

FUNDRAISING & DEVELOPMENT

PURPOSE

The Board of Trustees of the Educational Foundation and University staff, in particular the Office of University Advancement, solicit current and deferred gifts from individuals, corporations, foundations, and other private entities to secure the financial growth and fulfill the mission of the University. The purpose of this policy is to define the practices governing the acceptance of gifts by the Educational Foundation (Foundation) and the University, and to provide guidance to prospective donors and their advisors when making gifts to the Foundation and University, to facilitate the gift-giving process.

GENERAL

The Foundation will accept unrestricted and restricted gifts, provided that such gifts are consistent with the University's stated mission and do not violate the terms of its corporate charter or this policy. The Foundation is unable to accept gifts that are too restrictive in purpose or inconsistent with the University's academic purposes and priorities. Gifts received by the Foundation must not inhibit it from seeking similar or different gifts from other donors. No gift can be received which limits, beyond a general definition of subject area, the research that a faculty member or student can perform.

The Foundation and University cannot accept gifts which involve unlawful discrimination based upon race, sex, gender, sexual orientation, age, national origin, color, handicap, or any other basis prohibited by federal, state, and local laws and regulations. Nor can the Foundation and University accept gifts which obligate it to violate any other applicable law or regulation.

GIFT ACCEPTANCE COMMITTEE

It is recognized that certain gifts, including, but not limited to those involving unusual funding arrangements, should not be routinely processed, but should be reviewed by the Gift Acceptance Committee, which receives its authority from the Foundation Board of Trustees, as described within this policy statement. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Gift Acceptance committee of the Foundation.

The Gift Acceptance Committee shall consist of:

- Vice President of University Advancement / President of the Educational Foundation
- University Provost
- Vice President of Administration and Finance / Treasurer

- Chair of the Board of Trustees
- Chair of the Development Committee
- A member of the Finance and Investment Committee

The Foundation President shall serve as the Chair of the Gift Acceptance Committee. The Chair shall consult with the University President prior to any meeting of the Gift Acceptance Committee. The Chair may also consult with any other officer, trustee, or staff member of the Foundation whom the Chair believes appropriate.

The Gift Acceptance Committee shall typically meet at the call of the Chair, as necessary based on the gift approval criteria below. Four (4) members of the Gift Acceptance Committee shall constitute a quorum if the meeting is called for the full committee.

Members of Gift Acceptance Committee, the Foundation President and the University President, shall have accept/decline authority. A minimum of four (4) Gift Acceptance Committee members shall vote for approval/denial of the proposed gift, and such decision shall be arrived at by majority vote of the four members (or more as may be required for a decision by a majority).

The types of gifts that require Gift Acceptance Committee approval regardless of value, include, but are not limited to, the following:

- Gifts requiring unusual funding arrangements or other commitments.
- Gifts of intangible or unusual personal property, including vessels, boats, or aircraft.
- Gifts of tangible personal property such as paintings, sculpture, furniture, or other works of art, or collections of such, if made on the condition or expectation that the items will be permanently exhibited, or that the collections will be maintained and shown as such.
- Gifts of non-publicly traded securities.
- Gifts of partnership interests, limited liability companies, and other non-traditional investments.
- Gifts of real estate as defined further in this policy statement.
- Charitable gift annuity contracts and charitable remainder trusts as defined further in this policy statement.
- Gifts with special restrictions that may be difficult or costly to administer.
- Gifts that, because of their unusual nature, present questions as to whether they are within the role and scope of the University.
- Gifts that, because of their size or nature, present questions as to the impact on the University, or a particular program or area.
- Gifts that might raise questions about the University's integrity, independence, or academic freedom, or potentially expose the University to adverse publicity, financial risk, or litigation.
- Gifts that present the potential for an obligation on the University or the

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Foundation under local, state, or federal law that either may be unwilling or unable to assume.

- Any gifts that are exceptions to existing guidelines or which fall outside the definition of acceptable gifts as defined by this policy statement.

It is the responsibility of any Foundation board member, development officer, departmental or other University administrator when presented with a gift or while working with an estate to bring all gifts that meet the above guidelines to the attention of the Foundation's President prior to accepting such gifts.

TYPES OF COMMONLY ACCEPTED GIFT TYPES

- A. Cash
- B. Tangible Personal Property
- C. Securities
- D. Cryptocurrency
- E. Real Estate
- F. Intangible

CRITERIA FOR ACCEPTING GIFTS OF EACH COMMONLY ACCEPTED TYPE

The following types of gifts are acceptable:

- A. Cash** - is acceptable in the form money orders, checks, crypto currency, or electronic transfer (either through a wire transfer to the Foundation's bank account or by a verified credit card transaction).

The postmark date is the gift date for gifts of cash mailed to the Foundation. Checks should be made payable to "The Cal State East Bay Educational Foundation."

- B. Tangible personal property** - Tangible personal property is property (corporeal movable property) other than real property (immovable property), which is often defined as property that can be touched. If the Foundation intends to sell a gift of tangible personal property immediately, rather than use it, the donor will be informed that IRS rules may limit the amount of the charitable deduction to the donor's cost basis, and the donor will be advised to seek professional financial counsel on the tax consequences of such a donation.

Requests from donors to hold tangible personal property for a specified time to avoid reporting on required federal or state tax forms shall be denied. Decisions on whether an item is donated for a "related use" for tax purposes (related to the purposes and programs of the University or the Foundation) shall be made by the Gift Acceptance Committee in accordance with the decision-making rules stated above. Appraisals, at the donor's expense, are required for all gifts for which the donor estimates the fair

market value to be \$5,000 or more.

Extraordinary gifts of tangible personal property will be referred to the Gift Acceptance Committee that will consider the following factors in reviewing such gifts for acceptance:

- Does the property further the mission and purposes of the University?
- Is the property marketable, or can it be used by the University in furtherance of the University's purposes and mission?
- Are there any restrictions on the use, display or sale of the property?
- Are there any carrying costs, possible adverse legal consequences, or potential liabilities associated with ownership of the property?

C. Securities - The Foundation accepts both publicly traded securities and closely-held securities under the conditions described below:

1) *Publicly traded securities* - These are securities regularly traded on a public stock exchange. It is preferred that donors electronically transfer marketable securities directly to the Foundation's brokerage accounts. Transfers made directly to the brokerage accounts will be liquidated almost immediately and with little additional paperwork required from donors. Alternatively, marketable securities may be delivered physically to the Foundation office with the donor's/transferor's stock power attached. It is the Foundation's policy to sell all marketable securities on receipt. The value of a gift of publicly traded stock will be calculated using the mean share price between the high and low selling prices quoted on the day the stock is transferred to the Foundation.

2) *Closely-held securities* - Acceptance of closely-held securities that include not only debt and equity positions in non-publicly traded companies but also interests in limited partnerships and limited liability companies, or other ownership funds, must be approved by the Gift Acceptance Committee, with the following considerations: any restrictions on the security that would prevent its conversion to cash, the marketability of the security, and the potential for other undesirable consequences for the Foundation.

Founder's stock - Stock of a company that has gone public where the founder(s) still own shares after the initial public offering (IPO) may be gifted to the Foundation; those securities which are determined to be restricted by applicable securities laws will be

reviewed by the President of the Foundation in consultation with Foundation's legal counsel on a case-by-case basis. If the restrictions are deemed to be unreasonable or excessive, acceptance will be referred to the Gift Acceptance Committee. If given during the IRS Rule 144 window, the value is determined using the same method as publicly traded securities. If outside the IRS Rule 144 window, the donor must provide an appraisal and additional requirements and gift review must be taken. The value of a gift of publicly traded stock will be calculated using the mean share price between the high and low selling prices quoted on the day the stock is transferred to the Foundation.

- D. Cryptocurrency** – Virtual currency/digital assets are classified as a property asset by the IRS and are subject to qualified third-party appraisal requirements if donor intends to claim a deduction over \$5000. Cryptocurrency gifts reviewed and accepted upon recommendation from the Gift Acceptance Committee may be sold upon receipt unless otherwise agreed by the Gift Acceptance Committee. If the Gift Acceptance Committee decides it will not accept a gift of cryptocurrency directly, the Foundation may still encourage donors to work with a Foundation-preferred third party to accept the gift of cryptocurrency, and indirectly support the Foundation. For example, the donor could make the gift to a donor-advised fund (DAF) sponsor, and later recommend grants from the DAF to the Foundation.
- E. Real estate** - Gifts of real estate (immovable property) include developed property and undeveloped property, as well as gifts subject to a retained life interest. Prior to acceptance of real estate, the Foundation shall require, at the donor's expense, an independent appraisal of the property's fair market value, as well as a Phase I environmental study to ensure that the property has no environmental damage or other environmental issues that would expose the Foundation to liability. For single family residences up to four units (considered non-commercial property) in established geographical residential areas having no prior history of connection with or use of land or improvements suspected of environmental concerns, a Phase I study may not be necessary.
- The Foundation's legal counsel shall be consulted regarding acceptance of the proposed real estate donation for final review and an acceptance decision by the Gift Acceptance Committee. Factors to be considered in acceptance of the property shall include: usefulness

of the property for the purposes of the Foundation or university; marketability of the property, relative to its condition; any restrictions, reservations, easements, or other limitations associated with the property; carrying costs, such as insurance, property taxes (taking into account that the Foundation is not eligible for any homestead exemption), mortgages, or notes, associated with the property; the results of the environmental study report, and any potential liability for cleanup or restoration of the property that may be imposed under current law to a transferee.

- F. **Intangible—copyright or patent** - generally produce royalty income that is excluded from unrelated business taxable income under IRS section 512(b)(2). Donors are recommended to obtain his/her own legal and financial counsel.

TYPES OF GIFT VEHICLES

- A. Outright
 - 1) Matching
 - 2) Gifts-in-kind
 - 3) Grants
- B. Pledges
- C. Remainder interests in residences and farms, or Retained Life Estate Gift
- D. Bargain Sales
- E. Life Insurance Policies
- F. Charitable Gift Annuities
- G. Charitable Remainder Trusts
- H. Pooled Income Funds
- I. Bequests
- J. Living Trusts
- K. Retirement plan beneficiary designation
- L. Other Property

CRITERIA FOR ACCEPTING GIFTS OF EACH ACCEPTABLE GIFT VEHICLE TYPE

- A. **Outright Gifts (in addition to cash and personal property):**
- 1) Matching gifts
Matching gifts are donations made by corporations and organizations matching an employee's donation based on pre-established formulas and limits. Matching gifts count as coming from the legal donor (the foundation or fund) and soft credit is given to the donor whose gift was matched.
 - 2) Gifts-in-kind
Gifts-in-kind are generally defined as non-cash donations of materials or

long-lived assets, other than real and personal property. Gifts of materials or long-lived assets that are directly related to the mission of the institution should be reported at the face (or fair market) value.

Gifts-in-kind might include such items as equipment, software, printed materials, items used for auctions, hosting dinners, etc. For all gifts-in-kind, especially items such as equipment, should be reported at the educational discount value (if an educational discount is offered)—that is, the value the institution would have paid had it purchased the item outright from the vendor regardless of the estimated value a vendor may place on a gift-in-kind.

Common examples of gifts-in-kind include:

Hardware and Software – Any proposed computer-related gifts must meet approved campus baseline standards. The gifts must also be irrevocable with ownership of the property transferred to the institution to qualify as a charitable deduction. There must be no implicit or explicit exchange, purchase of services, or provision of exclusive information.

The value of the gift will be assessed based on the educational discount (if one exists). If no educational discount is available, it must be stated in the letter from the donor and the established retail value shall be used. If no retail value exists, no amount can be counted or reported until such value is determined by an independent appraiser that is paid for by the donor or when the product is available for purchase in the open market.

Common examples of unacceptable gifts-in-kind:

Services – The value of a person's or organization's time or service is not considered a charitable contribution and is not countable, regardless of whether the individual assists as a volunteer or as a professional providing a specialized service.

Grants – A grant is a contribution received from a corporation or foundation given voluntarily and without expectation of compensation or deliverables. A grant that carries an explicit quid pro quo relationship between the donor and the institution does not qualify as a gift.

B. Pledges:

A pledge is a commitment to make future gifts. Only the entity exercising legal control over the assets to be given can make a pledge. An individual cannot make a pledge that includes anticipated matching contributions from an employer or some other source. Nor can an individual commit funds that may come from a donor- advised fund or community foundation. An enforceable, countable pledge includes only those funds

that will be given by that legal entity.

C. Remainder interests in residences and farms or Retained Life Estate Gift:

The Foundation will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions regarding the acceptance of real estate outlined previously in this policy document. The donor or other named life tenant may continue to occupy the real property for the duration of the stated life or the stated term interest. Expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or life tenant. A contractual agreement between the donor and the Foundation will be required. At the death of the donor or life tenant or term of years' tenant, as applicable, the Foundation may use the property or reduce it to cash. All procedures for evaluating proposed gifts of real property, outlined elsewhere in this document, apply to proposed retained life estate gifts as well. The donor has certain legal and financial obligations to undertake. Donors are required to have all documents related to a proposed retained life estate gift reviewed by their own attorneys.

D. Bargain sales:

The Foundation may enter into a bargain sale arrangement only when the bargain sale furthers the mission and purposes of California State University, East Bay. A bargain sale is a sale of property for less than its fair market value. Some donors are willing to sell their property for an amount equal to their cost basis. The donor then recovers the donor's investment and receives a charitable deduction for the appreciated portion. All bargain sales must be reviewed and approved by the Gift Acceptance Committee. Factors used in determining the appropriateness of the transaction include: the results of an independent appraisal, obtained at the donor's expense, substantiating the value of the property; whether the Foundation will assume any debt with the property; the marketability of the property for sale within 12 months of receipt; and carrying costs associated with the property during the holding period prior to sale.

E. Transfer of ownership of policy:

The "Cal State East Bay Educational Foundation" must be named both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift shall be valued at its interpolated terminal reserve value (cash surrender value) on the date of receipt. Should the donor contribute future premium payments, the Foundation will include the entire amount of the additional premium payment as a gift in the year the payment is made. If the donor elects not to continue to make gifts to cover premium payments on the life insurance policy, the Gift Acceptance Committee shall decide whether to continue to

pay the premiums, convert the policy to paid-up insurance, or surrender the policy for its cash surrender value. No insurance products and no insurance companies or agents are endorsed by the Foundation for use in funding gifts to the Foundation. The Foundation does not furnish donor's names to third parties for the purpose of marketing life insurance to donors or for any other purpose.

Life insurance beneficiary designations - Donors and supporters of the Foundation will be encouraged to name "Cal State East Bay Educational Foundation" as beneficiary or contingent beneficiary of their life insurance policies, even though ownership has not been transferred to the Foundation.

F. Charitable Gift Annuities:

The Foundation may offer charitable gift annuities. The minimum gift for funding shall be \$10,000. The Foundation President may make exceptions to this minimum. The minimum age for life annuitants of a gift annuity shall be age 65. Where a deferred gift annuity is offered, the minimum age for life annuitants shall be age 55, provided that the commencement date of the annuity payment does not begin until at least age 65. No more than two (2) life annuitants can be permitted for any gift annuity. Annuity payments may be made on a quarterly, semi-annual, or annual schedule. The Foundation President may approve exceptions to this payment schedule.

One hundred percent of the funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments, which is in excess of the state-mandated insurance reserves. Once the annuity payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to the Foundation's general funds or as specified in the donor's gift annuity agreement.

G. Charitable Remainder Trusts:

The Foundation accepts designation as remainder beneficiary of charitable remainder trusts. A charitable remainder trust (CRT) is an irrevocable trust created during the life of the donor or through the donor's will or trust (a testamentary CRT). The CRT must provide that a specified amount (not less than 5%) of the trust's value is paid to one or more beneficiaries on an annual or more frequent basis. At least one beneficiary must be non-charitable. The Foundation may serve as trustee for CRTs for which at least 65% of the remainder is irrevocably designated to the Foundation.

There are two alternatives for CRTs:

Charitable Remainder Unitrust (CRUT)—A CRUT pays a fixed percentage times the value of the trust assets (not less than 5%) determined annually. It can be created for the life of a beneficiary or beneficiaries, or a specified term of years not to exceed 20, with yearly payments varying based on value of the assets each year, after which the trust assets pass to the Foundation. Additional gifts can be made.

Charitable Remainder Annuity Trust (CRAT)—A CRAT is an annuity trust which pays a fixed annuity and requires that an amount not less than 5% of the initial fair market value of trust assets be paid at least annually to the named income beneficiary or beneficiaries. A CRAT can be created for the life of a beneficiary or beneficiaries, or a specified term of years not to exceed 20, but it provides for yearly fixed payments based upon the initial fair market value on the date the trust is established, and no additional

contributions can be made. The donor will choose from three possible forms of CRAT yearly payments based on the needs and assets of the donor.

H. Charitable Lead Trusts - A charitable lead trust is a form of split-interest gift where the charity receives the income interest (the lead interest) for a set term of years, or for the life of the donor, with the remainder interest passing to the donor/spouse or some other designated beneficiary such as children or grandchildren. Because of the greater complexity of rules governing lead trusts, the Foundation will advise prospective donors in writing to rely upon the donor's legal, financial and tax advisors in determining whether to pursue a gift of a charitable lead trust to the Foundation. In general, the Foundation will not accept appointment as trustee of a charitable lead trust. Exceptions can only be granted by the Gift Acceptance Committee, after a thorough review of the circumstances.

I. **Pooled Income Funds:**

A pooled income fund is a common fund into which several donors place contributions for investment and management. Each donor has a prorated shared interest of the pooled fund and receives a share of the total net ordinary income earned for the remainder of his/her life. At the end of each income beneficiary's life, the trust's assets representing the deceased beneficiary's prorated share of the trust are segregated from the trust and given to a designated charity. The income tax deduction is based on the current value of the remainder interest going to the charitable organization.

J. **Bequest:**

A bequest is a gift of cash or property made in a donor's will. Bequests

may provide for a specific dollar amount in cash, specific securities, specific articles of tangible or real property, or a percentage of the residual of the estate. Donors and supporters of the Foundation will be encouraged to make bequests to the Foundation in their wills. The donors and supporters will be advised to include the statement, "To the Cal State East Bay Educational Foundation for the benefit of California State University, East Bay" to clearly indicate the intent of their bequest for the Foundation.

K. Living Trusts:

Testamentary gifts from family living trusts are encouraged and are in lieu of bequests in a will. Such a provision in a living trust

may provide for a specific dollar amount in cash, specific securities, specific articles of tangible or real property, or a percentage of the remainder interest in the trust. The trust provision should name the "Cal State East Bay Educational Foundation for the benefit of California State University, East Bay" to clearly indicate the intent of their trust gift for the Foundation.

L. Retirement plan beneficiary designation:

Donors are encouraged to name the "Cal State East Bay Educational Foundation" as beneficiary of their retirement plans, including Individual Retirement Accounts (IRAs) and qualified pension and profit sharing plans. Donors may wish to make their spouse the primary beneficiary, in which case the Foundation may be designated as secondary or contingent beneficiary. Gifts from retirement plans may be established by sending a new beneficiary designation to the donor's plan administrator.

For all testamentary gifts listed in preceding sections c, d, and e – Testamentary gifts may be given as unrestricted or restricted gifts. Donors may also establish a testamentary charitable remainder trust, which can provide an income for a designated beneficiary or beneficiaries. If such a gift is made testamentarily, the principal will pass to the Foundation only after the death of the income beneficiary or beneficiaries or after the expiration of the set term of years not to exceed 20 as stated in the trust instrument.

M. Other property:

Property not otherwise described above, whether real or personal, of any type (including trademarks, servitudes, easements or other incorporeal rights) may be accepted only after review and approval by the Gift Acceptance Committee.

USE OF LEGAL COUNSEL

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The Foundation shall seek the advice of legal counsel in matters relating to acceptance of gifts including but not limited to:

- Closely held stock transfers that are subject to restrictions, buy-sell agreements or other arrangements that limit the marketability of the securities.
- Arrangements and documents pertaining to such arrangements where the Foundation is named as trustee.
- Gifts involving bargain sales or documents requiring the Foundation to take or refrain from taking some action or assume an obligation.
- Transactions with potential conflicts of interest that may invoke IRS or other legal sanctions.

CODE OF CONDUCT

The Foundation reserves the right to remove any naming of building, property, academic unit or other recognition should the Gift Acceptance Committee determine that the continued use of this name compromises the public's trust or image of the University, is inconsistent with the mission and values of the University, or if the donor does not perform obligations specified in the gift agreement.

MISCELLANEOUS PROVISIONS

It will be the responsibility of the donor to secure an appraisal when appropriate and engage the advice of independent legal and financial counsel for all gifts made to the Foundation. Where advisors retained by the Foundation prepare documents or render advice in any form to the Foundation and a donor, it shall be disclosed in writing to the donor that the professional involved is in the employ of the Foundation and is not acting on behalf of the donor. Any documents or other advice rendered in the course of the relationship between the Foundation and the donor should be reviewed by counsel of the donor prior to completion of the gift. If the donor declines to obtain his/her own legal and financial counsel, he/she must attest to that affect.

The Office of University Advancement produces materials which educate and inform prospective donors and their advisors about the various forms of giving. The Foundation and University pays no fees or commissions of any kind to any party as consideration for directing a gift to the Foundation, nor does the Foundation endorse any professional or fiduciary services.

The Foundation's President will be responsible for signing the IRS Form 8283 and filing the required IRS Form 8282 upon the sale or disposition of any

property sold or otherwise disposed of within three years of receipt by the Foundation when the charitable deduction value of the item is greater than \$5,000. It is understood that the Foundation must file this form within 125 days of the date of sale or disposition of the gifted asset.

FUNDRAISING EXPENSES

A percentage of all undesignated income is identified each year to promote the success of the University's Advancement program. In an effort to secure a

permanent and reliable source of funding for University Advancement and its fundraising programs, all charitable gifts received by the Foundation are required to provide a one-time amount equivalent to five percent (5%) of the principal of the total gift. These monies are directed to a dedicated fund to support campus-wide University Advancement and Philanthropic Giving efforts.

IMPLEMENTATION

Foundation management, working in conjunction with the University's Office of University Advancement, is authorized to develop and adopt written guidelines and procedures to implement this policy statement. Except as otherwise stated within these written policies, the Gift Acceptance Committee must approve any exceptions to policy provisions. The Gift Acceptance Committee will periodically and at least every five years review these policies and make recommendations for revisions to the Board of Trustees. Any changes to this policy statement shall be approved by the Foundation's Board of Trustees.