

# FCR 26

Office of the President  
September 20, 2005

Members, Board of Trustees:

## CONSENT TO MODIFICATION OF LISTED EXTERNAL TRUSTS

Recommendation: that the Board of Trustees approve and authorize the Treasurer to execute consents generally in the form attached hereto, which will be attached as exhibits to petitions to be filed pursuant to KRS 386.454 by Bank One Trust Company, N.A. (as trustee of the trusts) in the Fayette District Court, consenting to modification of the applicable trusts to allow Bank One to utilize a “total return” investment and distribution method for the following external trusts:

James K. Patterson Trust  
John. S. and Annabel Chambers Scholarship Trust  
Edith J. and Charles G. Dickerson Medical Center Scholarship Trust  
Edith J. and Charles G. Dickerson Journalism Scholarship Trust  
Josephine K. and W. D. Funkhouser Scholarship Trust  
Herman Lee and Nell Stuart Donovan Memorial Trust  
Dr. Clarence Deweese Scholarship Trust  
Ocie M. Downey Trust  
Dr. Marius Johnston and Margaret J. Wright Memorial Trust  
Alwilda L. Bryan College of Medicine Trust  
Wallace and Olive Briggs Theatre Trust  
Alfred Chambers Brent Scholarship Trust

Background: Bank One Trust Company, N.A. serves as Trustee of the above External Trusts of which the University of Kentucky is an income beneficiary. Currently, under the terms of the applicable trusts, distributions to the university from these Trusts are restricted to income only. The Kentucky Principal and Income Act, enacted by the 2004 General Assembly, became effective January 1, 2005. This Act allows trustees to petition the District Court, subject to the consent of the beneficiary, to manage trusts using a “total return” investment and distribution method. A total return method is desirable as it allows trustees more discretion in making prudent investment decisions to maximize the total return of the trust and related distributions to the beneficiary. Future distributions to the university, subject to court approval and Trustee discretion, could be based on an annual spending rate between 3 percent-5 percent consistent with the spending policy for the university’s endowments.

Bank One, as Trustee, with the approval of the Board of Trustees, will file a petition for each external trust requesting authority to manage the trusts under a total return and distribution method. The consents of the university, executed by the Treasurer, will be filed with the Trustee's petitions in the Fayette District Court.

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Action taken:     Approved     Disapproved     Other \_\_\_\_\_