## CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION

Policy No. 2007

# Gift Acceptance Policy

**This policy is applicable to the following auxiliary corporations:**

- ☐ Agricultural Foundation
- ☐ Association
- ☐ Associated Students, Inc.
- ☐ Athletic Corporation
- ☒ Foundation
- ☐ Programs for Children

## REVISION RECORD

| Date | Type | Approval Authority |
|---|---|---|
| 6/3/10 | Revision | Approved by Board of Governors |
| 12/8/11 | Revision | Approved by Board of Governors |
| 12/5/13 | Revision | Approved by Board of Governors |
| 8/12/15 | Revision | Minor Administrative Revision |

## DOCUMENT CONTROL

| Document Control Number: Policy 2007 | Next Review Date: February 2016 |
|---|---|
| Responsible Position(s): | |

Deborah S. Adishian-Astone 8/12/15
Deborah S. Adishian-Astone
Executive Director

Keith Kompsi 8-12-2015
Keith Kompsi
Director of Foundation Financial Services

## PURPOSE

The purpose of this policy is to outline the process for the review and acceptance of gifts to be administered by the California State University, Fresno Foundation ("Foundation"). Nothing in this Policy shall prevent the University from accepting a gift in the name of the University and without the involvement of the Foundation.

These standards should be interpreted in the light of two overriding principles:

1) A gift shall not be accepted by the Foundation if such acceptance would not be in the interest of the University.

2) The Foundation should not accept a gift that generates a disproportionate cost or inappropriate obligation in relation to the benefit received.

## DEFINITIONS

**Gift:** A contribution received for the benefit of the University for either unrestricted or restricted use in furtherance of the University's mission and which requires nothing in exchange beyond an assurance that the intent of the contribution shall be honored. If a donor receives benefits in return for a contribution, the amount of the gift recorded and reported is reduced by the fair market value of all benefits given in accordance with IRS regulations.

**Grant:** A contribution that typically comes from a corporation, foundation, or other organization (not an individual) for either unrestricted or restricted use in furthering the mission of the University. Some grants may have special reporting requirements. In the rare cases when a difference of interpretation arises, the Provost and Vice President for Academic Affairs shall determine the proper processing and administration of the grant.

**Contract:** An agreement between the institution and another entity to provide an economic benefit for compensation. The agreement is binding and creates a quid pro quo relationship between the institution and the entity.

**Pledge**: A commitment to give a specific dollar amount according to a fixed time schedule. All pledges other than annual fund telephone pledges are required to be in writing, except that an oral pledge (a pledge that a donor declines to document in writing) may be booked by Advancement Services if the commitment is documented by the University, reflecting the understanding of the donor's verbal commitment. Documented pledges are recorded on the University's fundraising database.

**True Endowment Funds:** Sometimes known as "permanent endowment funds," true endowment funds are institutional funds with respect to which a donor has stipulated, as a condition of the gift, that the gift is to be maintained inviolate and in perpetuity. True endowment funds are to be invested for the purpose of producing present and future income that may, also by donor stipulation, be expended or reinvested with the original gift. Written agreements signed by both the Foundation and the donor, when applicable, are required for the establishment of all endowments, unless the endowment is established through a bequest after the death of the donor or through a trust distribution made before or after a donor's death.

**Term Endowment Funds:** Term endowment funds are similar to true endowments except that upon passage of a stated period of time, or the occurrence of a particular event, all or part of the gift may be expended. True and term endowments are collectively referred to as "donor-restricted" transactions.

**Quasi-Endowment Funds:** Quasi endowment funds, or "funds functioning as endowments," are institutional funds that the University administration has voluntarily determined are to be retained and managed like an endowment, or that the donor intends should be managed like an endowment, except that the donor has given consent in a gift agreement for the University to expend endowment principal for specific purposes or under certain conditions. Principal and income of these funds may be used at the discretion of the University administration.

## STATEMENT OF POLICY

### Gift Review and Acceptance

The Foundation Board of Governors has delegated responsibility to the Executive Director of the Foundation (ExecDir) to review and accept gifts, in consultation with Staff Counsel. However, gifts determined by the Executive Director to pose significant risk to the institution will be reviewed and considered for approval by the Gift Acceptance Committee ("GAC") before being accepted and before any representations are made to the donor that the gift will be accepted. Such gifts include, but are not limited to:

- Gifts of real property or an interest in real property
- Gifts of personal property with a fair market value exceeding $100,000. Examples of such gifts would include:
    - Artwork or other objects
    - Vehicles or equipment
    - Mineral, water, or timber rights
    - Oil wells
    - Overseas investments
    - Manuscripts/Literary works
    - Computer hardware/software
    - Intellectual Property/Patents
- Gifts of real or tangible personal property subject to donor restrictions regarding disposal of the property
- Non-publicly traded securities
- Stock Options
- Notification of the intent to gift real property through a bequest or trust distribution
- Interest in business entities (excluding publically traded stock)
- Alternative investments
- Other gifts of unusual items or gifts of questionable value
- Cash gifts (or pledges) totalling One Million Dollars ($1,000,000) or more

### Gift Acceptance Committee

The Gift Acceptance Committee shall consist of the Executive Committee of the Foundation Board of Governors. The Vice President for University Advancement and the Executive Director will serve as staff to the committee.

Before a proposed gift is submitted to the GAC for consideration, the ExecDir shall perform the due diligence task of reviewing the background of the donor and the source of the gift funds. In any case in which a donor wishes to anonymously contribute or pledge to contribute One Million ($1,000,000) or more, the due diligence task of reviewing the background of the donor and the source of the gift funds shall instead be performed by the University President. If the University President approves acceptance of the gift, the matter shall then be presented to the Gift Acceptance Committee for final review and consideration.

The Vice President for University Advancement, or his/her designee, will assemble documentation of the proposed gift for the committee's review. The documentation shall include the amount of the gift, the purpose for the gift, terms and conditions of the gift and any other relevant information about the proposed transaction. In addition, the documentation shall include introductory information about the donor's philanthropic history and capacity to give.

**Gift Agreements**

Written agreements setting forth the terms and conditions of the gift are required to be signed by both the Foundation and the donor for acceptance of all endowed gifts regardless of amount, and for all non-endowed gifts of $50,000 or more, unless the gift was received from a bequest or trust distribution or unless the execution of a written agreement is not feasible as stipulated in writing by either the University or the donor.

In situations where despite the exercise of diligence, it is not possible or practicable to have a signed gift agreement (donor specifically indicates that he/she/it does not want to sign a gift agreement, or dies prior to executing the written agreement, etc.) the University Development representative who was working with the donor on the gift shall send a written memorandum to the Director of Foundation Financial Services indicating the circumstances under which a signed gift agreement could not be accomplished.

**Outright Gifts**

Outright gifts include cash and cash equivalents, securities, real property, interests in business entities, and personal property.

**Cash and Cash Equivalents**

Cash gifts can take the form of currency, check, EFT (electronic funds transfer), wire transfer, or credit card transaction.

**Securities**

Gifts of securities are internally valued at the mean of the high and low price of the security as of the date of the gift. The date of the gift is defined as the date of the postmark on the envelope or the date the security is hand-delivered (physical certificates) or the date the stock is received in one of the Foundation's brokerage accounts (book-held securities). The Foundation will liquidate gifted securities as soon as possible.

## Real Property

Real property can be used for deferred gifts (see below) as well as outright gifts. To be accepted as an outright gift or as a bargain sale gift, the gift portion of a property's fair market value must be of net benefit to the University/Foundation.

Real property includes improved or unimproved land, personal residences, farmland, commercial property, and rental property. These types of gifts are often complicated and require involvement of a number of professionals, advisors, and University and Foundation staff. This policy shall be communicated to donors when the University receives notification of the donor's intent to gift real property. In general, the University/Foundation shall not accept real estate gifts if the donor places permanent restrictions limiting the choices of the Foundation to own, manage, or dispose of property, or if the real property has debt or encumbrances associated with it. Gifts of timeshares, while discouraged, will go before the GAC.

As with any gift of property, if the Foundation sells or otherwise disposes of the donated property within three years of the date of the gift, the Foundation must file an information return on IRS Form 8282 and send a copy to the donor.

The donor of real property should discuss any possible charitable deduction with his or her attorney before making the decision to donate the property. An appraisal report attesting to the market value of the proposed real property gift, prepared at or near the time of the proposed donation and paid for by the donor, is required. Such appraisal report shall be prepared by a qualified, independent appraiser, and a full and complete copy of such appraisal report shall be provided to the Foundation. While the donor may select the appraiser if no value is being received from the University or Foundation in exchange for the gift, the Foundation shall select the appraiser if the donor will receive any item of value or right in exchange for the gift (e.g., seats at sporting events, naming rights, etc.).

If the donor wants to donate real property (or an interest in real property) to the Foundation, the acceptance will require approval by the GAC in accordance with Foundation policies and procedures.

Prepaid expenses shall be deducted from the gift proceeds when said proceeds are or become available for disbursement. Prepaid expenses are those that are incurred by the Foundation in securing the donated property, as well as in maintaining the donated property, such as but not limited to any and all appraisal costs, environmental impact report costs, real property taxes, escrow and title insurance fees, personal property taxes, maintenance, repair, and upkeep costs and expenses as well as disposition costs and other expenses attributable to the donated property and paid by or to be paid by the Foundation.

**Personal Property: Accepted with Intent to Sell**

With the exception of property the University can immediately put to use in furtherance of its mission, as discussed below, it is the policy of the Foundation to sell or otherwise dispose of all gifts of personal property. The Foundation's intention to sell the property and use the proceeds to further the mission of the University shall be communicated to the donor in writing at the time of the gift

Gifts with fair market values exceeding $5,000 will be recorded at the values placed on them by qualified independent appraisers as required by the IRS for valuing non-cash charitable contributions. If the donor does not provide an appraisal, but there is a valid alternative means of substantiating the value of the gift, the GAC will determine the value that the Foundation records internally. Gifts of $5,000 or under may be reported at either the value declared by the donor or the value placed on them by a qualified expert. If a value as specified above is not placed on a gift of personal property, the value shall be recorded at $1. Gifts of intellectual property shall be valued according to applicable IRS guidelines.

Title to personal property shall be clear and unencumbered, and properly documented. Careful consideration should be given to marketability, storage, transportation and disposal costs of all gifts of personal property.

**Personal Property (or Gifts-in-Kind): Retained for University Use**

Gifts of equipment that a vice president, dean, or director certifies would otherwise have to be purchased by the institution may be accepted directly by the University. Gifts of art or other objects (including fractional interests) must be accompanied by appropriate documentation or provenance to ensure the objects being gifted have been legally and ethically collected, purchased or held.

The use and need of the property should be clearly documented and approved by the appropriate vice president, dean, or director. If applicable, Risk Management or Staff Counsel may be asked to provide approvals as well. These approvals will be coordinated through the Executive Director of Advancement Services. Gifts to the Agricultural Foundation are handled separately. See section on Gifts In Kind in Policies and Procedures Manual.

Gifts with fair market values exceeding $5,000 will be recorded at the values placed on them by qualified independent appraisers as required by the IRS for valuing non-cash charitable contributions. If the donor does not provide an appraisal, but there is a valid alternative means of substantiating the value of the gift, the GAC will determine the value that the Foundation records internally. Gifts of $5,000 or under may be reported at either the value declared by the donor or the value placed on them by a qualified expert. If a value as specified above is not placed on a gift of personal property, the value shall be recorded at $1. Gifts of intellectual property shall be valued according to applicable IRS guidelines.

Title to personal property should be clear, unencumbered and properly documented. Careful consideration should be given to maintenance, insurance, storage and transportation costs of all gifts-in-kind.

The GAC will review all gifts-in-kind to the Foundation valued at $100,000 or more or that may have the following circumstances:

- Acceptance of the gift involves significant or unbudgeted additional expense for its present or future use or display, maintenance, transfer, insurance or other institutional costs
- Financial or other burdensome technical or service obligations or expenses that are, or will be, incurred by the University or the Foundation as a result thereof
- The gift is made on the condition or expectation that the item(s) will be loaned back to the donor or to the donor's designee for life or extended periods of time designated by the donor
- Acceptance or subsequent utilization of the property would result in an "unrelated activity" as defined in unrelated business tax law

**Interests in Business Entities**

Gifts of interests in business entities (partnership interests, S corporations, C corporations, non-publicly traded stock, interests in limited liability companies, etc.) may be accepted by the Foundation with the approval of the GAC. Issues to be considered in accepting such gifts include terms of a partnership or LLC operating agreement, any issues of legal and/or financial liability in accepting the gift, the probability of conversion to a liquid asset within a reasonable period of time, projected income that shall be available for distribution and administrative fees, and the nature of the business from which the asset is derived.

**Gifts of Contributed Services**

The Foundation neither records nor receipts gifts of services.

**Deferred Gifts**

The Foundation accepts deferred gifts including charitable bequests, charitable gift annuities, charitable remainder trusts, charitable lead trusts, gifts of life insurance and retained life estates. Whenever possible, the Foundation will outsource management of deferred gift instruments. The Foundation will not act as trustee of any trust (whether charitable or revocable) without the advance approval of the GAC.

**Charitable Bequests**

A donor can make a charitable bequest in a will and/or a living trust. For a bequest involving real property, the executor, personal representative or trustee may be asked to sell the property within the estate or trust and distribute the net proceeds to the Foundation. The Foundation may also choose to decline to accept the property.

**Charitable Gift Annuities**

A charitable gift annuity is a contract between the Foundation and a donor in which the donor makes an initial payment of cash or marketable securities to the Foundation and the Foundation agrees to pay the donor an annuity for the rest of the donor's lifetime. Refer to Charitable Gift Annuities Program policy dated March 29, 2012.

**Life Insurance**

The Foundation can receive two types of life insurance gifts: as beneficiary or as owner and beneficiary. The donor, on the advice of his or her advisors, must decide which arrangement is in the donor's best interests. Should the Foundation learn that it has been named as a beneficiary of a life insurance policy but not its owner, no gift shall be counted until after the death of the donor, when the proceeds are received. When ownership of a life policy is transferred to the Foundation and it further names the Foundation as sole or partial beneficiary of the policy's proceeds, the University shall count its pro rata portion (if multiple beneficiaries are named) of any existing cash surrender value of the policy, and/or the pro rata portion of any premium payments made by the donor, as the gift value. Anticipated payments are not counted until they are made.

The Director of Planned Giving and Staff Counsel must also review gifts of life insurance for which the Foundation is beneficiary and owner, or gifts of insurance that are funded with assets other than cash or securities.

**Retained Life Estates**
Donors can receive a sizeable income tax deduction by making a gift of their personal residence or farm to the Foundation while retaining full use and rights to the property during their lifetime: the donor retains a "life estate" and the Foundation receives the "remainder interest."

A life estate is created by transferring a deed to the Foundation which reserves a life estate for the life of the donor or his or her designees. Donors must sign a Life estate agreement with the Foundation to clarify their responsibility for property repairs, taxes, insurance and other expenses. Donors are encouraged to have all documents reviewed by their own attorneys. All the normal review and gift acceptance procedures for gifts of real estate apply to gifts of life estate/remainder interest deeds.

**Pledge payments and documentation**

**Pledge Payments**
Pledges may be fulfilled with payments of cash, credit cards, EFT, payroll deductions or marketable securities.

If real estate or other non-marketable assets are used as payment, the initial value recorded against the pledge shall be the fair market value of the real estate or assets as determined by an independent qualified appraisal. As with gifts of securities, donors shall receive recognition credit equal for the fair market value (normally based on an appraisal within 60 days of the gift date), regardless of the sale price of the asset.

If publicly traded securities are used as payment, the amount booked against the pledge shall be valued on the legal date of the gift.

Matching gift amounts (such as from employers) cannot be used to reduce pledge balances. Matching gifts are not an obligation of the donor and cannot be used to satisfy a donor's personal pledge. It is permissible for the donor to have matching funds deposited into the same fund as his or her gift if permissible by the matching corporation. The pledge agreement should reflect the anticipated amount for which the donor is personally responsible.

Similarly, gifts from donor-advised funds cannot be obligated by the donor and cannot satisfy pledges nor result in benefits to the individual or the fund.

## Special Circumstances

### Matching Gifts

The University will comply with each organization's matching gift policies. If University staff has reason to believe that a donor is not in compliance with a matching entity's policies, staff will contact the matching entity for clarification. The University will not knowingly submit claims for non-qualifying gifts.

The University and its auxiliaries will no longer accept matching gifts for athletics or other entities when those gifts are associated with memberships or benefits (i.e., tickets, personal seat licenses, skyboxes, luxury suites, etc.). Applications for matching gifts to athletics for philanthropic or capital purposes will be considered when qualified. Matching gifts to the alumni association scholarship program will be accepted when qualified. Matching gift claims on behalf of athletics or the alumni association will be handled by Advancement Services.

### Commemorative (Memorial, Honorial and "On Behalf Of") Gifts

When a memorial gift is made, the decedent's next of kin is notified by the Director of Donor and Volunteer Relations; such notifications must not specify gift amounts. When necessary, and unless there is a gift instrument designating the use of such donation(s), the next of kin will be consulted about the designation of memorial monies, including whether the funds will be spent as current funds or go into an endowment fund. In the case of honorial gifts, the honored person is notified of the gesture but again without detail about gift amounts.

### Gifts for the Benefit of Specific Individuals

The University and the Foundation do not accept gifts made for the personal benefit of a named individual. Funds received from a third party who has selected the recipient (such as an external scholarship granting entity) shall be accepted and processed by the appropriate University office.

### Premiums and Goods or Services Received

The IRS requires nonprofits to verify that no substantial goods or services were received in exchange for a contribution in order for the gift to qualify for a full charitable deduction. The IRS permits small value benefits based on the amount paid without disclosure. The IRS changes these limits annually.

**Raffles**
The Foundation does not sponsor raffles.

**Corporate Sponsorships**
This policy does not apply to California State University, Fresno Association, Inc. or the Athletic Corporation.

Most corporate sponsorship dollars are fully countable (less the value of tangible benefits received); the determining factor is whether the recognition the corporation receives constitutes advertising. The IRS defines advertising in this instance as competitive pricing or product information displayed because of the donation. If the recognition fits this definition of advertising, the sponsorship is an exchange transaction, not a gift. Simple name or logo placement is not advertising.

If, in return for a gift, a donor or donor organization has its name placed on a brick, chair, building or other item or program that remains part of the institution, this recognition does not reduce the value of the gift so long as it is not advertising as defined by the IRS, above.

**Diversity Gifts**
In all cases, the University/Foundation will comply with federal and state regulations in effect at the time of the gift.

**Gift Refunds**
There may be circumstances when it is in the best interest of donor relations to refund a gift to a donor. The VPUA and ExecDir shall review these requests. If approved, in recognition of the fact that all gifts are permanent (a gift is not a gift unless it is irrevocably given), with donors likely having claimed a tax deduction for the gift, any gift refunds to donors shall be treated as income to the individual. If the payment is equal to or greater than $600, and was made in a prior tax year, such refund payments shall result in the generation of a 1099 to the donor who will then be obligated to pay taxes on the stated amount.

**Tax Considerations**
The Internal Revenue Service has several requirements that relate to donor tax deductions for cash and non-cash gifts to charities.

**Receipts**
The University's practice is to issue receipts for all gifts; Advancement Services is responsible for issuing all gift receipts. (Individual areas may acknowledge gifts, but not receipt them.) The IRS requires a receipt to

substantiate most charitable gift deductions. The donor should retain the receipt in his/her records; it need not be filed with the return.

**Deductibility**

Tax laws governing charitable gifts are complex; the University/Foundation encourages donors to seek professional advice on tax issues.

**Gifts of Securities**

Securities Not Publicly Traded: A qualified appraisal and the University/Foundation's acknowledgment of receipt on IRS Form 8283 are required for gifts of securities that are not publicly traded if their total value is more than $10,000.

Publicly Traded Securities: Additional documentation is not required for gifts of publicly traded securities, regardless of their value.

**Donee Information Return (IRS Form 8282)**

Under certain circumstances described below, if the Foundation sells, transfers, exchanges or otherwise disposes of donated property within three years of the date of receipt of the property, the Foundation must file Form 8282 (Donee Information Return) with the IRS reporting such an action.