



CALIFORNIA STATE UNIVERSITY

LONG BEACH

49^{ER} FOUNDATION

Gift Acceptance Policy

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Purpose:

To provide clear and acceptable guidelines for gift acceptance policies that defines the types of assets that are acceptable for use by the CSULB 49er Foundation.

Gift Acceptance Policy:

The Foundation accepts a variety of gifts that are offered to the Foundation by a living or deceased individual Donor, corporation, and other entities, including public and private foundations.

The Foundation must be reasonably satisfied that the Donor has the legal authority to make the gift; that appropriate instruments of conveyance of title have been delivered and properly executed; and the source of the fund does not violate public or institutional policy.

No gift may be received that is subject to any conditions or pre-arrangements unless full disclosure has been made in accordance with procedures set forth in this Manual. All such gifts shall be subject to the specific requirements that pertain to the type of asset that is the subject of the gift.

Delegation of Authority:

Executive Order No.: 676

Title: Delegation of Gift Evaluation and Acceptance to Campuses

Effective Date: February 1, 1998

Supersedes: No Prior Executive Order

This Executive Order is issued pursuant to authority granted by Education Code Sections 89035 and 89720, and the Standing orders of the Board of Trustees, Chapter III, Sections 2 and 4-b and e.

To facilitate and encourage fund raising activities and to give campuses more autonomy in fund raising efforts, the following delegations are approved effective immediately:

- Authority is delegated to campus presidents to evaluate and accept gifts, bequests, and donations of personal property to campuses. Campus presidents may further delegate this authority in whole or in part to campus officers and employees. Henceforth, campuses will evaluate potential campus gifts, bequests, and donations and accept and receipt campus gifts, bequests, and donations in accordance with the requirements of the California Education Code (see below).
- Authority is delegated to campus presidents to accept gifts of interests in real property to campuses on behalf of the Board of Trustees when acceptance has been authorized by a resolution of the Board of Trustees or is part of an approved campus master plan (Standing Orders, Chapter III, Section 7-b). Campus presidents may further delegate this authority to campus officers and employees.

In acting pursuant to this delegation, due diligence must be performed to ensure that all gifts accepted by the campus will aid in carrying out the primary functions of the campus and the California State University as specified in Education Code Sections 89720 and 66010.4(b), copies of which are attached to this Executive Order. Further, all gifts,

bequests, devises, and donations which are accepted must be used in accordance with restrictions specified by the Donor. In the performance of these activities, campuses shall adhere to the spirit as well as the letter of all applicable laws and regulations. All advancement programs and activities shall adhere to the Code of Ethics and Standards of Practice set forth by the Council for Advancement and Support of Education (CASE), the National Association of College and University Business Officers (NACUBO), and the National Society of Fund Raising Executives (NSFRE).

In reporting fund raising results (required by Education Code Section 89720), campuses shall use accurate and consistent accounting methods that conform to the appropriate guidelines set forth by the Council for Aid to Education (CAE). Campuses shall submit the CAE report to the Division of University Advancement, Office of the Chancellor, for presentation to the Board of Trustees at its January meeting. This report shall also be sent by the Division of University Advancement to the California Postsecondary Education Commission, the Joint Legislative Budget Committee, and the California Department of Finance.

Gift Acceptance Committee

The Foundation recognizes that certain gifts should not be routinely processed, but should be reviewed by the Gift Acceptance Committee, which receives its authority from the Foundation Board. All final decisions regarding the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Committee.

The Committee shall consist of:

- Foundation CEO
- Foundation COO
- Foundation CFO
- CSULB Assistant Vice President, Estate & Gift Planning

Types of Gifts The CSULB 49er Foundation Accepts

1. Bequests
2. Real Estate
3. Appreciated Securities
4. Split Interest Gifts
 - a. Charitable Gift Annuities
 - b. Charitable Remainder Unitrusts/Charitable Remainder Annuity Trusts
 - c. Charitable Lead Trusts
5. Life Insurance Policy designations
6. Retirement Plan beneficiary designations
7. Other tax-advantaged gifts available under federal law

Bequests Policy:

The Foundation may accept a bequest from an estate of a deceased Donor, provided that the personal representative or Trustee of the Donor has full authority to act, and the proposed gift and acceptance procedure otherwise conforms to the requirements governing the specific assets to be distributed to the Foundation.

A bequest is defined as a testamentary distribution from the estate of a Donor, which may be made from a will, living trust or other testamentary arrangement.

Estate Litigation

It is in the interests of the Foundation to honor the written wishes of its Donors. While the Foundation does not wish to engage in protracted litigation over the implementation or interpretation of a bequest, it may be necessary and appropriate to do so. Factors that the Foundation Board will consider include the following:

- the size of the estate and the share allocated to the Foundation;
- the anticipated costs, duration, and risks of litigation;
- the impact on the reputation and goodwill of the Foundation;
- the position of other beneficiaries in the estate, especially other charitable organizations;
- the prior relationship and history of the Donor with the Foundation; and
- the advice of Counsel, the Gift Acceptance Committee and staff.

Financial Reporting

The Foundation shall comply with the requirements of the University and the Trustees in connection with its reporting of all bequests and bequest intentions.

Bequest Intentions

The University may accept revocable bequest designations to demonstrate support for its programs. While these bequests do not alter the Foundation's balance sheet, Advancement Services and the Office of Estate and Gift Planning staff shall monitor and steward these unrealized bequests.

Bequest Intentions Policy:

Bequest intentions must have the following documentation to be recorded:

- Verification that the Donor's age is at least 50 and
- a signed gift agreement with an estimated amount and
- a copy of the portion of a will/trust with charitable bequest that lists a specific value amount and signature page or,
- a copy of a Donor-generated letter expressing intentions and an estimation of the value of the bequest.

Administration & Distribution of Estates

Upon notification that the Foundation has been identified as a beneficiary of an estate or beneficiary of a living trust, in which the Foundation's interest has vested, the Office of Estate and Gift Planning shall be designated as the "Program Administrator". The Program Administrator shall be responsible for monitoring and reporting on the administration of the gift to the Foundation. The Foundation shall not serve as the Donor's estate representative, nor will the Foundation serve as the Trustee for living trusts or wills.

Real Estate Policy:

Forms of real estate which will be considered for a gift to the Foundation include, but are not limited to, improved or unimproved real property, including undeveloped land, buildings, farms, personal residences and vacation homes, leasehold improvements, fixtures, and gifts subject to a retained life estate, subject to full disclosure and proper due diligence as described in the Foundation procedures.

Gifts of real estate often require a financial commitment by the Foundation. All proposed gifts of real estate will be evaluated by the Gift Acceptance Committee for their potential for immediate or future sale or retention. Such gifts will be accepted if proceeds can be realized in a timely manner relative to the expenses and efforts required to hold, maintain, and manage the property until disposition.

Gift Acceptance Policy:

The Gift Acceptance Committee must approve all proposed gifts of real estate.

The Foundation will not accept delivery of real estate, either as an outright donee or in its fiduciary capacity as a Trustee, unless the Committee is satisfied that the criteria for acceptance has been met. The Committee must also be satisfied with the results of reviews for environmental hazards, zoning requirements, seismic and other geologic studies, as necessary. The gift is completed upon delivery of a duly executed grant deed or quitclaim deed, notarized and capable of being recorded. If the deed is being signed by a fiduciary, including a trustee of a trust, or an agent under power of attorney, it should be accompanied by a certificate of trust, Letters Testamentary, durable power of attorney or other similar document indicating that the fiduciary has legal power to act on behalf of the Donor.

Appreciated Securities Policy:

The Foundation will accept marketable securities and closely-held securities subject to the conditions noted below.

Conditions and Limitations:

The gift must be accompanied by, or Donor must consent to obtain, within the time limitations acquired by law, an adequate and full appraisal of the value of the gift to the Foundation, in accordance with the standards set forth in this Manual. The stock must be capable of valuation, not conditioned upon a pre-existing obligation for sale or transfer and free of any liens or encumbrances. The Foundation must be legally qualified to own and hold the security in the State of California, as well as the state in which the company

does business. In this regard, the Foundation will not normally accept stock in a law, medical, accounting or dental corporation.

Charitable Gift Annuities Policy:

The CSULB 49er Foundation shall utilize the California State University's Foundation's System-wide Charitable Gift Annuity Program.

Charitable Trusts Policy:

The Gift Acceptance Committee shall have the authority to accept gifts of remainder interest in Charitable Remainder Trusts (CRT), whether Unitrust or Annuity Trust where the Foundation serves as a Trustee or Co-Trustee with a commercial Trustee. Distributions from trusts managed by outside parties shall be accepted as per the asset class being donated.

Types of Trusts

- **Unitrusts**
 - **Standard Unitrusts:** pay a fixed percentage of the annual fair market value from income and, if necessary, from principal. They are appropriate where the income beneficiary would benefit from a Trust that invests for total return (considering income and capital appreciation). These Trusts generally outperform the investment return of income- only type Trusts. Such Trusts appreciate more rapidly and provide a better long term payout to income beneficiaries, and they also work better for the economic interests of the charitable remainderman because they tend to offset the erosion attributable to inflation.
 - **Net Income Unitrusts:** pay a fixed percentage of the annual fair market value, only from the net income of the Trust. They are appropriate in those cases where the contributed asset will not produce income sufficient to satisfy the unitrust amount.
 - **Net Income with Makeup Unitrusts:** Similar to above, except that the income beneficiary is entitled to any excess income earned in future years, if the Trust was unable to pay the anticipated distribution obligation because of low yields in earlier years. The makeup provision is available only for future years, and cannot be used to go back to prior years when there was excess income and make up shortfalls in the current or future years. This arrangement is appropriate where the contributed asset will not produce income sufficient to satisfy the unitrust amount.
 - **Flip Trusts:** Net Income or Net Income with Makeup Unitrusts that automatically convert to a Standard Pay Unitrust upon sale of a contributed illiquid asset. This type of Trust is appropriate when the expected unitrust payout of a standard unitrust would be better for the income beneficiary over the term of the Trust than from an income only (Net Income) arrangement.
- **Annuity Trust:** Designed to pay a fixed dollar amount (or a fixed percentage of the initial Trust value) to the income beneficiary. This arrangement is appropriate to older income beneficiaries (typically 75 years or more) who are more concerned with certainty of cash flow than the effects of inflation on the cash flow.

Advice to Donors Policy:

The Foundation and EGP may offer education to a prospective Donor with respect to the establishment of a Charitable Trust. The Donor will be recommended to seek competent independent counsel for specific tax and legal advice. EGP will, if requested, provide the names of no less than three (3) professional advisors qualified in the area of charitable giving. It will be deemed a possible conflict of interest for any member of the Foundation Board or staff to provide such services on behalf of a prospective Donor, whether compensated or not. However, a Board member or staff may provide such service if the Donor has been fully advised of the potential conflict and has waived such conflict, in writing. In such circumstances, staff shall not ever be compensated outside of the normal scope of their university duties. The Donor should be advised to seek independent counsel before signing such waiver. EGP will assist Donor's advisors in the design and preparation of such instruments, if they seek such help. Members of the Board and professional staff of the University may act in an advisory capacity on behalf of CSULB to Donor's counsel, but shall never be designated as the Donor's legal advisor.

Designation of the Foundation as Trustee

The Foundation may accept appointment as a Trustee, and may outsource all duties to a commercial Trustee at the Foundation's discretion. The Foundation will encourage Donors to see a corporate trustee to serve as trustee of CRTs where the Foundation does not serve as trustee.

Life Estate Agreements Policy:

Gifts of real estate with retained life estates shall be reviewed and approved by the Committee prior to acceptance of the gift. Acceptance of such gifts must be in accordance with the guidelines for acceptance of outright gifts of real property as set forth below. Such gifts shall be accepted only if adequate provision is made by the Donor for any expenses in connection with ownership, including payment of mortgages, taxes, insurance and utilities, unless a source of funds to cover such expenses has been identified by the component institution for whose benefit the gift is being made. At the present time, tax law permits such an arrangement for the Donor's personal residence or farm. If state law requires participation of the remainderman in any capital improvements on property subject to a life estate agreement, no expenditures for capital improvements will be made without approval of the Foundation Board of Directors.

Bargain Sales Policy:

The Foundation shall accept bargain sale gifts upon the approval of the Finance and Investment and the Gift Acceptance Committees.

A bargain sale is a part gift/part sale of appreciated property to the Foundation. The asset acquired by the Foundation may be any type of property that the University may legally hold. The Foundation's motivation for the purchase would be the inherent equity in the property, in excess of the purchase price.

Appraisal

In order to determine the true fair market value of the asset, it must be adequately

appraised, in accordance with the standards and procedures set forth in this Manual.

Unless an exception is warranted, it will be the Donor's responsibility to pay for the appraisal, the cost of which **may** be reimbursed by the Foundation upon consummation of the gift.

- *Gift Acceptance Policy for Bargain Sales*
 1. The Chief Operating Officer obtains and secures a proper appraisal.
 2. Estate Gift Planning/Chief Operating Officer completes the Proposed Gift Approval Form and submits it to the Finance and Investment Committee for approval.
 3. The Committees will consider approving the bargain sale, if the specific rules applicable to the type of asset to be purchased are met.

Gifts of Mortgaged Property

The amount of the indebtedness is treated as a relief of liability and cash proceeds to the Donor. The Donor should be properly advised of the general tax consequences and told to consult with his or her tax advisor. The above is true even though neither CSULB nor the Foundation agrees to assume or pay the indebtedness. If the Donor agrees to hold CSULB and the Foundation harmless and to pay off the indebtedness as it falls due, the Donor may be able to escape the bargain sale rule.

Life Insurance Policy

The Foundation shall accept life insurance gifts upon the approval of the Gift Acceptance Committee. The Foundation will not participate in split-dollar or reverse split-dollar plans, or other forms of partial interest, until such time as the IRS clarifies its position via IRS regulations, IRC codes, or Private Letter Rulings.

Appraisals Policy

All gifts of real or personal property, whether outright or deferred, must be subject to a readily ascertainable value. It is the responsibility of the Donor to secure and pay for the appraisal for income tax reporting purposes, if one is required.

Costs of Appraisal

The Foundation will not normally fund the Donor's cost of appraisal; however, the Finance and Investment Committee has the discretion to approve this expenditure provided:

- the subject property which has or may be gifted to the organization is or would be approved under the gift acceptance criteria,
- the amount of the appraisal is reasonable and prudent,
- the proportion of the expense incurred is no greater than the proportion of the property which will be gifted to the Foundation,
- the appraiser is qualified and willing to perform under the criteria set forth in this Manual

- if Donor is reimbursed for the cost of an appraisal, it may trigger a 1099 being issued for the cost of the appraisal.
- there is full disclosure to the Donor of the legal or tax implications of the Foundation's action.

Policy Guidelines

Governing Authorization for Negotiations

Authorization to negotiate current and deferred giving agreements with prospective Donors, following the guidelines and format of any specimen agreements approved by the Board of Directors, without further approval of the Board is given to:

- Foundation CEO/Vice President, University Relations and Development
- Foundation COO/Associate Vice President for Development
- Associate Vice President, Financial Management
- Assistant Vice President, Office of Estate and Gift Planning

The following shall have the authority to sign deferred giving agreements on behalf of the University:

- President, California State University, Long Beach
- Vice President, University Relations and Development
- Associate Vice President for Development

The following shall have the authority to sign deferred giving agreements on behalf of the Foundation:

- Foundation CEO
- Foundation COO
- Foundation Treasurer

However, any party to the gift negotiation shall not sign on behalf of the institution. In such cases, another authorized representative shall sign on behalf of the University and/or Foundation.

It is the responsibility of the Assistant Vice President of Estate and Gift Planning to maintain an ongoing relationship with Donors, including: reviewing the trust on an annual basis, assuring timely payment of distributions, reviewing investment objectives, providing appropriate honors and awards, etc.

Governing Use of Legal Counsel

The Foundation will urge all prospective Donors to seek the advice of their own attorney or tax advisor in reviewing the state and Federal income tax and the estate and gift tax consequences of their gift, the terms of any trust or other agreement, and the advisability of the gift in light of the Donor's overall estate plan and financial circumstances.

If requested, the Foundation's counsel or the Estate and qualified Estate & Gift Planning staff may be called upon to draft trust, annuity or other gift documents, subject to approval by the Donor's own counsel. While the Estate & Gift Planning staff will not ordinarily draft a Donor's will or codicil, they may prepare suggested language pertinent to a bequest to the Foundation to be submitted to the Donor's attorney for inclusion in the Donor's will or codicil.

The Foundation's counsel and qualified Estate and Gift Planning staff may also be called upon to review and comment upon documents drafted by the Donor's attorney.

Staff members of the Foundation and University shall not give legal, financial or investment advice to prospective Donors.

All staff members of the University and the Foundation shall conduct all activities undertaken on behalf of the University and the Foundation in accordance with accepted professional standards of accuracy, truth, integrity and good faith.

Concerning the payment of legal fees, the Foundation may employ its own legal counsel to assist the Donor and his or her advisors in drafting provisions which relate to all types of gifts to the Foundation or the University. In all cases, review by the Donor's own counsel of the work performed by the Foundation's counsel must be advised and documented.

Confidential Information

- The Foundation recognizes that it is in a position of trust with the Donor, and that the Donor has placed trust in us concerning confidentiality. Therefore, all governing instruments will be kept in a locked fireproof file, which will be accessible to individuals with approval of the Vice President for University Relations and Development.
- It shall be known throughout the Foundation and University that this is confidential information.

Governing of Designated Proceeds

- All designated proceeds will be used per the requested designation, subject to the Foundation's fee policy.
- All undesignated bequests and matured deferred gifts will be utilized in accordance with the mission of the University. All gifts received without Donor designation for a specific college, purpose or program shall be designated only at the University President's discretion. Such designation shall be in writing in the form of a memo to the Foundation.