donor intent usually arises when the donor has either passed away or is no longer in a position to monitor the disposition of his or her estate, or the administration of the administration of endowments that he has set up at charitable organizations. At that point successor trustees or family members must step in to control those funds or to monitor ongoing grants in order to make sure they are used in ways consistent with the donor's intentions. That is not always easy to do because the donor is no longer around to express his or her views.

Examples of this kind of problem are legion, and some have been mentioned above.

Consider the case of J. Howard Pew, president of the Sun Oil company and founder (in 1948) of the Pew Charitable Trusts. Mr. Pew was the archetypical conservative business leader, a strong believer in limited government, free enterprise, and national strength. While he was active, the Pew Charitable Trusts supported a range of activities from medical research to public policy, and supported conservative and pro-business organizations like The American Enterprise Institute, the Liberty Lobby, and even the John Birch Society. When he passed away in 1971, leadership of the trusts fell into the hands of his children and grandchildren, who did not generally view matters in the same light as the benefactor. In time, the new trustees approved the appointment of a liberal president who moved the Pew Trusts in a decidedly left-wing direction. Today the $5 bill trust is a liberal organization whose agenda bears no relationship to the ideas of Mr. Pew.

Then there is the case of the Robertson family's lawsuit against Princeton University, eventually settled in 2009. In 1961Charles and Marie Robertson donated $35 million to create a foundation to fund the training of diplomats and public servants at the Woodrow Wilson School at Princeton University. Over a period of years University officials lost interest in this kind of education and began to divert funds from the bequest to unrelated purposes. Several years ago, William Robertson, son of the donors and also a Princeton alumnus, filed lawsuit in state court to recover the funds in the foundation, which by this time had swelled to $900 million. Documents uncovered during the litigation demonstrated that University officials were aware of the diversions and that they made them deliberately because they no longer believed that the training of public servants was an important educational activity. After lengthy litigation, the case was settled with the University required to disgorge $90 million plus interest to a new foundation controlled by the Robertson family. Even so, Princeton was permitted to keep the bulk of the funds, a sign that courts will generally sympathize with charitable organizations no matter the dimensions of their misconduct in relation to donor intent.

The Hillsdale lawsuit against the University of Missouri is another case of this kind, though one that may have a positive outcome. Sherlock Hibbs, a graduate of the University of Missouri who died in 2002, left a $5 million bequest to create faculty chairs for professors dedicated to the teaching of free market economics. In his will, Mr. Hibbs gave Hillsdale College the authority to monitor the appointments of professors hired with the funds, with the proviso that the funds would revert to the College if the University of Missouri did not allocate them as directed. Hillsdale, according to court filings, claims the school has not appointed professors to those positions who meet Hibbs' criteria, instead spending funds to support professors who were not free market economists. That case is behind heard in a state court in Missouri – with a former governor of the state representing Hillsdale in the litigation.

How, then, should donors structure their contributions to reduce the chances that their funds will be misspent or allocated to programs that conflict with their principles. There are, fortunately, some "rules of the road" to follow, and several practical steps donors can take to preserve the integrity of their contributions. Over several decades working with and for charitable organizations, I have found these measures helpful not only in preserving donor intent but also in improving the odds that contributions will be effective in advancing donor purposes.

Clarify Your Mission and Purposes

Thomas J. Tierney and Joel L. Fleishman write in *Give Smart: Philanthropy That Gets Results*, "Clarifying your values is … the best way we know to ensure that your philanthropy will continue to express what matters most to you." Calvin Edwards, another veteran in the field, writes in a similar vein: "A clear and precise mission statement is the foundation for protecting donor intent. It all starts there."

A clear and concise statement of purpose is essential because it underpins everything the enterprise will do, from appointing trustees, to hiring staff, and to making grants. Drafting a mission statement is helpful in clarifying a donor's principles and purposes, and providing direction as to what his or her philanthropy will seek to achieve. A mission statement can be just as important for what it excludes as for what it includes. There are many valuable purposes and enterprises in our society, and an effective philanthropy can only address a small subset of them. Success in this field, as in others, usually requires a degree of focus – and a good mission statement is an important first step in this direction.

In crafting a mission statement, a would-be donor is wise to consult family members and trusted friends and colleagues who not only can provide useful advice but who also may be enlisted as trustees and advisors in the philanthropic enterprise. This kind of back and forth among friends and family members is frequently useful in taking general ideas and giving them practical expression.

There have been many wealthy donors who neglected to draft clear mission statements, with the result that the philanthropies bearing their names have drifted with the climate of opinion in society – usually in a leftward or progressive direction. The late John D. MacArthur, who made a fortune in the insurance business, created a large foundation without giving it any purpose at all. "I made the money," he said to an associate. "Your problem is to spend it." To no one's surprise, there were many people willing to take him up on that offer. Henry Ford left no instructions for the Ford Foundation, and so that institution has funded every trendy issue from feminism to global warming that has roiled liberal opinion over the past 50 years. John D. Rockefeller gave to the Rockefeller Foundation an impossibly vague mission: "To promote the well-being of humanity throughout the world."

Examples of this kind could be multiplied many times over. There is little reason to believe that those who are gifted in creating wealth in the business world are similarly gifted in giving it away in the charitable sector. Many successful business leaders are thus reluctant to focus on their charitable purposes because giving away money is foreign to their experience. It is not uncommon to hear business leaders say (shades of John D. MacArthur), "I enjoy making money much more than I enjoy giving it away." At the same time, no successful businessman enjoys wasting money. That is one good incentive for focusing on a philanthropic mission --- because in the absence of such a mission, it is likely that vast sums will be wasted and frittered away to no positive effect.

On the other hand, there are many successful business leaders who have also succeeded as philanthropists, mostly because they decided upon a firm mission for their charitable giving. The late Daniel Searle, chairman of G. D. Searle & Co., created the Searle Freedom Trust several years ago with the mission "to create an environment that promotes individual freedom and economic liberties, while encouraging personal responsibilities and a respect for traditional American values." His mission statement goes on to specify how he wanted his successors to implement this aspiration. Ruth and Lovett Peters, with the aid of their son Daniel Peters, crafted an effective mission statement with the goal of promoting educational opportunities for all Americans, and especially for those in need. That foundation today is a leader in the field of educational reform.

John M. Olin, the prominent industrialist who died in 1982, created the John M. Olin Foundation with the goal of funding "individuals and institutions working to strengthen the free enterprise system and America's heritage of individual liberty and limited government." The mission statement for his foundation similarly elaborated upon how that goal was to be pursued through a grants program to fund think tanks, research institutes, and college and university programs. Sir John Templeton, who passed away in 2004, drafted a detailed mission statement containing articles about individual freedom, open mindedness, intellectual humility, and the links between religion and science. (These mission statements are widely available online on the websites of the organizations listed.)

There are many issues that a comprehensive mission statement might address, in addition to general purposes of the kind listed above. Will there be geographical restrictions on grants such that funds will be spent only on local or state related projects? What fields will be the focus of grant-making – for example, education, economics, public policy, international affairs, welfare and poverty, and the like? Will you support direct services for people in need through scholarships, food banks, homeless shelters or do you wish to promote ideas for the better functioning of government and society? Are there particular fields or organizations you do not wish to support?

Donors should also be warned that some overly specific goals may become obsolete with the passage of time, or with changes in the climate of opinion in the country. There are organizations created decades ago with the goal of promoting education for men or women only, a goal that is now impractical in many situations, if not contrary to public policy. The Hoover Institution at Stanford University was created by Herbert Hoover with the goal of combatting communism and Marxism, a worthy goal but one that was overtaken by events with the collapse of the Soviet Union.

In this regard, donors might be cautioned to craft mission statements that are specific enough to be implemented, but no so specific as to become obsolete with changes in law, and politics – admittedly, sometimes a difficult compromise to bring off. A good mission statement should be readable and memorable – and as brief as possible. It should contain general language about goals and purposes, with supporting language about how those goals and purposes should be pursued and implemented. In short, a good mission statement should be clear enough to provide guidance to prospective applicants, and brief enough to be published in organizational reports and brochures.

Giving While Living

Sir John Templeton liked to say, in a memorable phrase, "If you're giving while you're living, then you're knowing where its going." That is one solution to the challenge of donor intent: allocate your charitable funds while you are alive and healthy enough to do it. Andrew Carnegie said that "the man who dies rich dies a failure," reflecting his view that those who have accumulated fortunes are "stewards of great wealth," and thus have an obligation to donate the funds while they are alive. He failed in this pursuit, as he died a very wealthy many. The Carnegie Corporation lives on today more than a century after Carnegie's death. Nevertheless, the aspiration was sound. The goal of "giving while living" eliminates many of the challenges surrounding donor intent.

Let us acknowledge, in defense of Mr. Carnegie, that it will never be easy for a wealthy individual to dispense with all of his wealth while he is living. No man can ever know how long he will live, or how long his wealth will last. This gives rise to a compromise between "giving while living" and preserving a portion of one's wealth for the future: a donor can begin to donate funds while still alive and active in order to establish a template or a model of philanthropy for his successors to follow after he has passed away.

Many donors, such as John Olin, Dan Searle, Sir John Templeton, and Andrew Carnegie, created philanthropic organizations in their later years, and spent a fair amount of time making decisions as to where to allocate their substantial wealth. These decisions established patterns of grant-making for successors to follow so that they would not have to make guesses about the donor's intentions or preferred charities. John M. Olin donated funds to law and economics programs at leading law schools, and his successors continued funding such programs (with considerable success) two decades after he passed away. Dan Searle liked to fund empirical research on public policy at institutions like the American Enterprise Institute and George Mason

University – a pattern of giving that his successor trustees and advisors continue to follow. Sir John Templeton established a strong record of supporting free enterprise and the connections between religion and scientific knowledge – programs that his Foundation continues to support.

There is the case of Charles Feeney, co-founder of Duty-Free Shops and founder of Atlantic Philanthropies, who has nearly fulfilled his pledge to give away his fortune via philanthropy – mostly in support of medical research. There have been disputes among his trustees about how to spend the funds – but he has been available to step in to settle them. He is now 88 years old and plans to achieve his goal of spending his fortune by next year – leaving himself with an apartment in San Francisco and modest sum on which to live in his sunset years.

It is thus a wise practice for wealthy individuals to begin their philanthropy while they are still living instead of passing their wealth through their estates to be given away after they have died. This approach allows the donor to establish a philanthropic organization by appointing fellow trustees, a staff (if necessary), along with a record of grants and donations that will eliminate guesswork in the future about the kinds of organizations the donor wished to support. There have been cases where donors have left behind after death large fortunes to be given away to charity, with the result that successors have fought and disagreed over the disposition of the funds, with substantial sums being spent in litigation to settle those disputes. That is a situation that, with a little foresight, should be easy to avoid.

Governance and Staff

Edwin J. Feulner, founder and past president of The Heritage Foundation, liked to say that, "People are policy" -- his way of saying that personnel are the basis for sound public policy. If a president or governor wants to implement conservative policies, then he needs conservative people in policy making positions. That was one of the functions of The Heritage Foundation: to train and supply reliable conservatives to serve in government, and then to use those opportunities to shape public policy. In order to adopt the right policies, it is first necessary to have the right people in place to shape them.

Veteran executives the field have echoed the above points with regard to the selection of trustees and staff in charitable foundations. Kim Dennis, president of the Searle Freedom Trust, has put it this way; "If you appoint the wrong people, no structure or mission statement can hold them to the donor's intent.' Donn Weinberg, trustee of the Harry and Jeanette Weinberg Foundation in Baltimore, notes that, "You can put things in writing very clearly, but if you pick the wrong people, and they are motivated by their own ideologies and proclivities, then they'll start to change the meaning of words." That is an important point: words in a mission statement, like words in the Constitution, can be twisted beyond recognition but people with a determination to do so. He adds: "If the early trustees are not honoring donor intent, the later ones will never do it."

The selection of initial trustees is crucially important because with the passage of time they will probably select successor trustees and new staff members – and will make crucial decisions about the future of the organization after the donor has passed away. If donor intent is to be preserved in these situations, then the original trustees must share the donor's "charitable DNA." Typically, family ties or expertise are cited as reasons for the selection of trustees, and while these are important criteria it is important to bear in mind that family members may disagree with the donor on important subjects and "experts" often have their own views as to the proper path to follow, regardless of the donor's views.

It has been said that choosing the right board members is more art than science, an enterprise that requires some patience and discernment in the assessment of potential trustees and staff members. Sharing the donor's general views about politics, government, and economics is vitally important, so also are integrity, principle, and strength of character.

Successful business leaders may often find trustees among business colleagues whom they have known over the years, and whose judgment and integrity they trust. John M. Olin, when he put his foundation in motion in the 1970s, selected five business colleagues to join him on his board – and they remained devoted to Mr. Olin's mission for years after he passed away. Dan Searle created a structure in which family trustees defer to grant advisors with extensive experience in public policy and proven devotion to his principles.

In contrast, J. Howard Pew passed control of his foundation to family members, a practice followed by many wealthy donors. Nevertheless, within two decades his successor trustees turned his trust over to executives who expressed contempt for Mr. Pew's political and economic views. Children and grandchildren, as we know, do not always agree with the views of their father or grandfather -- which is what happened in the case of the Pew Trusts. By and large, if a donor has strong political or economic views that he wishes to support with his estate, then he may find it necessary to look for trustees from outside the family circle, and among friends and associates whose judgment he trusts.

In some cases, donors have set up trust documents that require new trustees and staff members to sign a statement pledging fidelity to the mission statement of the organization. This is a fairly common practice today in the creation of foundations that are organized around a set of operating principles such as those set forth by Dan Searle and John M. Olin. The Daniels Fund in Colorado requires new trustees to review documents describing the life, ideals, and charitable intentions of Bill Daniels (the donor who passed away in 2000). Trustees are asked to sign a statement that reads:

"Signing this document affirms your commitment to preserve Bill Daniels' donor intent and his personal style of conducting business (as described in this document). You agree to set aside your personal views or preferences when acting on behalf of the Daniels Fund. It is the Board's responsibility to ensure that the Daniels Fund most effectively fulfills Bill Daniels' intentions and remains true to his ideals.

There are many other steps that donors can take to increase the odds that successor trustees will follow donor intent. In some foundations, the by laws require that the mission statement or a statement of donor intent must be attached to the agenda of every board meeting as a reminder of the donor's purposes. There are foundations in which donors have set up external review committees empowered to remove trustees and staff if they find that they have substantially departed from donor intent.

Sunsetting

Julius Rosenwald was one of the more influential philanthropists in the early decades of the 20th century – perhaps surpassing Andrew Carnegie and John D. Rockefeller as an influential and pathbreaking donor. An early investor in Sears, Roebuck, and Company, and president of the firm from 1908 to 1924, he built up sufficient wealth to establish his own charitable foundation in Chicago. He gave generously to the University of Chicago and to the city's Museum of Science and Industry – but he is best known for working with Booker T. Washington to create some 5,000 elementary and secondary schools across the American south for black children.

Rosenwald criticized the idea of perpetual foundations, and wrote that philanthropists should concentrate on the problems of their own generation, and thus spend the bulk of their assets while still living. He died in 1932, and left instructions to his successors to spend out the remaining assets of his foundation over a short period of time – which is what happened. By 1948, his foundation disbanded after disposing of all assets for charitable purposes. In leaving instructions to sun set his foundation, Rosenwald created a model for other donors to follow.

John M. Olin was greatly concerned with the anti-business sentiment that developed among some politicians, journalists, college professors, and students during the 1960s and 1970s. He created a foundation to support America's business and economic system, but also feared that after his death it might eventually come under the control of the very forces he wanted to fight.

Mr. Olin was well aware of the Rosenwald model, and was also alarmed to read in 1977 that Henry Ford II had to resign from the Board of Directors of the Ford Foundation in because he could find nothing in the foundation's program that reflected support for the private enterprise system. Fearing that this could happen to his own foundation, he directed his successor trustees to spend down its assets during their working lifetimes, and within a generation of his death. In doing so, he believed he would accomplish two objectives: that his general principles would be sustained by the trustees he had selected, and that the assets of the foundation would be spent over a short period of time on conservative and pro-business programs.

A perpetual foundation will typically spend 5 percent of its assets per year on grants and administrative expenses and accumulating any excess sums for future spending. A time limited foundation, however, can easily spend a much higher percentage per year because the goal is to spend down assets, not to preserve them for future spending. The John M. Olin Foundation was spending between 10 and 20 percent of assets per year on grants as it looked ahead to disbursing all of its assets. A time limited foundation, in other words, can spend more aggressively than a perpetual foundation, and can (if the funds are effectively spent) have a greater influence on events than it otherwise might have had.

There are several other noted foundations that have followed the sun setting model in recent years, or are in the process of doing so, including the Earhart Foundation (which closed in 2015), the Atlantic Philanthropies (due to close in 2020), the William E. Simon Foundation (due to close in 2023), the Searle Freedom Trust (due to close in 2025), the Donald W. Reynolds

Foundation (closed in 2017), the Bechtel Foundation (due to close in 2020), and several others. The donors who established these foundations were generally concerned about the two issues highlighted above: preserving donor intent and allocating funds challenges of the current generation, in the belief that our dynamic economic system will create new fortunes in the future, thus weakening the case for perpetual foundations. Donors can specify in trust documents that assets of the organization should be spent out by a particular date, usually 20 to 30 years after the donor's death.

Sunsetting a foundation is perhaps the most effective means of preserving donor intent because it limits the life of the organization and ensures that it will be guided by trustees selected by the donor. It is extremely difficult to keep a perpetual foundation on track once the donor and his successor trustees have departed from the scene. At this point, now 25 or more years after the donor's death, there are few trustees or staff members who even knew the donor, or were sympathetic with his ideals. Additionally, new issues have arisen not foreseen by the donor, and old ones may have been eclipsed by events or by time. There were donors who set up organizations in the 1950s to fight communism – so that their successors were left with a question about what to do when the Soviet Union collapsed in 1991. Limiting the life of a foundation – "sunsetting" – is a solution to all of these problems.

Giving Wisely to Colleges and Universities

Higher education has long been among the favored areas for charitable contributions. Alumni enjoy giving back to their colleges, and donors in general find that higher education is rich in giving opportunities for medical research, scholarships, specialized seminars, courses, and conferences, and the like. Last year private donations to high education exceeded $50 billion, or about one-eighth of all charitable giving in the United States. These gifts over the years have swelled college endowments to record levels, with 100 colleges now holding endowments greater than $1 billion, and several now greater than $10 billion.

At the same time, higher education is a challenging sector for donor intent and grant compliance, particularly for conservative donors for all the reasons mentioned above. Colleges and universities, with occasional exceptions, are controlled by liberal faculty and administrators, such that conservative donors must search hard for worthwhile programs to support. Once they have done so, they must be vigilant to make sure funds are spent for agreed upon purposes. To complicate matters, administrators and faculty are especially sensitive about their independence and intrusions upon their "academic freedom," such that they frown upon donors who try to tell them how to spend funds. They would like donors to write generous checks, then leave them alone. From the donor's point of view, that frequently is a recipe for misspending funds.

There are many cases, as mentioned above, of donors who have tried to direct the spending of funds to colleges and universities, or who have tried to claw back funds that have been mis-allocated. By and large, it is difficult to direct the expenditure of funds on campus, because of the sensitivity academic freedom, and the difficulty of clawing back funds after checks have been written.

For donors interested in donating to colleges and universities to support the study of free markets, or the founding fathers, or American history, or related subjects, there are a few guidelines to follow in making sure that funds are properly spent.

First, work with a college or university sympathetic to the donor's principles. Obviously, Hillsdale College is an easy institution to work with for a conservative donor; one can be confident that faculty and administrators will faithfully abide by donor intent. There are a handful of other such colleges around the country: Grove City College, for example, or Thomas Aquinas College in California, and several others. Those colleges deserve the support of conservatively inclined donors, not only because of the nature of their mission, but also because they have had the courage to break away from the academic pack, at substantial risk to their institutional lives.

Second, if one wishes to go beyond these institutions to work with, say, Harvard University, or Yale, or Princeton or Stanford, or the University of Michigan, then the donor should identify professors or programs in line with his principles, and work with them to develop realistic proposals for funding. It is not a good idea to write checks that go into the general fund. In addition, a donor avoid working with presidents or development officers, who understandably wish for large checks for general purposes, but should speak directly to professors or program directors in areas of their interest – an economics or history professor, for example, or the director of a research program on campus, or some such person with responsibility for courses, appointments, and research.

Third, work with the college or university (usually with the professors or directors referred to above) to craft a proposal that can serve as a grant agreement between the two parties. The proposal should specify the purposes for which funds will be used, and in what amounts, and according to what schedule of expenditure. The proposal should be clear and specific as to purposes, and should preserve the donor's rights to terminate the agreement for cause. It is important that the proposal be written and submitted by principals (faculty or administrators) at the college or university, so that they are requesting the funds for specified purposes – and the donor is not telling them what to do.

Fourth, maintain good working relationships with faculty members or administrators with oversight of grants, by visiting campus occasionally or by requesting annual reports or by meeting students or new faculty supported by grants. With regard to colleges and universities, it does not work to write large checks, and then disappear for a time in the belief that funds will be well spent – as the Robertson family discovered with respect to its large gift to Princeton university.

Fifth, generally avoid endowment gifts, except in rare circumstances, and award grants for periods of three to five years at a time, with promise of renewal on the basis of performance. Endowment gifts are perpetual gifts, designed to support programs over the long run, with a small percentage (usually 4 or 5 %) taken out annually to support programs. Those gifts, once given, belong to the college or university, and are difficult to claw back, for whatever reason. The donor, having written the check, loses all control over the expenditure of the funds. Naturally, college and university administrators like this arrangement – and why shouldn't they? The problem, as always, is that professors retire and are replaced by people with different views or different interests, or who may be less interested in the objectives of the endowment gift. Over the years, the original purposes are lost or forgotten in the fog of time, and new purposes are found for the funds. Meanwhile, the donor or his family can only watch as this transpires. It is an old and common story.

Donors, however, are better served by making short term gifts, with the possibility of renewal if the program goes as anticipated. This gives the donor control over the funds: he can cancel the grant if it is not working, and go elsewhere with his funds. If it is working, then he can renew the grant, or increase his contributions.
If the professor overseeing the grant retires or moves to a different campus, then the grant can be terminated, or it can follow the professor to the new campus. In general, this is the most effective way to make grants on college campuses – that is, award the grants for short periods for clearly defined purposes, evaluate them on an ongoing basis, and either renew of terminate them based upon performance.

Despite the leftward bias of most colleges and universities, there are abundant opportunities for careful donors to support high quality programs, if they take time to search for them. The Charles Koch Foundation supports well over 100 campus programs devoted to economic liberty, economic innovation, and related subjects.
The John M. Olin Foundation supported dozens of high-quality programs in law and economics and leading law schools, including at Harvard, Yale, Stanford, and the University of Chicago. The Thomas W. Smith Foundation supports over 50 campus programs devoted to the study of the founding fathers, American history, economic liberty, the works of Adam Smith and F. A. Hayek, and related subjects. The Jack Miller Center for the Teaching of America's Founding Principles maintains a roster of more than 100 professors across the country interested in teaching and research in this area. The John William Pope Foundation (Raleigh, NC) has identified several campus programs across the state of North Carolina that promote the study of free markets, the Constitution, the founding fathers, and related subjects.

It is true: conservative donors must exercise care in giving to colleges and universities, but if they do so they can find many programs and professors worth supporting on the American college campus.

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John M. Olin Foundation from 1985 to 2005, when the foundation (following donor intent) disbursed its remaining assets and closed its doors. He is the author of several books and numerous essays that have appeared in The Wall Street Journal, The Washington Post, The Washington Examiner, The American Spectator, Commentary, The New Criterion, among other outlets.

A Note on References and Sources:

In drafting this essay, I had the good fortune of consulting several valuable publications on the broad subject of donor intent, many of them published by The Philanthropy Roundtable, an invaluable organization dedicated to the principle of donor intent in philanthropy. I have borrowed freely from my own writings and experience, and from the selections referenced below. Of particular interest is the new volume by Joanne Florino and David Bass (cited below) which provides a new and comprehensive overview of the subject, replete with examples good and bad. Donors, potential donors, trustees of foundations, and staff members will find all of this literature both interesting and valuable.

Joanne Florino, Protecting Donor Intent - Defining and Preserving Your Philanthropic Legacy (The Philanthropy Roundtable, 2020)

This guidebook takes the donor through all the important issues involved in donor intent, from writing mission statements, to selecting trustees and sunsetting, to guidelines for giving to colleges and universities.

"When Philanthropy Goes Wrong" by Adam Meyerson

In this special *Wall Street Journal essay*, Adam Meyerson discusses the importance of protecting donor intent and how donors—whether large or small—can take concrete action to safeguard their philanthropic principles.

Protecting Donor Intent: How to Define and Safeguard Your Philanthropic Principles by Jeffrey J. Cain

The Philanthropy Roundtable published this guidebook for successful individuals who want to ensure that their intent is followed within the grantmaking organizations they found. It covers every major practical consideration and highlights the best strategies for securing donor intent. Using real-life examples, topics include deciding on a timeframe, defining a mission, choosing philanthropic vehicles, selecting board members, and instituting safeguards, both internally and externally, that will help reinforce donor intent.

"Why Donors Must Protect Their Philanthropic Principles" by Adam Meyerson

Adam Meyerson highlights the need for Jeff Cain's Protecting Donor Intent by discussing examples of grantmaking institutions which have strayed from the principles of their initial donors. With this guidebook, The Philanthropy Roundtable hopes to help philanthropists think through the best strategies for carrying out their charitable purposes and core values.

"Letter to an Aspiring Philanthropist: Advice on Starting a Foundation from One Who Has Been There" by Randy Richardson

A 70-something philanthropist looks back on what he's learned, starting with his wobbly beginnings at the family foundation in his 20s. He casts a skeptical eye on perpetuity and warns, "If you don't have well-thought-through ideas about the focus of your foundation, don't create it."

"Daniel C. Searle: 1926-2007" by Kimberly O. Dennis

How one notable philanthropist used both a detailed mission statement and a set of three governing committees to spell out his intent and ensure it would be respected.

A Gift of Freedom: How the John M. Olin Foundation Changed America (Encounter Books, 2005).

John Miller wrote this history of the John M. Olin Foundation when it closed in 2005, covering the life of John Olin, his philanthropic interests, and the influence of his Foundation over the years from 1977 to 2005.

"The Biggest Mistakes You Can Make When Choosing Board Members" by Jeffrey J. Cain

In this session from the 2010 Annual Meeting of The Philanthropy Roundtable, the president of the Arthur N. Rupe Foundation explains why choosing board members may be the most important decision you make. He offers guidance in how to select your trustees carefully and how they can perpetuate themselves after you're gone.

"Putting the 'Trust' back in 'Trustee'" by Edwin J. Feulner

A trustee of South Carolina's Roe Foundation explains the way its founder selected outside groups to monitor the foundation's fidelity to his intent, and, if necessary, to sue the foundation if it strays from its founding mission.