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Effective Gift Acceptance Policies and Procedures

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Part One: Guiding Principles

I. The Purpose of Policies

- A. A statement of gift acceptance policy encourages the types of gifts that are consistent with the values and objectives of the organization.
- B. The policy statement should target gift opportunities that make best use of staff and other resources.
- C. A well-considered policy will anticipate issues with certain types of gifts and attempt to minimize problems arising from those issues.
- D. The statement of policy serves as a statement by the board or directors, or other governing body of the organization, of the official policy of the organization.
- E. To effectively serve these purposes, the statement of policy should be both broad and brief. The oversight responsibility of an organization's governing body is performed at the policy level, rather than being immersed in the day-to-day details of operations.

II. The Purpose of Procedures

- A. Gift acceptance procedures should clearly state the steps to be followed, and rules to be observed, in accepting gifts to the organization. Whether the development operation is a single fundraiser reporting to the executive director, or a staff of 100 in the hierarchical organization, it is important for the organization leadership to be comfortable that everyone raising funds on behalf of the organization is on the same page.
- B. Effectively and efficiently implement the policies.
- C. Donor relations and other communications.
- D. Manage risk to the organization.
- E. Both policies and procedures also serve an educational function to make the board, staff, donors and advisors more aware of the specifics of the organization's development program.

III. What Belongs in the Statement of Policy?

- A. Statements of official policies of the organization, stated simply so that it is clear what those policies are.

- B. Delegation to appropriate staff (e.g. VP Advancement, Director of Development, etc.).

IV. What Belongs in the Procedures?

- A. Standardized method of dealing with issues that routinely present themselves in the gift acceptance process, such as donor-imposed restrictions on gifts and review of written agreements by legal counsel.
- B. Organizational standards for various types of gift vehicles, for example, trusteeship of charitable remainder trusts and rates used for charitable gift annuities.
- C. Standards for various potential gift assets such as real estate and closely held stock.
- D. Assign authority and responsibility

V. What Does Not Belong in Either

- A. Lengthy description of various types of gift vehicles and their legal and/or tax aspects.

Part Two: The Process

VI. First Steps

- A. Begin by anticipating the format that your finished product will take. Review other statements of policy adopted at the board level by your organization. Is there a standard template to which all policies must conform? Are existing policies broad and brief or detailed and lengthy?
- B. Collect files, records, memoranda, correspondence and other documentation to determine if *ad hoc* policies have been established.
 - 1. Tip: You may end up incorporating some of these *ad hoc* policies into your eventual work product – or not – but either way you will want to make sure that the new policies and procedures supersede everything that has been done in the past to eliminate the need for you to continually refer back to a memorandum written by your predecessor’s predecessor as source material for “the way it has always been done.”

VII. Research

- A. There is a growing body of professional commentary concerning best practices for gift acceptance. To make sure you have not missed anything (and to be sure you can answer every question when you present your proposal to the board, the

development committee or your boss), you should be conversant in this body of knowledge. On the other hand, keep in mind that policies and procedures should be specifically tailored to the objectives of your organization – one size does not fit all.

- B. Statement of policies adopted by other organizations should be used only as a checklist to make sure there is nothing you are overlooking. They should *not* be used as the first draft for your organization's policies and procedures since experience has shown that this type of "cut and paste" approach leads, at worst, to policies and procedures that are not well-suited to the organization (and therefore tend to get ignored in practice), or, at best, a document that is way, way too long.
- C. Do not get too far ahead of your board. At some point, the statement of policy needs to be approved by the board of directors or other governing body of your organization. Coming to the board with a proposed statement of policy may lead to a variety of unpredictable results if this is the board's first exposure to the concept. To smooth the process, consider bringing the policy to the board in three steps.
 - 1. First, inform the board, either at a board meeting or in correspondence from the board chair, that the development staff, under the supervision of the vice president, development, and the development committee, is beginning the process of developing a gift acceptance policy for eventual approval by the board. This first communication should summarize briefly (*i.e.*, five or six bullet points) the objectives to be achieved with the policy.
 - 2. The second communication should be a brief presentation to the board with a progress report on the project. This should discuss concepts in simple terms without including a draft document.
 - 3. The third, and hopefully final communication with the board, should be the actual proposal, which should include not only the document – the statement of policy – but also a simple set of slides with bullet points (think PowerPoint) to lead board members through historical perspective, the process of developing the policy statement, and the main points of the policy. At the meeting itself, rather than walking the board members through the actual document, the proposed policy statement can be presented via the slide presentation.

VIII. Constituencies

- A. The working group to undertake the research, gather input, and prepare the initial draft of the policy statement and procedures should be kept small, for example, one representative from the business office and one representative from the development department.

- B. The working group should obtain input from staff members and perhaps outside advisors who are involved in the gift acceptance process to gain perspective on technical aspects of gift assets and vehicles, donor relations, and institutional risk management.
- C. It should be emphasized to stakeholders that the policies and procedures are living documents; to achieve their purposes, they need to be reviewed periodically to make sure they meet the needs of the organization. They should also be reviewed prior to launching a new capital campaign or other major fundraising initiative.

Part Three: Specific Issues

I. Statement of General Policy

- A. Summary statement of values and objectives.
- B. The organization cannot accept gifts that might require a deviation from these core values and objectives.
- C. Recognize that donors have a legitimate interest in choosing the purpose for which their gift will be spent.
- D. Encourage education of donors on areas of greatest institutional needs.

II. Restricted Gifts

- A. The statement of policy should address whether bequests and other amounts realized by the organization from planned gifts should automatically go into endowment unless otherwise specified by the donor.
- B. Gift acceptance procedures should establish the criteria for named endowment funds, including the minimum amount to establish a fund, the time over which this funding must be completed, and approval of restrictions on the use of named endowment funds.

III. Restrictions on Use

- A. As a matter of policy, the organization should not accept restrictions on use that are inconsistent with organizational values and objectives.
- B. The procedures must assign responsibility for approval of all restricted gifts to ensure that the gifts fit within budgeted objectives of the organization and comply with policies.
- C. Anticipated level of continuing donor involvement.

1. Monitoring or reporting?
 2. Committee or other policy input?
- D. UPMIFA: Confirm whether your state has adopted the Uniform Prudent Management of Institutional Funds Act (2006) (UPMIFA) which replaces the 1973 Uniform Management of Institutional Funds Act (UMIFA). While UMIFA allowed an organization to *release* a restriction imposed by the donor in the original gift instrument, with the written consent of the donor, UMIFA allows the institution to *release or modify* a restriction contained in the gift instrument on the management, investment or purpose of the restricted gift, with the written consent of the donor. This ability to move a fund from an old restricted purpose to a new restricted purpose creates more flexibility for restricted gifts as compared with UMIFA where the only option was to go from the old restriction to completely unrestricted.
- E. Use of variance power: Experience has demonstrated to many institutions the importance of including a variance power for restricted gifts, allowing the organization's Board of Directors to modify, loosen or lift the original restricted purpose. One issue upon which input should be solicited from stakeholders is the standard to be used by the organization in exercising the variance power.
1. One possibility is for the restriction to "sunset" after a specified number of years. For example, the variance power might provide that the endowed fund established by the donor will remain restricted as to its use for a period of thirty (30) years, after which the organization may unilaterally modify, loosen or remove the restriction (or, of course, leave it in place).
 2. A second option is to include a standard for exercise of the variance power, such as a determination by the Board of Trustees that the restriction is obsolete (for example, funds are no longer needed for research to find a polio vaccine) or that it no longer serves the mission of the organization (for example, the university has decided to close its law school so it can focus its resources on its nursing program).
 3. The most flexible (and therefore, perhaps, requiring the most explanation to donors) is a variance power that gives the institution broad discretion to modify, loosen or lift the restriction, for example if the Board of Trustee determines that the restriction is no longer in the best interest of the university.

IV. Recognition

- A. The organization should have in place (separate and apart from these policies and procedures) a schedule of naming opportunities for new facilities for which funds are being raised, as well as a system for recognition for certain types of giving or giving at certain levels (for example, legacy society for identified bequests, parents club, alumni association, etc.)

- B. The procedures need to assign responsibility for approval of any donor recognition that is outside the established system.

V. Controversial Donors

- A. Risk management involves more than avoiding real estate with toxic waste or carrying appropriate insurance coverage.
- B. There maybe reputational risks to the organization associated with some donors. This risk may arise from the source of the funds used to make the gift. Assume, for example, that the charity's endowment investment policies prohibit investment in tobacco businesses. Is it in the best interest of the charity to extend this policy to preclude acceptance of a very substantial gift from a donor who made his fortune in tobacco? Should this policy extend to the gift from the great grand-daughter of the tobacco entrepreneur?
- C. The reputational risk may come not from the source of funds but from the causes or institutions with which the donor is associated. For example, an independent school with a curricular emphasis on social justice might incur risk to its reputation by accepting a large gift (with naming rights to the library) from a donor who has been a vocal proponent of conservative causes and has openly opposed women's reproductive rights, environmental regulations, workers' rights, etc.

Part Four: Specific Assets

I. General

- A. The procedures should contain guidelines for dealing with specific types of assets and give situations. Note that these guidelines are appropriate for the procedures rather than the policies – at most, the policies should contain a statement that risk to the organization will be one element considered by the development staff in determining whether to accept a gift.
- B. One purpose for guidelines on specific assets and gift situations is to articulate the steps that may be taken, and what may be accepted or rejected, without further authorization.
- C. These guidelines also assign authority and responsibility for deviation from the general rules or making judgment calls on the gray areas created by those rules.
- D. Finally, guidelines concerning specific assets and gift situations can provide a graceful way of saying no to a donor: “if it were me, I would love to see the school except the gift of your taxidermy collection, but we have a specific policy that prohibits us from accepting gifts of tangible personal property that require moth proofing.”

II. Securities

- A. The procedures should specify types of securities that will or will not be accepted. In general, securities that are publicly traded on a national exchange such as NYSE or NASDAQ are acceptable. The procedures should identify the person authorized to approve acceptance of other securities and provide guidance to that person with criteria for approving these gifts.
- B. The conversation with stakeholders should include input on whether the procedures should be for all securities to be sold immediately with the proceeds invested or used for the organization purposes or should the securities be held while a determination is made by the finance office whether the securities should continue to be held for investment.

III. Real Estate

- A. Due to the risks and other issues presented by real estate, some organizations (primarily but not exclusively smaller organizations) as a matter of policy will not accept gifts of real estate. Organizations that are willing to accept gifts of real estate are sometimes rewarded with various substantial gifts, but there is no question that the internal process for accepting and disposing of these properties needs to be well defined in order to capture that value while protecting the organization.
- B. The procedures should not attempt to cover every issue that might arise in a real estate give. Instead, effective procedures will spell out the rules for dealing with key items and will identify the person responsible for handling these gifts, from intake through management of the property to its eventual sale.
- C. Environmental: It is likely that environmental issues associated with real estate have caused more overreaction in the gift acceptance process than any other area of concern. The result has been policies and procedures of many organizations that require unnecessary environmental studies of very low risk properties that at best delay the gift and at worst make the gift financially unattractive to the donor, the charity or both. This is one area in which, after consultation with the various constituencies, the gift acceptance procedures can make it clear that common sense should prevail. One method is to assign a staff person with real estate experience or to employ a real estate consultant to first determine whether formal environmental review is required at all. For example, the majority of real estate gifts are residential – single family homes or apartment buildings – where the environmental risk is very low. The procedures should leave it to the designated employee or consultant to advise whether more advanced environmental review is advisable (for example, when the gift asset will be industrial real estate).
- D. The procedures should establish the manner in which the charity will be assured of the title to the property it is receiving from the donor. The best practice is to

require the organization to obtain a policy of title insurance, since this will identify defects in title and protect the organization against those defects.

- E. The stakeholders must determine whether the organization will encourage gifts of donors' personal residences in which the donors retain a life estate. Factors to consider are whether the organization has the infrastructure to own and manage the house (or what could be several houses) and to organize the successful sale of the property. The procedures should also describe the documentation required by the organization in connection with those gifts. Here, the best practice is a written agreement spelling out the rights and responsibilities of the donor and charity plus other provisions that may be suggested by stakeholders.

IV. Tangible Personal Property

- A. Determination whether to retain or sell.
- B. Assessment of compatibility with existing library or museum collections.
- C. Assessment of curatorial, maintenance, storage, insurance and other expenses.

V. Planned Gifts

- A. General statement: Beyond a general, strategic statement in the policies that the organization encourages planned gifts, or perhaps a statement that as a matter of policy all proceeds from planned gifts go into endowment, most of the information pertaining to planned gifts is tactical and therefore belongs in the procedures rather than in the board level statement of policy.
- B. Charitable gift annuities: The procedures should spell out the criteria for gift annuities, including minimum ages of annuitants and whether annuities will be accepted for assets other than cash and marketable securities (for example will we issue a gift annuity in exchange for a remainder interest in a personal residence?) The section of the procedures should require use of the annuity rates published by the American Counsel on Gift Annuities and, as with other areas of procedures, should identify the person with authority to override the default rules.
- C. Trusteeship: A very valuable outcome of the process of compiling gift acceptance policies and procedures is to ensure that the organization does not assume fiduciary responsibilities as an executor or trustee without thinking through the pluses and minuses of doing so, pitfalls to avoid and best practices for risk management. Does the organization have the infrastructure to perform all of the necessary functions of a fiduciary? Or would it be better served with a "preferred provider" solution in which the charity has the power to appoint (and replace) an institutional fiduciary such as a bank or trust company?
- D. Charitable Remainder Trusts: The procedures should contain criteria for charitable remainder trusts for which the charity has provided assistance in the preparation of the trust document and provides fiduciary services either by

serving as trustee or through a preferred provider solution. Criteria to consider are the minimum size of a CRT, its unitrust or annuity percentage, irrevocability of the remainder and restrictions, if any, which the donor may place on the use of the remainder.

Appendix A: Specimen Gift Acceptance Policy

Appendix B Specimen Gift Acceptance Procedures

**The Charitable Sector Practice
at
Mitchell Silberberg & Knupp LLP:**

Celebrating 100 Years of Service

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Appendix A

SPECIMEN

ABC Charity

Gift Acceptance Policy

I. Purpose

The purpose of this statement is to articulate the policies of the Board of Directors of ABC Charity (the “Charity”) concerning the acceptance of charitable gifts to the Charity. The Development Committee will adopt appropriate procedures to implement these policies.

II. Responsibility to Donors

- A. General. The Charity, its staff and representatives shall endeavor to assist donors in accomplishing their philanthropic objectives in providing support for the Charity.
- B. Confidentiality. Information concerning all transactions between a donor and the Foundation shall be held by the Foundation in strict confidence and may be publicly disclosed only with the permission of the donor.
- C. Anonymity. The Charity shall respect the wishes of donors wishing to support the Charity anonymously and will take reasonable steps to safeguard those donors’ identity.
- D. Disclaimer. Each prospective donor to the Charity shall be informed that the Charity does not provide legal, tax or financial advice, and shall be encouraged to discuss all charitable gift planning decisions with his or her legal, financial or tax advisor before entering into any commitment to make a gift. to the Charity.

III. Gift Restrictions

- A. Unrestricted Gifts. To provide the Charity with maximum flexibility in the pursuit of its mission, donors shall always be encouraged to make unrestricted gifts to the Charity.
- B. Budgeted Programs or Facilities. The Charity may accept a gift that is restricted as to its use if the Charity’s approved budget for the year in which the gift is to be accepted includes proposed funding for the specific program, purpose or facility for which the restricted gift is made.

- C. Other Restrictions. The Charity may accept a gift that is restricted as to a use if the Charity's budget for the year in which the gift is accepted does not include funding for the restricted use of the gift, with the prior written approval of the Vice President, Development.
- D. Variance Power. Unless otherwise approved in advance by the Vice President, Development, the Charity will reserve the right, in the document that restricts the use of the gift, to broaden or alter the purpose of the gift should it be determined in the future that the original purpose of the gift no longer meets the needs or serves the mission of the Charity.

IV. Donor Recognition

- A. General. The Board of Directors, upon recommendation of its Development Committee, may establish criteria for the recognition and honoring of a donor with certain honors or benefits based on various giving levels achieved by a donor and the type of gift. These honors or benefits may include the listing of the donor's name on a roll or plaque of significant donors or the opportunity to receive invitations to donor recognition events.
- B. Buildings and Other Facilities. Except in the case of naming opportunities which appear on a schedule of naming opportunities approved by the Board of Directors in the context of a capital campaign, the development staff of the Charity shall make no commitments to a donor concerning the naming of buildings or other facilities without the approval of the Board of Directors upon recommendation of the Vice President, Development.

V. Fiduciary Relationships

- A. General. Unless approved in advance by the Chief Financial Officer of the Charity, the Charity will not agree to serve as executor of a decedent's estate or as trustee of a living trust or other trust intended to serve as a person's primary estate planning document.
- B. Trusteeship. The Charity may serve as trustee of trusts to maintain its gift annuity reserve accounts, as required by relevant state insurance law, in connection with the Charity's gift annuity program. The Charity may serve as trustee of charitable remainder trusts, provided that no less than 50% of the remainder interest in the trust is irrevocably dedicated to the Charity, and the charitable remainder trusts meet the minimum standards established from time to time by the gift planning procedures of the Charity. The Charity may serve as trustee of trusts only in circumstances in which its investment authority as trustee is unrestricted. The Charity will not serve as co-trustee of a trust.

VI. Commitment of Charity Assets

- A. Bargain Sale. Commitment of funds of the Charity in a bargain sale transaction to acquire assets from a donor shall require the prior written approval of the Chief

Financial Officer and the Vice President, Development. Such approval shall generally be restricted to situations in which the asset to be acquired is one which will be used by the Charity in its program or which can be readily disposed of for cash within a reasonable time.

- B. Gift Annuities. The Charity shall issue charitable gift annuities to donors, in exchange for their contributions, using annuity rates published by the American Council on Gift Annuities.
- C. Partnership and Other Liabilities. The Charity will not accept interests in partnerships or other investment entities exposing the Charity to liability, including the obligation to provide capital contributions or other funding for the investment, without adequate indemnity from the donor to fulfill those obligations.
- D. Real Estate. While the Charity encourages gifts of real estate, potential liability of the Charity arising from real estate should be minimized pursuant to procedures to be adopted by the Development Committee.

VII. Reporting and Valuation Standards

- A. Reporting. For campaign and other reporting purposes, the Charity shall use the National Committee on Planned Giving Guidelines for Reporting and Counting C Gifts (www.ncpg.org).
- B. Valuation of Planned Gifts. To evaluate the Charity's planned giving program and to compare the relative value of various planned gift approaches, the Charity shall utilize the National Committee on Planned Giving Valuation Standards for Charitable Planned Gifts.

VIII. Ethical Standards

The Charity is committed to the highest ethical standards. Development staff at all levels of the organization shall adhere to the Model Standards of Practice for the Charitable Gift Planner adopted by the National Committee on Planned Giving.

IX. Delegation

- A. Staff. Implementation of these policies is delegated to the Vice President, Development, of the Charity, who shall be responsible for oversight of the acceptance of all gifts by the Charity.
- B. Development Committee. The Board of Directors shall delegate to its Development Committee the responsibility of approving Gift Planning and Acceptance Procedures to implement these policies. The Vice President, Development, who shall be an *ex officio* member of that committee, may from time to time propose to the committee revisions to the procedures.

X. Approval of Exceptions

Acceptance of gifts to the Charity in a manner that is in any way inconsistent with this statement of policy must be approved in writing by the Vice President, Development, who shall report such exceptions to the Board of Directors at its next regular meeting.

XI. Periodic Review

- A. General. A committee of the Board of Directors, and of which the Vice President, Development, shall be a member, shall periodically (but no less frequently than every five years) review these policies to ensure that they continue to accurately describe the policies of the Charity with respect to acceptance of charitable gifts, and shall propose to the full Board of Directors for adoption those revisions that the Committee shall determine to be necessary or appropriate in order for the Statement of Policy to accurately reflect the policies of the Charity.
- B. Specified Review. These policies shall be reviewed and ratified by the Board of Directors each time the Board determines that the Charity will embark on a capital or other fundraising campaign. These policies shall also be reviewed upon the enactment or promulgation of legislation or regulatory rules affecting fundraising and gift acceptance by the Charity, to assure continued compliance by the Charity with the legislation and rules.

Appendix B:

SPECIMEN

ABC Charity

Gift Acceptance Procedures

I. Purpose

The purpose of these procedures is to implement the Gift Acceptance Policy adopted by the Board of Directors of ABC Charity (the “Charity”). These procedures describe the types of assets that the Charity will accept and the guidelines to be observed by its staff in accepting and documenting the gift of those assets. These procedures apply to all gifts received by the Charity.

II. Supervision and Coordination

Acceptance and documentation of gifts must be under the supervision of the Vice President, Development, in order to maximize the value of those gifts to the Charity, while minimizing costs and risks to the Charity associated with those gifts.

III. Adherence to Policies

Each member of the development staff of the Charity shall be given a copy of the Gift Acceptance Policy adopted by the Board of Directors of the Charity. These procedures shall be applied by the development staff in compliance with that Policy. Questions regarding interpretation of the Policy should be directed to the Vice President, Development.

IV. Donor Expenses

- A. General. As a general rule, and except as provided elsewhere in these procedures for specific assets, including real estate, expenses associated with a donor’s gift should be borne by the donor. Typical expenses include appraisal fees to substantiate the value of the donor’s gift for tax purposes and the donor’s legal fees.
- B. Payment by Charity. The Charity may, with the prior approval of the Vice President, Development, agree to pay some or all of the donor’s expenses associated with the gift following a determination by the Vice President that doing so is necessary to facilitate the gift.

V. Written Agreements

- A. General. All gift arrangements other than a simple outright gift of cash shall be memorialized in a written document describing the restrictions, if any, imposed on the gift by the donor and other obligations that may be undertaken by the Charity with respect to the gift.

- B. Legal Counsel. All gift agreements prepared by the Charity shall be reviewed and approved by the Charity's legal counsel. Once the document is approved, it may then be forwarded to the donor (and his or her advisor) for review. No review or approval by the Charity's counsel shall be necessary if an agreement is contained on a form that has been previously approved by the Charity's legal counsel.
- C. Signatures. The following persons are authorized to sign gift agreements on behalf of the Charity: President, Vice President, Development and Chief Financial Officer.

VI. Pledges

- A. Binding Commitment. The development staff will encourage donors wishing to make their gifts in installments over time to document their commitment to the Charity in a written Pledge Agreement that will create a binding legal obligation on the donor, as well as a claim against the donor's estate if the commitment remains unpaid at his or her death. For donors wishing to retain more flexibility by making their commitment nonbinding, documentation shall be referred to as a "letter of intent" in order to avoid confusion with binding commitments documented as Pledge Agreement. Nonbinding letters of intent shall not be counted as direct gifts. The following guidelines apply to Pledge Agreements in which the donor undertakes a binding legal obligation.
- B. Duration. Unless a longer period is approved by the Vice President, Development, the Pledge Agreement will specify the installments in which the gift is to be paid over a period not to exceed five years. The Development Department is responsible for recording, acknowledging, billing and monitoring the status of all pledges and payments.
- C. Minimum Amount. Pledges payable over more than one year shall be at least \$50,000.
- D. Donor's Estate. Each Pledge Agreement shall provide that any portion of the donor's commitment remaining unpaid at the donor's death shall be a liability of the donor's estate, enforceable by the Charity.

VII. Gift Restrictions

- A. Unrestricted Gifts. Donors shall always be encouraged to make unrestricted gifts to the Charity.
- B. Budgeted Programs or Facilities. The Charity may accept a gift that is restricted as to its use if the Charity's approved budget for the year in which the gift is to be accepted includes proposed funding for a specific program, purpose or facility for which the restricted gift is made. The responsible gift officer must confirm that the gift restriction falls into this category.

- C. Other Restrictions. The Charity may accept a gift that is restricted as to use if the Charity's budget for the year in which the gift is accepted does not include funding for the restricted use of the gift, with the prior written approval of the Vice President, Development.
- D. Variance Power. Unless otherwise approved in advance by the Vice President, Development, the Charity will reserve the right, in the document that restricts the use of the gift, to broaden or alter the purpose of the gift should it be determined in the future that the original purpose of the gift no longer meets the needs or serves the mission of the Charity.

VIII. Named Funds

- A. General. A donor may establish a named endowment fund, subject to the Charity's endowment, investment and spending policies, for general purposes of the Charity or for restricted purposes approved in accordance with these procedures.
- B. Minimum Contribution. A named fund requires a minimum commitment of \$100,000. It may be established with a minimum initial contribution from the donor of \$20,000 if the donor enters into a Pledge Agreement to bring the endowed fund to a minimum of \$100,000.
- C. Administration of Named Funds. The assets contained within each named endowment fund shall be commingled for investment and administration with the endowment fund of the Charity. All policies applied to those endowment funds, including the formula for spending from endowment funds, shall apply to all named funds.
- D. Variance Power. Unless otherwise approved in advance by the Vice President, Development, the Charity will reserve the right, in the gift agreement creating the named endowment fund, to broaden or alter the restrictions as to the use of the endowment fund, should it be determined in the future that the original restricted purpose of the named endowment no longer meets the needs or serves the mission of the Charity.
- E. Termination of Named Fund. A named endowment fund may be terminated if the Board of Directors of the Charity, upon recommendation of the Vice President, Development, or the Chief Financial Officer, that the market value of the assets remaining within the fund is uneconomically low in relation to the cost of administering the fund. In such case, all remaining assets within the named fund shall be transferred to the general endowment fund of the Charity to be administered pursuant to its terms.

IX. Donor Advisory

The Charity does not provide personal legal, financial, tax compliance or other professional advice to donors. While gift officers may provide the Charity with gift illustrations,

including contentions, and draft documents prepared or approved by the Charity's legal counsel, donors will be advised in writing, in gift proposals made to donors, to seek the assistance of their own legal counsel or other professional advisors in matters relating to the legal, tax and estate planning consequences of the proposed gift to the Charity.

X. Ethical Standards

The Charity is committed to the highest ethical standards. Each member of the development staff having donor contact shall subscribe to the Model Standards of Practice for the Charitable Gift Planner adopted by the National Committee on Planned Giving. To emphasize the importance to the Charity of this commitment, it shall made in writing, with a copy maintained in the personnel file of each such development staff member.

XI. Marketable Securities

- A. General. The Charity will assist in the transfer of custody of marketable securities from the donor (or his or her custodian) to the Charity. If the securities are to be mailed, the stock certificates should be mailed separately from the signed stock power with signature guaranty. If the share certificates are hand delivered, the stock power may be attached. If the securities are in street name, the donor's broker may transfer them to a brokerage account designated by the Charity.
- B. Restrictions. If the donor is a member of the Charity's Board of Directors, or a corporate officer of the Charity, the gift officer will notify the Vice President, Development for the purpose of determining whether sale of the securities might be restricted under Rule 144 or other provisions of securities law.
- C. Reporting Policy. Gifts of marketable securities will be accounted for at their value on the date the gift is made, determined by taking the mean between the high and low quotes on the date of the gift.
- D. Disposition. The Charity will instruct its brokers that all marketable securities will be sold upon receipt. The Vice President, Development is authorized to override this general rule and direct that the securities should not be sold, following consultation with the Charity's Chief Financial Officer.

XII. Closely Held Stock

- A. General. Stock that is not regularly traded on an established national exchange such as NYSE or NASDAQ may not be accepted without the prior written approval of the Vice President, Development.
- B. Opportunities For Sale. Criteria to be applies in evaluating the closely held stock include the long term prospects for the company and if there is an opportunity for the Charity to sell the stock for cash in the foreseeable future, for example pursuant to a planned sale of the company.

- C. Subchapter S. If the company in question is a Subchapter S corporation, another criteria shall be the UBTI consequences of holding and selling the stock.
- D. Minimum Amount. Gifts of closely held stock should be at least \$100,000.

XIII. Interests in Partnerships and Limited Liability Companies

- A. General. Interest in partnerships and limited liability companies may only be accepted with the prior written approval of the Vice President, Development.
- B. Limited Liability. The principal factor to be evaluated by the responsible gift officer in recommending the gift for approval by the vice president development shall be a determination that the Charity will not incur liability as a result of holding this asset. The gift officer will review, or request legal counsel to review, the governing documents of the partnership or limited liability company to determine if contribution or Call provisions might require the Charity to contribute funds to the partnership or LLC. Assuming there are no such contribution or Call provisions, the gift officer must determine that the entity is either a limited liability company or a limited partnership and, if the later, that the interest which the Charity will receive is a limited partner interest. The Charity will generally not accept general partner interests.
- C. UBTI. The gift officer must evaluate, with assistance from the finance department if required, the possibility that UBTI will be attributed to the Charity as a result of ownership of the interest in the partnership or LLC.
- D. Minimum Amount. Gifts of partnership or LLC interests shall be at least \$100,000.

XIV. Tangible Personal Property

- A. General. The Charity may accept tangible personal property gifts valued at \$10,000 or more with the prior written approval of the Vice President, Development.
- B. Related Use. The gift officer must determine if the tangible personal property would be retained by the Charity for use in its programs. If so, the gift officer (before recommending the gift to the Vice President, Development for approval) shall determine, with the assistance of the department or office within the Charity that would be responsible for the continuing use of the tangible personal property, the estimated carrying costs, including insurance, storage, curatorial services, maintenance, etc. for the property. The gift officer shall also evaluate whether any restrictions on use of the property which are required by the donor are consistent with the institutional needs of the Charity.
- C. Unrelated Use. If the property will not be retained for use by the Charity, the gift officer must determine, prior to recommending the gift for approval by the

Vice President, Development, a plan for selling the property for cash, including the anticipated time frame and marketing expense for the proposed sale.

XV. Life Insurance Policies

- A. General. Donors shall be encouraged to name the Charity as a primary or contingent beneficiary of their life insurance policies.
- B. Recording the Gift. To be recorded as a gift, a Charity must be named as both a beneficiary and owner of the life insurance policy. The Charity will also record gifts of cash by the donor to use by the Charity to pay premiums on the policy.

XVI. Real Property

- A. Approval. Acceptance of all real estate gifts requires approval by the Vice President, Development upon recommendation of the Real Estate Manager.
- B. Information. The responsible gift officer shall assist the Real Estate Manager in compiling relevant information regarding the real estate including:
 - 1. The copy of the Deed conveying the property to the donor
 - 2. The copy of the current property tax bill.
 - 3. A preliminary title insurance report.
 - 4. A copy of each promissory note, mortgage, deed of trust or other liens on the property.
 - 5. A copy of each lease of other contract affecting the property.
 - 6. If the property is income producing, a copy of the profit and loss statements for the two most recent years.
 - 7. A summary of current insurance coverage for the property.
 - 8. Copies of correspondence with governmental authorities, tenants or prospective purchasers concerning the property.
 - 9. A current market analysis of the property.
- C. Environmental Review. If after reviewing this information the Real Estate Manager determines that sale of the real estate is likely to provide proceeds to the Charity of at least \$100,000, the Real Estate Manager shall determine, based on physical inspection of the property, whether further evaluation of environmental hazards on the property is required to protect the Charity from liability.

- D. Physical Inspection. The gift officer or the Real Estate Manager shall conduct a physical inspection of the property, or arrange for such inspection by a professional inspector, and a written summary of the inspection shall be included in the file documenting the consideration and acceptance of the gift.
- E. Title Insurance. The Charity shall obtain the policy of the insurance protecting its title to the real property received from a donor.
- F. Remainder in Residence. The Charity may accept the gift of a personal residence subject to the donor's retained life state. The estimated value of the residence, net of encumbrances, must exceed \$250,000. The retained interest can extend beyond no more than two (2) lives. The gift shall be documented with a deed and life estate agreement approved by the Charity's legal counsel, with the life estate agreement clearly delineating responsibility for expenses of taxes, insurance and maintenance of the property. While the Charity should not accept responsibility for contributions for capital improvements such as plumbing or roof repairs, it should retain the right to perform maintenance or make required repairs if the Charity determines it is necessary to protect its economic interest in the property.

XVII. Retirement Plan Assets

- A. General. The Charity will accept funds it receives as the designated beneficiary of a retirement plan (for example, an IRA, a 401(k) plan or a defined contribution plan). The Charity should obtain a copy of the executed designation form which the donor has submitted to the Retirement Plan Administrator to name the Charity as the beneficiary.

XVIII. Other Assets

- A. General. Acceptance of any other type of property as a gift to the Charity shall require the prior written approval of the Vice President, Development.
- B. Vehicles. The Charity will generally not accept gifts of automobiles, boats or other vehicles.

XIX. Charitable Gift Annuities

- A. Rates. For charitable gift annuities issued for contributions of cash or marketable securities, the Charity will utilize the rates published from time to time by the American Council On Gift Annuities. If an annuity will be issued in exchange for gift of real estate, the real estate will be discounted before applying the ACGA rates by factor of between 15% and 25% of the appraised value of the property, with the discount factor to be approved by the Vice President, Development upon a recommendation from the gift officer or Real Estate Manager taking into account the anticipated costs of selling the property and the likely carrying costs of the property prior to its sale.

- B. Minimum Gift. For ACGA with payments starting immediately, the minimum gift shall be \$10,000. For a deferred gift annuity, the minimum shall be \$50,000.
- C. Minimum Age. The minimum age when payments begin for a current or deferred gift annuity (or the earliest age for an annuity providing a flexible starting date) shall be 70.

XX. Charitable Remainder Trusts

- A. General. The Charity will encourage its donors to establish charitable remainder trusts providing an irrevocable remainder interest to the Charity, and will assist prospective CRT donors by providing calculations illustrating tax benefits and projecting distributions and by providing a draft of the CRT agreement using a form approved by the Charity's legal counsel.
- B. Trusteeship. The Charity shall propose to serve as trustee of a CRT with assets of at least \$250,000 if the annuity or unitrust percentage does not exceed 6%, and the trust names the Charity irrevocably as a beneficiary of at least 50% of the remainder.

XXI. Bargain Sale Transactions

- A. General. Bargain sale transactions other than charitable gift annuities may be accepted by the Charity only with the prior written approval of the Vice President, Development and the Chief Financial Officer. Since bargain sale transactions require the outlay of funds by the Charity, these transactions should be approved only in very limited circumstances.
- B. Use of Acquired Property. One such circumstance involves property which the Charity intends to keep for use in its programs which may be acquired on beneficial terms in a bargain sale transaction.
- C. Marketable Assets. In limited circumstance, the Charity may consider bargain sale transactions to acquire property that would not be retained for use in the Charity's programs, if it is determined in the approval process that the property can be sold for cash in a timely manner.

XXII. Amendment

- A. Periodic Review. A subcommittee of the Development Committee, with representatives of the Chief Financial Officer and Vice President, Development shall review these procedures every five years to recommend revisions for approval by the Development Committee.
- B. Specified Review. These procedures shall be reviewed and ratified by the development committee each time that the Board of Directors has determined that the Charity will embark on a capital or other fundraising campaign. The

Development Committee shall also cause these procedures to be reviewed upon the enactment or promulgation of legislation or regulatory rules affecting fundraising and gift acceptance by the Charity, to assure continued compliance by the Charity with the legislation and rules.