

**THE CITY UNIVERSITY OF NEW YORK - AMENDMENT TO THE 2011 INVESTMENT POLICY:**

RESOLVED, That the Board of Trustees approve an amendment to the University's Investment Policy ["Policy"] adopted in May 2011, revising the Spending Policy [which is Exhibit B] as follows: to permit the Senior Vice Chancellor of Budget, Finance and Fiscal Policy to delegate authority to the Associate Vice Chancellor for Budget and Finance and the University Controller to make decisions regarding an expenditure above the applicable spending rate for non-endowed funds.

EXPLANATION: New York State enacted the New York Prudent Management of Institutional Funds Act ("NYPMIFA") on September 17, 2010. NYPMIFA makes a number of changes to the law governing how CUNY manages and invests its investment assets and spends from its endowment funds. CUNY Management, in consultation with CUNY's counsel, outside legal counsel, Skadden, Arps, Slate, Meagher & Flom LLP, and investment consultant, Cambridge Associates, reviewed CUNY's current Investment Policy-Appendix B, and has recommended certain amendments to permit a more efficient process of implementing Policy, as well as to further clarify the Policy in terms of compliance with NYPMIFA. A copy of the Amended Investment Policy will be on file in the Office of the Secretary of the Board, along with the draft minutes of the meetings of the Fiscal Affairs Committee and the Subcommittee on Investment on October 31 and October 24, respectively.

## **Appendix B**

### Spending Policy

The City University of New York (CUNY) Portfolio is a pooled investment vehicle for multiple individual accounts that include both endowed and non-endowed funds. The Portfolio consists of funds received by CUNY for its general purposes, funds received by CUNY for the benefit of a specific CUNY College and funds belonging to one or more of the College Foundations that have chosen to invest in the Portfolio. CUNY's policies and procedures with respect to spending from the Portfolio shall comply with The New York Prudent Management of Institutional Funds Act (NYPMIFA).

#### **1. Spending Decisions**

##### **A. CUNY Funds**

"CUNY Funds" in the Portfolio consist of both endowed and non-endowed funds received by CUNY for its general purposes or for the benefit of a specific CUNY College. Decisions with respect to spending from CUNY Funds in the Portfolio shall be made by CUNY's Board of Trustees on recommendation from the CUNY Subcommittee on Investments (the "Subcommittee").

In making any recommendation or decision to appropriate funds from a CUNY Fund for expenditure, or to accumulate funds in a CUNY Fund, the Subcommittee and Board must act in good faith with the care that an ordinarily prudent person in a like position would exercise under similar circumstances and must consider, if relevant, each of the following factors:

- The duration and preservation of that fund;
- The purpose of CUNY and that fund;
- General economic conditions;
- The possible effect of inflation and deflation;
- The expected total return from income and appreciation of investments;
- Other resources of CUNY;
- Where appropriate, alternatives to spending from that fund and the possible effects of those alternatives on CUNY; and
- The principles and policies set forth in this Investment Policy.

NYPMIFA contemplates that decisions to appropriate endowed funds are to be made on a fund-by-fund basis and requires that appropriations from an endowed fund be made in accordance with any specific directives on spending that the donor, in the gift instrument or pursuant to the notice provision of NYPMIFA, has imposed. To ensure compliance with NYPMIFA, CUNY Funds in the Portfolio may be categorized into groups of similarly situated funds for the purpose of allowing the Subcommittee, in accordance with the prudence standard set forth in this Subsection 1A, to make a recommendation to the Board as to the appropriate spending rate that should be applied to each such group of similarly situated funds. For this

purpose, CUNY Funds generally will be classified by purpose into the following categories of similarly situated funds: (i) scholarship and fellowship; (ii) academic support; (iii) institutional support; and (iv) instruction. CUNY Funds also may be categorized for this purpose based on spending restrictions imposed by donors in the gift instruments or pursuant to the notice provision of NYPMIFA. The Board, in accordance with the prudence standard set forth in this Subsection 1A, then shall make a decision as to the appropriate spending rate that shall be applied to each such group of similarly situated funds. As part of its deliberations, the Subcommittee periodically shall review the categories of similarly situated funds and the composition of each such group to ensure that such funds are properly classified.

Specific donor directives on spending may preclude classification of a CUNY Fund into any category of similarly situated funds. When making an appropriation recommendation or decision from such a CUNY Fund, the Subcommittee and Board of Trustees shall consider such CUNY Fund separately and appropriations from such Fund will be made in accordance with any specific directives on spending that the donor has imposed.

In order to preserve and enhance the purchasing power of the Portfolio for the benefit of future generations of students, CUNY does not distinguish between endowed and non-endowed CUNY Funds when making appropriation decisions in accordance with the prudence standard set forth above. Given the Portfolio's multiple participants with varying financial needs, the Senior Vice Chancellor of Budget, Finance and Fiscal Policy or his designee may exercise discretion, should special circumstances warrant, in applying the applicable spending rate determined for a non-endowed fund in accordance with the process set forth above, and may authorize an expenditure above the applicable spending rate. The Senior Vice Chancellor of Budget, Finance and Fiscal Policy may designate one or more members of CUNY Management and Staff to serve as a designee for this purpose and any such decision by a designee shall be reported to the Senior Vice Chancellor of Budget, Finance and Fiscal Policy.

In order to preserve the long-term value of the Portfolio, it has been CUNY's practice to keep spending from the Portfolio each year at or below 5% of the Portfolio's average market value. The 5% is determined based on the average market value of the Portfolio for at least the immediately preceding twenty quarters. While the decision to appropriate from a CUNY Fund must be made with due consideration to the above eight factors, the Board and Subcommittee each also will consider this spending guideline, to the extent possible and prudent, when carrying out its responsibilities with respect to determining annual endowment spending.

Decisions to appropriate funds for expenditure from the Portfolio generally will be made by the Subcommittee and the Board on an annual basis at one of the spring meetings of the Subcommittee and Board held prior to the beginning of the new fiscal year on July 1<sup>st</sup>. The spending rate determined by the Board for each group of similarly situated funds shall apply to all funds in such group during the relevant fiscal year, whether such funds are held by CUNY at the time the appropriation decision is made or received by CUNY subsequent to such decision. At any time during the fiscal year, the Board may meet to reconsider and, if so determined, alter such spending rate decisions.

## B. College Foundation Funds

Certain funds in the CUNY Portfolio belong to College Foundations that have chosen to co-invest with the Portfolio for reasons of cost, expertise and efficiency. College Foundation funds invested in the Portfolio are not owned by CUNY and decisions with respect to spending from such College Foundation funds must be made by the Board of Directors of the respective College Foundation. Policies and procedures with respect to requesting annual distributions from the Portfolio shall be set forth in the Memorandum of Understanding between CUNY and the College Foundation.

In order to preserve the long-term value of the funds it has invested in the Portfolio, each College Foundation, in their spending deliberations, will consider, to the extent possible and prudent, the 5% spending guideline for the Portfolio expressed in Subsection 1A above.

## **2. Minutes of Spending Deliberations**

Both Board and Subcommittee deliberations with respect to spending from the Portfolio shall be recorded in the minutes of the Board and Subcommittee meetings at which such decisions are made. The record of any recommendation or decision to appropriate endowment funds for expenditure shall describe the consideration that the Subcommittee or Board gave to each of the eight factors listed in Subsection 1A of this Spending Policy.