



EGERTON UNIVERSITY

EGERTON UNIVERSITY ENDOWMENT FUND

PROPOSED (DRAFT) REGULATIONS

FOR

THE EGERTON UNIVERSITY ENDOWMENT FUND

APRIL 2023

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1. General Provisions

- 1.1. The **Egerton University Endowment Trust Fund** (defined below) shall be managed and administered in the manner hereinafter mentioned. Egerton University is the legal owner of the Fund and is therefore responsible for all matters relating to the administration, interpretation and application of the Fund.
- 1.2. In this Regulation unless the context shall otherwise require:
- 1.2.1. **“Book Value”** means the accounting balance of endowment fund excluding unrealized gains and losses since inception.
- 1.2.2. **“Capital value”** means the original donated capital and any subsequent donated capital.
- 1.2.3. **“Financial Year”** means the period commencing on 1st July of a year and ending on 30th June of the next following year;
- 1.2.4. **“Fund”** or **“Egerton University Endowment Fund”** refers to money or other financial assets that are donated to the University and are meant to be invested to grow the principal and provide additional income for future investing and expenditures;
- 1.2.5. **“Fund Income”** means any and all income earned from the investment of the Fund; and
- 1.2.6. **“Investment Committee”** means the Sub-Committee of the Board of Trustees which assists the Executive Committee of the Board of Trustees in managing the University’s funds to generate a consistent stream of income to support the activities of the University as a public institution of higher learning.
- 1.2.7. **“Market Value”** means the accounting balance of Endowment Fund including unrealized gains and losses since inception.
- 1.3. These regulations may be cited as the ***Egerton University Endowment Fund Regulations***.

2. The Fund

- 2.1. All endowed gifts donated to the University shall be placed in the Fund and shall constitute the capital of the Fund. All payments required to be paid under this Regulation shall be paid out of the Fund Income.

3. Acceptance of Trusts, Bequests, Donations, Endowments etc.

- 3.1. No trust, bequest, donation, endowment etc, shall be accepted except with the permission of the University Council.
- 3.2. Trust, bequest, donation, endowment shall be accepted for the purpose of enhancing the knowledge, furthering the objectives of the University.
- 3.3. Separate files containing terms and conditions approved by the University Council in respect of each trust, endowment, etc. shall be maintained.

4. Income from Trusts, Endowments, etc.

- 4.1. If the intention of the donor is to create a fund by the amount of the donation and to meet the expenditure out of the income of that fund the amount will be invested subject to the general directions of the University Council in this regard.
- 4.2. A proper watch shall be kept over the income from various trusts, endowments, etc.

5. Utilisation of proceeds of Trust/Endowments, Funds

- 5.1. The endowments or donation of money or other property or the proceeds thereof, as the case may be, shall be applied with due regard to the conditions, if any, which the endower or the donor may impose, within the meaning as per clause 3.2 above and having the approval of the University Council.
- 5.2. In the case of amount endowed by an individual or a society without mentioning a specific purpose, the money be expended on the objects approved by the University Council.

6. Management and Powers

- 6.1. The University shall have sole discretion in the management and control of the Fund.
- 6.2. The Investment Committee is authorized to invest the Fund in the name of the University in any investment instruments permitted by law and in accordance with any prevailing University policy to earn income.
- 6.3. The University shall, out of the Fund Income, pay all expenses for managing the Fund. Subject to Clauses 6.4 and 6.5 below, the University may also periodically pay a proportionate share of the administrative expenses of the Faculty, Academic Unit, Research Institute, halls of residence or non-academic office of the University which is administering an endowed fund and apply the balance thereof to the University's common pool of funds for all or any of the purposes of the University.
- 6.4. The University may at any time and from time to time apportion such part of the Fund Income to form part of the capital of the Fund as may be necessary to preserve the value of the capital of the Fund and offset any depreciation in the value of the capital of the Fund due to inflation or other factors and shall invest such sums accordingly.
- 6.5. At the start of every Financial Year, each endowed fund shall receive an annual distribution of expendable income at a pre-determined fixed rate. The Chairman shall recommend the fixed rate for the Board of Trustees' approval.

7. Accounts

- 7.1. The University shall cause proper books of accounts and records of the Fund to be kept.
- 7.2. Separate books of accounts –register of endowments/donations, cash book, ledger showing individual account of each endowment/donation, register of

scholarships and prizes, register of investments, shall be maintained in respect of all donations, endowments etc.

- 7.3. The amount of interest accrued and realized shall be credited to the respective fund.
- 7.4. In the case of immovable property vested in the University, the University acting as the administrator of the trust and having the possession, management and control of the property and the application of the income there from shall, in the books to be kept by the University, regularly enter or cause to be entered full accounts of any money received and paid, respectively, on account of the trust. The account of such property shall be kept in the register of immovable property. A note of any property of which the University is divested, either by sale or otherwise, shall also be recorded in the same register against the original entry.
- 7.5. A separate account for each property let out on lease or rent shall be kept.
- 7.6. Where the property endowed consists of valuables or other precious work of art or a relic of historical or special interest, an entry thereof shall be made in the register of valuables and the property shall be kept in such safe custody as the Vice-Chancellor may direct.
- 7.7. A proper stock account shall be maintained for purchases made forgiven away as prizes; issues being accounted for on a certificate of distribution signed by the Director (Administration, Planning & Development).
- 7.8. The endowment accounts will be audited at least annually as part of the audit of the University performed by an external certified public accounting firm.
- 7.9. The Office of University Finance Director/Officer will report the accounts and activity of each endowment to the donor as specified in the gift agreement.
- 7.10. Recording and reporting of all related transactions shall be consistent with currently established accounting procedures and methodology.

8. Audit

- 8.1. The Accounts of the Fund shall be audited in accordance with the provisions of the Act and of the Public Finance Management Act, No. 18 of 2012.

9. Capital Funds

- 9.1. Save as specifically resolved by the Board, the capital funds shall not be available for disbursement.

10. Disbursement of Funds

- 10.1. The Fund Manager shall recommend to the Board annually the amount of income of the Fund including interests, dividends, rent and realized capital gains, which are available for disbursement.
- 10.2. The Fund Manager shall, in recommending the amount of income to be disbursed, take into consideration that the value of the capital funds after inflation should not diminish over time.

10.3. Undisbursed income shall be re-invested in accordance with the advice of the Fund Manager.

11. Procedure for disbursement of funds

11.1. Any person engaged in education, teaching, research and outreach activities in TTU may apply to the Board for disbursement of funds in the form prescribed by the Board of Trustees.

11.2. The Board shall consider all applications and shall approve or reject any application or request for more information.

11.3. The Board shall scrutinize all applications and if approved authorize disbursement of funds or reject the application.

11.4. Where the Board authorizes disbursement of funds, it shall notify the Fund Manager who shall release the funds to the applicant.

11.5. Where an application for disbursement of funds is rejected, the Fund Manager shall inform the applicant in writing of the reasons for the rejection.

11.6. The beneficiary of funds shall be required to account for all funds received.

11.7. Any Funds of above One Million Shillings disbursed to an individual beneficiary shall be subject to audit by an independent auditor appointed by the Board for that purpose.

11.8. The Fund Manager shall monitor and document all activities which are supported by the Fund.

12. Purposes for which Funds may be disbursed

12.1. Funds may only be disbursed to –

12.1.1. Support teaching and research payments;

12.1.2. Support personnel expense payments;

12.1.3. Facilitate student scholarship and grant payments;

12.1.4. Support continuing education payments;

12.1.5. Enhance academia-industry cooperation payments;

12.1.6. Facilitate asset and property addition, expansion, and improvement related payments;

12.1.7. Train and build the capacity of University community;

12.1.8. Facilitate community based education initiatives; and

12.1.9. Support other university development related payments.

13. Windows for disbursement of funds

13.1. There shall be one disbursement window in each quarter of the year during which funds may be disbursed to the successful applicants.

13.2. Beneficiaries shall give quarterly progress reports and render quarterly accounts of the utilization of the monies disbursed to them from the Fund.

14. Investing Endowments

- (a) Endowment funds will usually be invested consistent with the Fund's Investment Policy for Restricted Funds. However, under a donor's specific instructions, a particular endowment fund may be invested consistent either with the Fund's Investment Policy for Unrestricted Funds or in the manner prescribed by the donor.

14.1. Fundraising Strategy

- 14.1.1. The Board shall develop a fundraising strategy which shall include but not be limited to-
- 14.1.1.1. Annual fundraising targets;
 - 14.1.1.2. Potential donors and sources of funding;
 - 14.1.1.3. Proposed fundraising activities; and
 - 14.1.1.4. Fundraising budget.

14.2. Investment of Funds

- 14.2.1. The Board shall in consultation with the Fund Manager prepare-
- 14.2.1.1. An annual investment policy for the Fund;
 - 14.2.1.2. Annual portfolio performance review; and
 - 14.2.1.3. Review of performance of the financial consultant and or investment managers.
- 14.2.2. The annual investment policy shall take into account costs of investment management and investment portfolios based on their returns, nature of risk and duration of the investment.

14.3. Maintenance of Records

- 14.3.1. The Fund Manager shall maintain clear records of all matters relating to the investment of the Fund.
- 14.3.2. The Fund Manager shall submit annual returns of the investment of the funds to the Fund Trustees and the Board.

15. Spending Payout Rate

- 15.1.** In order to preserve the real value of the Egerton University's endowed assets, a spending payout rate will be selected that strikes a reasonable balance between current spending outlays and reinvestment of the remainder to support spending in the future. Unless otherwise specified in the endowment gift agreement, the University shall determine the spending payout rate for its endowed funds by considering the following factors:
- 15.1.1. The duration and preservation of the fund;
 - 15.1.2. The purposes of the University and the fund;
 - 15.1.3. General economic conditions;
 - 15.1.4. Possible effects of inflation or deflation;
 - 15.1.5. The expected total return from income and appreciation of investments;

- 15.1.6. Other resources of the Egerton University Endowment Fund; and
- 15.1.7. The Egerton University's Investment Policy for Restricted Funds.

15.2. Except as otherwise provided in this regulation statement, it shall be the Egerton University Endowment Fund's general policy to pay out annually, 4% of a 12-quarter moving average market value of the endowment pool as of June 30th. Permanent and quasi endowments shall be established for at least one year before making a payout distribution.

15.2.1. Income Determination - Interest, dividends, and realized gains or losses on investments will be allocated to endowment spending accounts, on a pro-rata basis calculated on the average cash balance of the endowment compared to the total average balance of the investment pool.

15.2.2. Basis and Timing of Appropriations - The endowment spending amount will be distributed to participating projects on a quarterly basis.

15.2.3. Investment Reserves - The payout rate is designed to provide for the spending needs of participating projects; the Board recognizes that stability is not to be relied upon a dynamic market and to reverse any negative effects of a downward trend in the market, cash income and market value adjustments over and above the current payout rate will not be distributed to cover spending needs but will be earmarked as investment reserves. The purpose of these reserves is to ensure an even income stream and lessen the project's reliance on economic forces in making decision in its budgetary process.

15.2.4. Corpus – As per Egerton University Financial Regulations, the Endowment Fund reserves the right to appropriate a portion of the corpus of an endowed fund if it deemed prudent to do so.

15.2.5. For permanently endowed funds, which have a fair market value of less than KES 2.5M, the Endowment Fund may consider accumulating (instead of expending) the amount otherwise distributable under this policy statement until such time as its balance equals or exceeds KES 2.5M, in no case to exceed five (5) years, and in each case except as otherwise specified in the endowment gift instrument. In making this determination on a case by case basis, the Board of Trustees shall balance the purpose of such permanent endowment with the preservation of such fund, consider the need to grow the fund so that its distributions are meaningful in amount, assess the University's current needs versus its future needs, and generally consider the factors relevant to prudent management of the fund under Public Finance Management Act (2012).

16. Residual Endowment Balances

16.1. If an endowment and its corresponding spending account have been formally closed, for whatever reason¹, and it is not feasible to use the residual funds for the stated purpose, it is the University's policy to transfer residual balances

of KES 100,000 or less into the Egerton University's General Endowment Fund. The General Endowment Fund is a board-established endowment for unrestricted use.

17. Management Fee

- 17.1.** Management fees for investment management services of endowments must be reasonable and established by written agreement.

18. Reporting

- 18.1.** The performance of endowment investments will be included in and reported with the investment reports submitted each quarter to the Board of Trustees. The report shall contain a summary of:
- 18.1.1. Book value, by asset class;
 - 18.1.2. Market value, by asset class;
 - 18.1.3. Performance measures;
 - 18.1.4. Benchmarks against which to measure performance; and
 - 18.1.5. Beginning and ending market values for the quarter, with changes in market values.
- 18.2.** The Director of Finance/Finance Officer, under the direction of the Board shall cause an annual report to be prepared for each financial year.
- 18.3.** The Director of Finance/Finance Officer shall submit the annual report to the Board within three months after the end of the year to which it relates. The annual report shall contain, in respect of the year to which it relates –
- 18.3.1. The financial statement of the Fund;
 - 18.3.2. A description of the activities of the Fund;
 - 18.3.3. The fundraising activities of the Board and the Fund Trustees;
 - 18.3.4. Geographically disaggregated data on disbursement of funds;
 - 18.3.5. Investments by the Director of Finance/Finance Officer; and
 - 18.3.6. Such other statistical information as the Board may require.

19. Meetings

- (a) The Annual Meeting of the Board of Trustees shall be held prior to year end, at such date, time and place as the Board of Trustees shall determine. In addition to the Annual Meeting, regular meetings shall be held as called for by the Chairman or any two Trustees.

19.1. Notice of Meetings

- 19.1.1. Notice of the Annual Meeting shall be given to the Trustees at least ten (10) days before the meeting.
- 19.1.2. Notice of regular meetings shall be given to the Trustees at least ten (10) days before the meeting.

- 19.1.3. Notice of any special meetings shall be given to the Trustees at least 48 hours in advance thereof.
- 19.1.4. The Board will comply with the provisions of the Open Public Meetings Act.
- 19.1.5. The notice requirements contained in these regulations may be waived in writing by the Chairman. All waivers shall be made part of the minutes of the meeting.

19.2. Quorum

- 19.2.1. The presence of **Two-Thirds (2/3)** of the entire Board shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the Board.
- 19.2.2. The act of a majority of those present at any meeting, at which there is a quorum, shall be the act of the Endowment Fund, except as may be otherwise specifically provided by regulation.
- 19.2.3. Any Trustee may participate via telephone conference call. Should the call be terminated for any reason resulting in less than 2/3 of the membership of the Board being present, the meeting will be immediately closed and no further business will be conducted.

19.3. Voting

- 19.3.1. At every meeting, each elected Endowment Fund member shall be entitled to one vote in person. No "Voting by Proxy" is allowed.

19.4. Duality of Interest

- 19.4.1. A member of the Board of Trustees having a conflict of interest or conflict of responsibility on any matter involving the Endowment Fund and any other business entity or person, shall refrain from voting on such matter.
- 19.4.2. No member of the Board of Directors shall use such position for his or her own direct or indirect financial gain.

19.5. Special or Emergency Meetings

- 19.5.1. Any Board action required or permitted to be taken by the Board may be taken without a notice of meeting, if Two-Thirds (2/3) of all members of the Board shall consent in advance to such action in writing. Such written consent shall be made a part of the minutes of the proceedings. The proceedings will be considered a meeting and will have recorded minutes. Such action by written consent shall have the same force and effect as the same vote of the Trustees at a duly noticed meeting.

20. Dissolution

- 20.1. The University may for good reason terminate and dissolve the Fund with the consent of the Board of Trustees.

21. Appeals to the Tribunal

21.1. Any person who is aggrieved by any decision of the Board under these Regulations may prefer an appeal to the Tribunal within a period of sixty days from the date of such decision:

21.1.1. Provided that the Tribunal may entertain any appeal after the expiry of the said period of the sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

22. Annual Review

22.1. A review of the utilization of amount, in case of endowments, trust funds, etc. during the immediately preceding financial year shall be submitted to the Investment Committee/University Council every year.

22.2. Unviable endowments, trust funds etc may be considered for closure/merger.