



# Pension Protection Act of 2006

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- **First comprehensive regulation of donor advised funds, and it directly affects scholarship funds with donor involvement**
- **Rules became effective January 1, 2007**

# PPA Definition of Scholarship Funds

- **Sponsoring organization (i.e., FFTC) appoints all members of the scholarship committee**
- **Neither the donor nor the parties related to the donor control the committee or serve in the majority**
  - *Where a scholarship fund is established by a corporation, corporate employees may be considered related parties and should not constitute the majority of the committee*
- **All grants are awarded on an objective and nondiscriminatory basis using a procedure approved by the sponsoring organization's board of directors**

# FFTC Procedures and Affidavit

- **FFTC Board of Directors approved Scholarship Procedures March 2008**
  - Includes Affidavit of Compliance
  - Requires additional level of review by Scholarship staff to ensure that the Board ratifies PPA-compliant recommendations



FOUNDATION FOR THE CAROLINAS

## **PROCEDURES FOR AWARDING SCHOLARSHIP, ACHIEVEMENT AND FELLOWSHIP GRANTS**

### *INTRODUCTION SCOPE AND INTENT OF THE POLICY*

Foundation For The Carolinas (the “Foundation”) holds and administers certain funds that provide grants to individuals, including high school, college and graduate school students, to enable the recipients to complete an undergraduate or graduate education in the field of their choice at the college or graduate school of their choice, or that provide grants to students in primary and secondary school to attend various educational programs and to other individuals for vocational or other training. All grants described in this paragraph shall be referred to as “Scholarship Grants.”

The Foundation also holds and administers certain funds that make grants to individuals in recognition of achievement in the fields of art, literature, education, science, public or community service, or for other charitable or civic achievement. Such awards may not be intended to finance any specific activities of the recipients and may not impose conditions on the manner in which the prizes or awards may be expended by the recipient. All grants described in this paragraph shall be referred to as “Achievement Grants.”

The Foundation also holds and administers certain funds that make grants to individuals to accomplish a specific objective, produce a report or other similar product,

or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee that relates to the Foundation's mission. Eligible individuals may include graduate students, scholars, professionals, and other individuals with specialized skills or knowledge. Scholarships also may be awarded to pay for a course of study leading to a certificate or to achieve a skill level, such as art or vocational school. Such scholarships may cover the cost of tuition and related expenses. All grants described in this paragraph shall be referred to as "Fellowship Grants."

The Foundation has established the following procedures pursuant to which Scholarship Grants, Achievement Grants and Fellowship Grants will be awarded from funds that are treated as either "managed" funds (i.e., those in which the scholarship process is managed by the Foundation and the applicable selection committee, rather than by a particular educational institution) or "institutional" funds (i.e., those in which the named institution selects recipients based on the Donor's recommended criteria, with appropriate oversight of such process by the Foundation). These procedures shall be interpreted so as to ensure the Foundation's compliance with all applicable requirements of the Internal Revenue Code ("IRC"), including Section 4966, accompanying Treasury Regulations and guidance from the Internal Revenue Service, and these procedures may be amended by the Foundation from time to time in accordance with the Foundation's variance powers. Notwithstanding the provisions of any applicable fund agreement, all grants described in this document must be awarded in compliance with IRC § 4945(g)(1), (2) or (3).

For purposes of these procedures, a Donor will be defined as an individual or organization, including a corporation, partnership, trust or other entity, that makes a

contribution to a fund established at the Foundation where such fund is separately identified by reference to contributions of the Donor or a group of Donors and with respect to which the Donor (or any related party or other person appointed by such Donor) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund.

*SECTION I*  
*SELECTION OF GRANTEES*

Grantees are to be selected on an objective and nondiscriminatory basis. The group from which grant recipients are selected must be sufficiently broad so that giving grants to one or more members of the group fulfills a charitable purpose; however, selection from such a group is not necessary if one or more grant recipients are selected on the basis of their exceptional qualifications to carry out the purposes of the grant or it is otherwise evident that the selection is particularly calculated to effectuate the charitable purpose of the grant rather than to benefit particular persons or a particular class of persons. For example, selection of a qualified research scientist to work on a particular project does not violate the requirements of this paragraph if the scientist is selected from a group of three scientists who are experts in that field.

A. *Scholarship Grants*

In connection with Scholarship Grants, the Foundation staff and designated members of selection committees established for such awards may contact high school, college and graduate school administrators as well as managers of other relevant community institutions to advertise the availability of the Foundation's Scholarship Grants and to request that these administrators nominate potential candidates or encourage potential awardees to submit applications for scholarship aid.

B. Achievement Grants

In connection with Achievement Grants, the Foundation staff and designated members of selection committees established for such awards may contact relevant community institutions and individuals to publicize the availability of the Foundation's Achievement Grants and to solicit nominations for such awards. Candidates for such awards may take no part in the selection process.

C. Fellowship Grants

In connection with Fellowship Grants, the Foundation staff and designated members of selection committees established for such awards shall develop application or nomination procedures that are appropriate to accomplish the purposes of the fund under which any such award is established.

*SECTION II*  
CRITERIA FOR SELECTION

The selection of grant recipients from any fund established at the Foundation for any purpose described hereunder must be based on objective and nondiscriminatory criteria that is appropriate to accomplishing the underlying purpose of the grant as described in the agreement creating such fund. The Foundation staff is available to work with Donors to establish funds that fulfill the Donor's charitable goals and that feature clear application and selection criteria.

A. Scholarship Grants

Scholarship Grant criteria may include, but are not limited to, prior academic performance (e.g., GPA or other standard), performance of each applicant on tests designed to measure ability and aptitude for educational work (e.g., SAT or ACT scores), recommendations from instructors of such applicant and any others who have knowledge

of the applicant's capabilities, additional biographical information regarding an applicant's career, academic and other relevant experiences, financial need and conclusions which the grant selection committee may draw as to the applicant's motivation, character, ability, or potential. Criteria may also include the applicant's place of residence, past or future attendance at a particular school, past or proposed course of study or evidence of his or her artistic, scientific or other special talent. Preference may be given to applicants of a particular sex, race, ethnic background or religion so long as such preference does not violate public policy.

Recipients of Scholarship Grants must be (1) primary or secondary school students; (2) undergraduate or graduate students at a college or university who are pursuing studies or conducting research to meet the requirements for an academic or professional degree; or (3) students – whether full-time or part-time – who are pursuing studies at an educational institution that provides an educational program acceptable for full credit toward a bachelor's or higher degree, or offers a training program to prepare students for gainful employment in a recognized occupation and is authorized under federal or state law to provide such a program and is accredited by a national recognized accreditation agency. All Scholarship Grants must be used for tuition and related expenses (as further described in this document) at an educational organization described in IRC § 170(b)(1)(A)(ii) – i.e., one which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

The Foundation reserves the right to impose additional, reasonable restrictions and/or requirements upon the awarding of Scholarship Grants and the administration of

such grants. Any substantial or material changes to existing scholarship programs will be made with approval of the Foundation's Board of Directors.

*B. Achievement Grants*

Achievement Grants criteria may include, but are not limited to, the individual's past achievements and community involvements, other biographical information regarding an applicant's career, academic and other relevant experiences.

The Foundation reserves the right to impose additional, reasonable restrictions and/or requirements upon the awarding of Achievement Grants and the administration of such grants. Any substantial or material changes to achievement programs will be made with approval of the Foundation's Board of Directors.

*C. Fellowship Grants*

Criteria for Fellowship Grants shall be related to the purpose of the Fund under which the award is established and may include prior experience, contributions to the field, demonstrated academic achievement, financial need, character, ability, motivation and potential. Recipients of such grants may include graduate students, scholars, professionals or other individuals with specialized skills or knowledge. In connection with scholarships awarded to pay for a course of study leading to a certificate or a higher skill level, criteria shall be related to the purpose of the fund under which the award is established and may include financial need, character, ability, motivation, potential and the relevance of the candidate's course of study and career objectives to the charitable purposes of the fund.

*SECTION III*  
*GRANT SELECTION COMMITTEES*

The Foundation shall appoint all members of any selection committee charged with the evaluation of candidates for Scholarship, Achievement or Fellowship Grants. Appointments may be made by the Foundation Board of Directors, the President of the Foundation or the Vice President - Scholarships (or equivalent position).

Donors and related parties (e.g., family members, employees, etc.) and persons recommended by a Donor may be appointed to the selection committee and, in that role, may provide advice with respect to the selection of recipients of Scholarship, Achievement or Fellowship Grants. However, no combination of such persons may, directly or indirectly, control any such selection committee established in connection with an applicable fund. For example, these parties shall not constitute a majority of any such selection committee. Notwithstanding this general rule, where a Donor recommends a person for appointment to a selection committee based on objective criteria related to the expertise of such person, and such person is indeed appointed by the Foundation to serve on the committee, such person will not be deemed to be appointed or designated by the Donor for purposes of the “control” requirement.

Every member of any selection committee charged with the evaluation of candidates for Scholarship, Achievement or Fellowship Grants shall adhere to the policies of the Foundation as outlined in the Charitable Giving Guide and as they may be further adopted and amended from time to time, including, without limitation, a conflict of interest and confidentiality policy. Every member of any selection committee charged with the evaluation of candidates for Scholarship, Achievement or Fellowship Grants shall be obligated to disclose any personal knowledge of, or relationship with, any

potential grantee under consideration and to refrain from participation in the award process in a circumstance where he or she would derive, directly or indirectly, a private benefit if any potential grantee or grantees are selected over others. No grant covered by this policy may be awarded to any member of the Foundation's Board of Directors, any substantial contributor to the Foundation, any employee of the Foundation, or any other disqualified person as defined in IRC § 4946(a) with respect to the Foundation, or, with respect to grants from a particular fund, any Donor or substantial contributor to such fund or any member of a selection committee to such fund, or for a purpose that is inconsistent with the purposes described in IRC § 170(c)(2)(B).

Each selection committee established under this policy shall forward its recommendations to designated Foundation staff in such form and on such schedule as the staff shall establish or otherwise deem appropriate.

The Foundation Board of Directors shall ratify each of the grants made under this policy.

#### *SECTION IV* *APPLICATION AND NOMINATION PROCESS*

Applicants for Scholarship Grants and Fellowship Grants shall be required to submit such application forms, schedules and supporting materials as the Foundation may establish or may otherwise deem appropriate. Individuals and organizations wishing to nominate others for Achievement Grants shall also be required to submit such nomination forms, schedules and supporting materials as the Foundation may establish or may otherwise deem appropriate.

The Foundation will work with its Donors, professional advisors and selection committees to establish such forms and schedules that help meet Donor intent as outlined

in the Fund Agreement establishing the applicable grant or award. However, the Foundation is aware of the general diversity of practice in this area and may deem as appropriate, upon request of a selection committee, substitutes for the Foundation-established forms and schedules such other forms, schedules and supporting materials that may be established or otherwise provided by such selection committee which, in the Foundation's discretion, adequately provide a detailed description of its application or selection process. Similarly, if such other process changes from time to time, any changes must be submitted to the Foundation for approval prior to engaging any such change.

*SECTION V*  
*GRANT RENEWALS*

Grants and awards described herein will ordinarily be awarded for a one-year period, but may be awarded for a shorter period (e.g., for a specific session, quarter or semester) or a longer period (e.g., for the full term of a multi-year degree program). A Scholarship or Fellowship Grant may be renewable and awarded for a period appropriate to the purposes of the fund under which the award is established. Otherwise, the renewal of such a grant or award may be awarded on a case-by-case basis according to the status of the grantee and the Donor's intent in establishing the criteria for the award.

*SECTION VI*  
*SUPERVISION OF SCHOLARSHIP GRANTS*

A. *General Procedures*

Unless otherwise provided in the applicable fund agreement, each Scholarship Grant shall be paid directly to the applicable educational institution for the qualified use of the individual to whom the Scholarship Grant was awarded. Each educational

institution must be described in IRC § 170(b)(1)(A)(ii) and must agree in writing to use Scholarship Grant funds to defray the applicable recipient's qualified expenses.

Unless otherwise provided in the applicable fund agreement, a condition of each Scholarship Grant is that it will be used only for qualified tuition and related expenses within the meaning of IRC § 117(b)(2), and for room and board. Accordingly, a Scholarship Grant can be used only for: (1) tuition and fees required for the enrollment or attendance of the student at a qualifying institution; (2) fees, books, supplies, and equipment required for courses of instruction at such an educational institution; and (3) room and board. In addition, no part of the Scholarship Grant shall be used as payment for teaching, research, or other services by the scholarship recipient required as a condition for receiving the scholarship.

*B. Special Procedures*

If, for any reason, a Scholarship Grant is paid to a person other than the educational institution attended by the scholarship recipient or if the Scholarship Grant is used for expenses other than qualified tuition and related expenses within the meaning of IRC § 117(b)(2) or for room and board, the Foundation must receive a report on the progress of each grantee – i.e., each recipient of such a Scholarship Grant – at least once each year. This report must include a summary of the use of the Scholarship Grant funds awarded, as well as the grantee's courses taken (if any) and grades received (if any) in each academic period. This report must be verified by the educational institution. A final report, with a comprehensive summary of this information, is also required at the conclusion of the period for which the Scholarship Grant was awarded.

If the required reports are not properly submitted, the Foundation is under a duty to investigate. While conducting its investigation, the Foundation shall withhold further payments making up part of the applicable Scholarship Grant to the extent possible until any delinquent reports required under the foregoing provisions have been submitted to the satisfaction of the Foundation.

If information (including the failure to submit reports) made available to the Foundation indicates or suggests that all or any part of a Scholarship Grant is not being used by the grantee in furtherance of the purposes of such grant, the Foundation shall take all reasonable and appropriate steps to recover the grant funds and/or ensure restoration of the diverted funds to the purposes of the grant. If such a diversion occurs and the grantee has not previously diverted Scholarship Grant funds to any use not in furtherance of the purposes of the grant, the Foundation shall withhold any further payments to the grantee until it has received the grantee's assurance that future diversions shall not occur and shall require the grantee to take extraordinary precautions to prevent future diversions from occurring.

Where a grantee has previously diverted Scholarship Grant funds to any use not in furtherance of the purposes of the grant, and the Foundation determines that any part of a Scholarship Grant has again been used by the grantee for improper purposes, the Foundation shall take all reasonable and appropriate steps to recover the grant funds and/or ensure restoration of the diverted funds to the purposes of the grant. In such case, the Foundation shall withhold further payments to the grantee (from any and all funds at the Foundation) until: (1) the diverted funds are, in fact, recovered or restored; (2) the Foundation has received the grantee's assurances that future diversions will not occur;

and (3) the Foundation requires the grantee to take extraordinary precautions to prevent future diversions from occurring.

The phrase "all reasonable and appropriate steps," as used above, shall include legal action where appropriate, but need not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

*SECTION VII*  
*SUPERVISION OF ACHIEVEMENT GRANTS AND FELLOWSHIP GRANTS*

Achievement Grants cannot require a particular use of the funds, and no report shall be required of the recipient.

Recipients of Fellowship Grants or, if appropriate, the organization supervising the grantee's work, will be required to provide a written report to the Foundation about their activities and use of funds at the end of the grant period. If the grant is for a term of longer than one year, periodic written reports will be required at least annually. Any funds not expended for the purpose of the award must be returned to the Foundation for use in furtherance of its mission and the charitable purposes of the particular fund under which such award was made.

*SECTION VIII*  
*RECORDKEEPING REQUIREMENTS*

The Foundation shall retain the following records in connection with all Scholarship, Achievement and Fellowship Grants: all information obtained by the Foundation to evaluate the qualifications of potential grantees, the identification of grantees (including any relationship – family or otherwise – of any grantee to the Foundation, to any employee of the Foundation or to a Donor of the applicable fund establishing the grant), the purpose and amount of each grant, and any additional

information the Foundation obtains in complying with its grants administration procedures. Information pertaining to all applicants for grants shall be retained, whether such applicants are successful or unsuccessful in being awarded such a grant.

Records pertaining to any grant made pursuant to this policy shall be kept for no less than three years after the filing of the Foundation's annual tax return for the period in which the last installment of such grant was paid.