

Community Foundation of Johnson County, Iowa

GIFT ACCEPTANCE POLICY

PURPOSE

The purpose of this policy of the Community Foundation and any, if any, affiliated entities (referred to as the “Foundation” in the following sections of this policy), is to serve the best interests of the Community Foundation, its donors, and a healthy, caring community by providing guidelines for negotiating and accepting various types of gifts for various types of funds. Given the increasing complexity of IRS regulations, the volume of real estate and other property gifts, and state and federal environmental laws, the Foundation recognizes the value in carefully screening proposed gifts.

The purposes of the gift must fall within the broad charitable purposes of the Foundation. In addition, The Foundation Board and staff must be able to assure that gifts accepted by the Foundation do not place other assets of the Foundation at risk, and that they can easily be converted into assets that fall within the Foundation’s investment guidelines. The Foundation must also assure that it can administer the terms of the gift in accordance with the donor’s wishes.

To facilitate this purpose, the Foundation follows the *Model Standards of Practice for the Charitable Gift Planner* adopted by the National Committee on Planned Giving and The American Council on Gift Annuities. This code of ethics for planned giving practitioners is Appendix A of this policy.

FOUNDATION RESPONSIBILITIES:

Foundation staff should disclose to all prospective donors the benefits and liabilities that could reasonably be expected to influence the donor’s decision to make a gift to the Foundation. Donors will be encouraged to consult with legal counsel and financial advisors in making their decision. In particular, donors should be made aware of:

The irrevocability of a gift,
Prohibitions on donor restrictions,
Items subject to variability (market value, investment return and income yield).

Staff should maintain a written record of discussions with donors. The role of Foundation staff shall be to inform, guide and assist a donor in fulfilling his or her philanthropic wishes, but never to pressure or unduly influence a donor’s decision.

GIFT ACCEPTANCE:

In circumstances where a clear determination cannot be made by the Executive Director, advice will be sought from the Foundation Advisory Board, legal counsel or other professionals or the matter will be addressed by the Board of Directors.

FORM OF GIFTS TO THE FOUNDATION:

Gifts Not Requiring Professional Advisory Board Review

Cash or cash equivalents

Checks

Marketable securities

Gifts of personal property for use in Foundation offices or programs

Life insurance policies except as noted above.

Gifts That Should Be Reviewed by the Professional Advisory Board

Tangible personal property that is not readily marketable

Real property

Closely-held and S corporation stock

Partnership interests

Accounts Receivable (gifts of loans, notes, mortgages, etc.)

Gifts of intellectual property, mineral reserves, precious metals and other types of assets carrying their own challenges

Gifts whose structure fall outside the ordinary purposes, bylaws, and procedures of the Foundation.

See Appendix B for detail on each gift category.

GIFTS DECLINED:

The Foundation reserves the right to refuse any gift it believes is not in the best interests of promoting a healthy, caring community and will not knowingly accept a charitable gift from a donor who:

Has insufficient income and assets remaining after making a gift to provide for his/her needs such as personal support and healthcare.

Has insufficient income and assets remaining after the gift to provide for his/her heirs for whom he/she is financially responsible.

Has an apparent insufficient mental capacity to make a rational decision.

Has insufficient input from competent financial, legal, and/or personal counsel.

TYPES OF FUNDS

The Foundation offers a continuum of funds designed to be responsive to donor needs. While all philanthropy adds value to the community, each type of Foundation fund can provide added value to philanthropy in the community. The fund types are listed in the order of maximum added value.

A standard letter of direction is required to establish a fund with the Foundation. The policy of the Foundation for each fund type (whether endowed or non-endowed) shall be \$5,000 except for scholarship funds (some exceptions have been made). The Foundation is considering a minimum of \$12,500 for scholarship funds only.

Endowed Discretionary Funds (The funds with which the Foundation has the greatest flexibility to add value to the community.)

Discretionary Funds

Broad Field-of-Interest Funds

Endowed Restricted Funds

Narrow Field-of-Interest Funds

Advised Funds—The donor retains an advisory capacity in making grants from the funds. The minimum level of individual grant distribution shall be \$200. All grants made from advised funds will be distributed to other charitable entities provided they meet the qualifications set forth by sections 501(c)(3) and 170(b)(1)(A) of the Internal Revenue Service Code. A grant from an advised fund cannot be used to satisfy an irrevocable personal or corporate pledge or obligation of the donor, or to provide a benefit to the donor such as paying some membership dues. In addition:

Generally, when an advised fund is established, the fund may, upon the donor's request, be advised by a person representing up to two generations—the donor's and one additional generation.

At such time as advisors from the second-generation become active advisor(s), the fund, if not already endowed, will become an endowed fund and the Foundations spending policy will determine the amount available for distribution annually.

In addition, the donor (and the successor advisors) will be encouraged to take advantage of the knowledge and expertise of the Foundation's grant making staff through the Partner in Philanthropy Program and suggest that a significant portion of the advised fund will remain within the Community Foundation of Johnson County, Iowa.

The Committee will consider an exception to the above policy upon the request of the donor to involve a third generation. The response to a donor who has requested that a third generation be included as successor advisors will take into account the desire of the donor to encourage/expect that:

Successor advisor (whether residing within Johnson County area or not) will be active participants in the Community Foundation philanthropy.

A significant portion of the advised funds grants will remain within the Johnson County area.

Designated Funds

Broad Scholarship Funds

Field-of-Interest Scholarship Funds

Designated Scholarship Funds

Non-Endowed Restricted Funds (These types of funds are not a priority of the Foundation, but may be provided as a service to the community.)

Capital Campaign Funds—The Community Foundation will accept and administer capital campaign funds based on individual cases. Preference will be given when a significant portion of the campaign provides for the establishment of an endowed fund. The cost of administering the non-endowed portion of the campaign will be estimated up front and an appropriate fee will be agreed upon at the inception of the campaign.

Designated One-Time Funds—The Foundation will not receive or administer gifts of this type except under extenuating circumstances as approved by the Professional Advisor Board or the President/Executive Director.

ACKNOWLEDGMENT

Donors shall receive an expression of sincere thanks and gratitude from the Foundation and an acknowledgement of the gift in accordance with federal regulations.

PUBLICITY

No public media exposure with respect to a donor's gift will be generated without the consent of the donor.

RESTRICTIONS

In conformance with Treasury Department regulations governing community foundations, gifts to the Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Foundation from freely and effectively employing the transferred assets, or the income derived therefrom, in furtherance of its exempt purposes.

ACTING AS TRUSTEE

The Foundation does not currently serve as a trustee. The intent is to encourage donors to utilize the existing organizations with experts in this field. We continue to reevaluate this decision as opportunities arise.

INVESTMENT OF GIFTS

It is the policy of the Foundation to convert all gifts to cash as soon as possible. The Foundation reserves the right to make any or all investment decisions regarding gifts in accordance with its Investment Policy.

In making a gift to the Foundation, donors give up all rights, title, and interest to the asset contributed. In particular, donors give up the right to choose investment and investment managers, brokers, or to veto investment choices for their gifts.

The Foundation will endeavor to accommodate requests from donors for separate investment of fund assets, or use of a particular investment manager, broker or agent in accordance with the Investment Policy, and may consult with donors on investment options for such funds.

COSTS OF ACCEPTING AND ADMINISTERING GIFTS

Generally, costs associated with the acceptance of a gift such as attorney fees, accounting fees, other professional fees as well as other costs to establish a gift such as appraisal, escrow, evaluation, and environmental assessment fees will be borne by the donor.

The direct costs of administering outright and planned gifts of the Foundation will be borne from the assets of the individual funds, except for those special circumstances as determined by the President/Executive Director/delegate. Custodial, investment, and administrative fees will be paid from the respective funds in accordance with the Foundation's guidelines and fee schedules.

CONFIDENTIALITY

Foundation staff shall maintain strict control over files and information received from or about donors or prospective donors so as to maintain confidentiality of such information.

PUBLIC FUNDRAISING

Fundraising undertaken by donors in connection with funds of the Foundation requires special consideration. See Appendix C.

AUTHORITY TO NEGOTIATE

The President of the Board of Directors and/or the Executive Director are authorized to accept letters of direction and amendments thereto and to negotiate and sign charitable giving agreements with prospective donors.

Appendix A

Model Standards of Practice for the Charitable Gift Planner

Preamble

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as “Gift Planners”), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning, and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

Primacy of Philanthropic Motivation

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

Explanation of Tax Implications

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of these incentives and their implications.

Full Disclosure

It is essential to the gift planning process that the role and the relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

Compensation

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provide. Payment of finders fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift is never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

Competence and Professionalism

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

Consultation with Independent Advisors

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to

discuss the proposed gift with competent independent legal and/or tax advisers of the donor's choice.

Consultation with Charities

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planner, in order to insure that the gift will accomplish the donor's objectives, should encourage the donor early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planner shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

Description and Representation of Gift

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

Full Compliance

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

Public Trust

Gift Planners shall, in all dealing with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Appendix B

Forms of Gifts to the Foundation

Gifts to the Foundation take on a variety of forms. Many are outright gifts by living donors, either on a one-time or periodic basis. Others are testamentary gifts that take effect upon the donor's death or other forms of deferred gifts.

If the value of a gift other than cash or marketable securities exceeds \$5,000, a donor is required to have a qualified appraisal performed and submitted to the IRS on Form 8283. If such gifts are sold within two years of receipt at a price other than the appraised value, Form 8282 must be filed by the Foundation.

The Foundation reserves the right to accept or reject any gift as it sees fit. It is the policy of the Foundation to convert all gifts to cash as soon as possible.

Cash

The Foundation accepts cash, checks or money orders made payable to the Community Foundation of Johnson County or any of its funds.

Marketable Securities

The Foundation will add the new proceeds of a marketable securities contribution to a fund of the Foundation. The Foundation will govern the disposition of securities, and will make all decisions regarding the sale or retention of securities.

Stock in Privately Owned Companies and Partnerships

The Professional Advisory Committee reviews all fund gifts. Donors wishing to make gifts of stock in a closely-held corporation or S corporation or a gift of a partnership interest, must have it valued by a qualified independent accounting or appraisal company prior to making a contribution. If it is immediately marketable, it will be sold. Otherwise, it will be held by the Foundation until it may be redeemed or sold for cash.

Generally, the Foundation does not accept gifts of general partnership interests due to potentially unlimited liability.

The acceptability of a gift of closely-held stock, S corporation stock, or a partnership interest will depend on the ultimate financial liability of the Foundation, the amount of management attention required, whether the gift provides minority or majority control, or whether the donor requires that such interest not be sold.

Consideration will be given to whether the S corporation stock or partnership interest generates unrelated business taxable income, if there is corresponding revenue to pay such taxes, the nature of the business, record keeping and accounting requirements, and how quickly the gift can be converted to cash.

Gift Annuities

The Foundation has the ability to offer gift annuity contracts. Income beneficiaries are limited to two and must be at least 50 years old when entering into the contract. The charitable remainder interest must be designated for an existing or newly endowed fund at the Foundation.

Life Insurance Policies

The Foundation will accept gifts of permanent life insurance policies if the Foundation is named as owner of or is assigned ownership in such policies. Policies continuing on a premium-paying basis will be maintained as such by the Foundation so long as gifts are made to the Foundation in the amount of the premiums due. Premiums can be of a reducing amount if dividends are directed toward future premiums. Should such premium gifts not be forthcoming, the Foundation may elect:

To have the Foundation continue the premium payments.

To surrender the policy in exchange for its cash surrender value.

To invoke procedures under which the existing policy values can sustain the policy without further outlay of Foundation funds for premium. This can take on any of the following forms:

Change the Dividends to Net (have the dividends pay future premiums)

Use the Automatic Premium Loan feature (borrow against the cash value to apply future premiums)

Use a combination of the two previous options (have the dividends pay as much of the premium as possible and borrow against the cash value for the remainder amount)

Change the policy to Paid-Up in which case, no more premiums will be due.

The Foundation discourages the contributions of life insurance policies subject to policy loans and reserves the right to accept or reject such policies as well as those carrying assignments to other entities. The Foundation will consider its own interest and the best interest of the donor in the light of tax ramifications in determining on a case-by-case basis the acceptability of encumbered life insurance policies. Particular care will be given to problems of self-dealing, jeopardy investments, and unrelated business income in this regard.

Gifts Naming Multiple Beneficiaries

From time to time, donors may wish to designate multiple beneficiaries of the proceeds from their life insurance policies, IRA's other qualified retirement plans, pooled income funds, gift annuities, or other forms of gifts to the Foundation. It will be encouraged that other charitable organizations be named beneficiaries on the contract. However, if the Foundation is selected as sole beneficiary and then requested to distribute funds to other organizations, the following guidelines shall apply:

The Committee will take into consideration the amount of the total gift, the amount designated for the Foundation both discretionary and restricted, the added value to the community, and in the case of life insurance policies, whether or not the premiums are paid up.

In the case where the Foundation becomes the sole owner of a donor's life insurance policy, the Foundation subsequently has the exclusive right to change the beneficiary/distributee designations. It can then name the Foundation or other charitable organization as beneficiaries. These other charitable organizations must qualify as such under Section 501(c)(3) and which are described under section 170(b)(1)(A) of the Internal Revenue Code.

If a policy beneficiary/distributee designation is to be changed to a charitable organization other than the Foundation shall consider the charitable intentions of the donor. It is understood, however, that a donor's recommendations in this regard are advisory and that the Foundation, as owner of the policy, retains exclusive authority to direct the death benefits, maturity, and surrender proceeds of the policy.

Real Property

If a donor wishes to contribute real property, or an interest in real property to the Foundation either directly or through a life estate arrangement, the Professional Advisory Committee shall consider all facts and circumstances in determining whether to recommend accepting the gift. Donors always should be advised to confer with their own counsel to review the terms of the gift.

Tangible Personal Property

The donor will be advised whether the gift will be retained and used by the Foundation or disposed of immediately.

Accounts Receivable

The Foundation will consider gifts of loans, notes, and mortgages, subject to review by the Professional Advisory Committee.

Appendix C

Public Fundraising for Endowed Funds of the Foundation

The Foundation is staffed to develop endowment and other funds through the acquisition of major and

planned gifts and to cultivate new and existing relationships with donors. The Foundation is not equipped to operate public fundraising events for its funds. In general, the Foundation will administer a public fundraising event in association with a fund only under extenuating circumstances.

Public fundraising events refer to those special events that are intended to raise dollars for funds. For example, a golf outing, fundraising dinner, raffle, or other special event would be considered a public fundraising event. The term is not intended to encompass the annual giving to funds through the Foundation's year-end letter and other solicitations for purely charitable purposes.

Foundation Approval of Events

In the event the Foundation approves a fundraising event, the guidelines listed below must be adhered to. These guidelines encompass the legal and other requirements the Foundation is subject to and, therefore, must be abided by.

Before undertaking public fundraising events, the fundraising event coordinator will define to the Foundation each program, event, or other effort to raise money for the fund. The fundraising event coordinator will then obtain Foundation approval to proceed according to Foundation guidelines. The Foundation's marketing and communications chair and/or Executive Director must approve all uses of the Foundation's name in advertising and promotion in advance.

Responsibilities of the Foundation

The Foundation is held accountable for all public fundraising events related to funds of the Foundation. It cannot delegate this responsibly to any other parties. In considering whether to approve the event, staff should take into account the following responsibilities:

Budget and payment of expenses

Who will prepare a budget?

Who will be responsible for authorization for and payment of expenses?

Who will oversee the budget and ensure that the budget is adhered to?

Will the Foundation assess a special administrative fee for this service?

Compliance with laws

Is the event included under the scope of the annual solicitation license?

Is there a need for a special raffle or gambling license?

Are the appropriate sales taxes being collected on items sold and who will file the sales tax return?

Is there a clear understanding that the expenses of fundraising events are not exempt from sales tax?

Liability covering the Foundation

Is there a need for additional general liability or other insurance due to the event?

Should a letter of credit or a written personal guarantee be provided?

Acknowledgments

If the contributors receive goods or services in return for their payment, who will determine the appropriate charitable portion of the payment so that correct tax acknowledgements will be prepared?

Management of money and property received from the event

Will all checks be made payable to the fund at the Foundation?

Where should checks and other forms of payment be sent?

If someone else is collecting cash, what safeguards need to be in place?

Application of income and principal to charitable uses

Can the fund be administered in the manner in which it is advertised?