

# GEORGIA STATE UNIVERSITY FOUNDATION, INC.

Policy number/name: 2.4 Gift Acceptance Policy Title IV, Planned Giving

Issuing date: 6/4/2008 Effective date: 6/4/2008

Policy approved by: Board of Trustees

Governance oversight by: Development Committee

## I. Revision history

Adopted 12/2/2004

Amended 11/6/2006

Triennial Review and Amendment completed 6/4/ 2008

## II. Purpose of the policy/Policy statement

From 2.1 Gift Acceptance Policy Title I, Principles and Definitions:

The board of trustees of the foundation finds that the orderly and expeditious handling of gifts requires policy guidance from the board to protect the interests of donors, the university and the foundation. This policy provides for the acceptance, valuation and disposition of gifts to the foundation. It was developed as a resource for developing campaign reporting guidelines and foundation procedures.

Interpretive Note. The charter of the foundation was granted on January 13, 1958 and amended in 1969 and 1994. Several charter items specifically address gift acceptance and disposition. (DWB, 6/29/07)

## II. Definitions

See 2.1 Gift Acceptance Policy Title I, Principles and Definitions

## III. Applicability

The policy applies to all gift and pledges to the foundation.

## IV. Exceptions

The policy generally does apply to gifts directly to the university or gifts to other cooperative organizations. The “exception to the exception” are tangible gifts of personal property (gifts-in-kind) to the university.

## V. Detailed policy statement

### I. *Bequests and Similar Gifts*

#### B. *Scope*

In addition to gifts made by Will, these provisions apply to gifts designated by “living” (a/k/a revocable or *inter vivos*) trust, by IRA or other retirement plan, pay/transfer on death arrangements and similar gift vehicles.

#### C. *Acceptance*

The foundation retains the right to disclaim distributions from matured planned gifts. Internal management reports may include bequest intentions and other gifts considered testamentary commitments. Inclusion in reports is contingent on the receipt of documentation bearing the signature(s) of the donor or his or her attorney.

Interpretive Note. *CASE Standards* require that bequest intentions and similar gifts must be legally enforceable for inclusion in the *CASE Campaign Report* and the *VSE*. (DWB, 12/1/04)

#### D. *Valuation*

Interpretive Note. For internal reporting purposes, this policy follows *NCPG Guidelines* and values planned gifts at face value. (DWB, 6/29/07)

Interpretive Note. For external reporting (*CASE Campaign Report* and the *VSE*), bequest intentions must be irrevocable and will be valued at present value. (DWB, 6/29/07)

#### E. *Disposition*

Disposition depends on the character of the asset given. The president of the foundation is officer of the foundation authorized to execute settlement documents.

## **II. Charitable Gift Annuities**

### **A. Scope**

The foundation shall have a comprehensive program of charitable gift annuities (CGA's).

### **B. Acceptance**

1. The foundation may issue both immediate and deferred CGA contracts, subject to the following guidelines:
2. The foundation shall pay CGA rates no greater than those recommended by the American Council on Gift Annuities at the time of the gift.
3. Consistent with U. S. tax law, CGA contracts shall provide for no more than two beneficiaries.
4. The consideration required for a CGA contract should be no less than \$10,000.
5. The minimum age of a beneficiary of an immediate CGA is 60. For a deferred CGA, the minimum age may be less than 60 provided no payments will be made before age 60. In no case will a deferred CGA be issued to a person under age 50.
6. The legal counsel to the foundation shall approve CGA contracts used by the foundation.
7. The acceptance of contracts funded by assets other than cash or marketable securities shall be determined on a case-by-case basis by the president of the foundation after the appropriate due diligence.
8. The president of the foundation (or any officer designated by the president) may execute CGA contracts on behalf of the foundation. An appropriate witness shall attest to the officer's signature.

9. The president of the foundation may decline to issue a CGA if the donor is domiciled in a state with burdensome CGA regulations.

### **C. Valuation.**

Interpretive Note. *NCPG Guidelines* value CGA's at face value. *CASE Standards* provide for the valuing of CGA's at the tax deduction value (the present value of the remainder interest). (DWB, 6/29/07)

### **D. Real Estate.**

If the gifted asset is real estate, a deferred CGA may be considered. The period of deferral depends on the marketability of the real estate. The guideline is a period of two to five years. The payout may be based on a value less than the property's fair market value. Staff is expected to analyze the donor's situation and the foundation's risk exposure and recommend alternate planned gift vehicles as appropriate.

### **E. Disposition.**

The full amount transferred to the foundation in consideration for the CGA shall be invested in a reserve fund which shall be used to support the annuity payments. If the president of the foundation deems the amount transferred in consideration of a CGA to be a concentration of risk, then the president may re-insure the CGA using a commercial annuity product. Investment advisory fees and fiscal agent fees shall be charged directly to the reserve fund and allocated among the CGA's in the fund. When the CGA matures, the residuum shall be transferred to an appropriate foundation net asset account for administration and stewardship. The Investment Committee shall develop policies governing the investment of gift annuity reserves.

#### **F. Disclosures.**

The foundation shall observe all disclosure requirements dictated by state and federal law.

### **III. *Charitable Remainder Trusts and Charitable Lead Trusts***

#### **A. Scope.**

This section covers the decision by donor and the foundation to have the foundation to serve as trustee of a charitable remainder trust or a charitable lead trust created by the donor. Unless otherwise indicated, the term charitable remainder trust (CRT) shall encompass charitable remainder unitrust (CRUT) and charitable remainder annuity trust (CRAT) and the term charitable lead trust (CLT) shall apply equally to charitable lead annuity trust (CLAT) and charitable lead unitrust (CLUT).

#### **B. Acceptance.**

This section provides guidance on the conditions under which the foundation will serve as trustee for CRT's and CLT's. The decision to serve as trustee shall be made on a case-by-case basis by the president of the foundation. It is understood that a donor may name the foundation as a beneficiary of a CRT and CLT for which the foundation does not serve as trustee. The foundation will be supportive of these efforts. These guidelines, therefore, should not be interpreted to require trusteeship as a condition of being named the beneficiary of a CRT or a CLT.

- A determination of the suitability of the foundation to serve as trustee for a CRT or CLT shall include an assessment of the donor's risk tolerance and expected rate of return and the ability of the foundation to meet the donor's goals and expectations.
- For the foundation to act as trustee of a CRT or CLT, the foundation must be named the sole, irrevocable charitable beneficiary.
- The payout rate must be deemed sustainable given historic returns on investments. The president of the foundation is authorized to offer payout rates not to exceed 7%. Above this ceiling requires approval by the

## Investment Committee.

Interpretive Note. Typically payout rates are in the 5% to 6% range. Under U. S. tax law, the minimum and maximum for CRT's are 5% and 50%. (DWB, 12/1/04)

- When the term of a CRT or CLT is measured by lives, there should be no more than two measuring lives.
- When the term of a CRT or CLT is measured by lives, non-charitable beneficiaries should be no younger than 60 years of age.
- Term of years CRT's and CLT's are acceptable for trusteeship.
- The initial corpus required for a CRT should be no less than \$100,000.
- The initial corpus required for a CLT should be no less than \$500,000.
- The legal counsel to the foundation shall approve trust agreements where the foundation is named as trustee.
- The president of the foundation is authorized to execute trust agreements on behalf of the foundation with attestation by another officer of the foundation.

## C. Valuation.

Planned gifts will be valued according to the provisions of this policy.

Interpretive Note. *NCPG Guidelines* value CRT's and CLT's at face value. *CASE Standards* provides for the valuation of CRT's and CLT's using methodologies in U. S. tax law. (DWB, 6/29/07)

## D. Disposition.

The foundation shall retain qualified professionals to serve as investment advisors and fiscal agents to manage CRT's and CLT's for which the foundation has agreed to serve as trustee. Investment advisory fees and fiscal agent fees shall be charged directly to the trust.

### III. *Life Insurance*

#### A. **Scope.**

This provision applies to cash value life insurance policies (i.e., whole life, universal life and variable life). Term policies and group life policies have no cash value and will not be accepted as gifts until they mature.

Interpretive Note. Universal and variable policies are “unbundled” policies compared to whole life policies. The former are subject to greater interest rate and market risk than whole life policies. Newer universal and variable policies have guaranteed value features. Nonetheless, universal and variable have a higher degree of risk and require additional care when accepting as gift and monitoring as assets. (DWB, 7/11/06)

#### B. **Acceptance.**

No life insurance policy will be accepted as a gift unless the donor irrevocably gives all incidents of ownership to the foundation. Gifted policies must be free of loans. These conditions satisfied, the president of the foundation may accept paid-up policies.

The foundation may accept policies that are not paid up if:

- The foundation is the irrevocable owner and sole beneficiary of the policy;
- The foundation has received a copy of the policy;
- The foundation has received an “in force” illustration on the policy for guaranteed and current values and the median value between the two; and
- The policy is accompanied by a written pledge of charitable gifts from the donor to the foundation in an amount which equals or exceeds the total premiums remaining and which is pledged for payment at times consistent with the premium payment schedule.

As a general guideline, policies that are not paid up should have a minimum face value of \$100,000 and have no more than ten (10) years of premiums to be paid.

The director of planned giving or other person designated by the president of the foundation shall conduct due diligence and report findings to the president of the foundation on:

- the salient details of the contract;
- the financial status of the insurance company;
- the policy's cash value;
- the value of a single payment required to put the policy into paid up status at the original face amount;
- the donor's intent; and
- the purpose of the gift.

The director of planned giving may request Health Insurance Portability and Accountability Act of 1996 (HIPAA) waiver if health information is required of the insured.

### **C. Valuation.**

Interpretive Note. Under *NCPG Guidelines*, donated life insurance policies are valued at face value. Under *CASE Standards*, the gift value of a partially or fully paid-up policy is the cash surrender value as identified in writing by the insurance provider. This information is provided on IRS Form 712. (New policies do not have cash value.) Gifts made to cover premiums are also reported as outright gifts. The gift value for external reporting purposes may be different than the donor's income tax deduction. (DWB, 6/29/07)

Interpretive Note. The income tax deduction is *usually* the lesser of the policy's cash basis or the cash surrender value. The cash value of gift policies and gifts made to cover premiums are valued as outright gifts. New policies do not have cash value.

A paid-up policy, i.e., one for which no premiums remain to be paid, yields a deduction generally equal to its replacement value. If that value exceeds the donor's tax basis in the policy, however, the deduction is limited to basis, as a sale or exchange of the policy would not yield long-term capital gain. Under certain circumstances (where substantial loans have been made against the policy, where it appears unlikely that



the donee will take the policy as an investment but will surrender it for its net cash value, and where the donor is not the insured), the deduction may be limited to the policy's cash surrender value, generally a lesser amount than replacement value.

If premiums remain to be paid on a life insurance policy, the policy's fair market value (FMV) and the deduction available generally may be approximated by the interpolated terminal reserve value of the policy (an amount slightly in excess of the cash surrender value), plus that part of the last premium paid by the donor that covers any period of time beyond the date of the gift. Again, the deduction cannot exceed the donor's tax basis in the policy. If the donor continues to pay the premiums on the policy, a contribution deduction is allowed for the payments.

From: *Wealth & Tax Advisory Services: Tax Economics of Charitable Giving*, ¶25.02. Life Insurance Policies. (DWB, 7/11/06)

#### **D. Disposition.**

Paid up policies will generally be held to maturity. In general, policies that are not paid up will be liquidated or converted to a paid up policy using the reduced paid up option available on some policies if the donor defaults on the pledge covering the premiums. Paying premiums without financial support from the donor or by borrowing against the cash value of the policy to pay premiums are deemed inadvisable options and should be avoided except in rare circumstances. In a case where the insured is of advanced age or has significant health problems, the president of the foundation may request permission from the executive committee to pay the premiums from foundation or policy resources if the donor ceases to support the policy. At least once every three years, the foundation staff shall request new policy illustrations for policies that are not paid-up to evaluate the viability of premium schedules.

#### **E. Donor Responsibilities.**

The donor shall name the foundation beneficiary of the policy before executing the change of ownership. The donor shall pay costs associated with the appraisal (if one is needed) and is responsible for determining the amount of the charitable gift for tax purposes. A donor making a gift of a policy that is not paid up is

also responsible for signing a written letter of intent to make charitable gifts to the foundation in an amount which equals or exceeds the total premiums remaining and which is pledged for payment at times consistent with the premium payment schedule.

**F. Disclosures.**

A donor considering a gift of life insurance shall be advised in writing of his or her obligations listed in "Donor Responsibilities" above and of other responsibilities attendant upon a gift of life insurance.

**IV. Other Planned Gifts.**

**A. Gift of Residence or Farm with Retained Life Estate.**

Such gifts are acceptable consistent with policies governing gift of real estate. Due diligence should also include a determination of donative intent and complete disclosure of the donor's responsibilities for the property after the gift. In addition to a deed, a completed gift requires a life estate agreement. The agreement should provide for periodic inspection of the property by foundation representatives. The donor must name the foundation as co-insured on the property and provide a certificate of insurance to the foundation.

**B. Pooled Income Fund.**

The foundation does not have a pooled income fund but retains the right to establish a PIF in the future. If a donor desires to make a gift to the foundation through a PIF, the foundation shall assist the donor in finding a third-party provider such as a community foundation that will facilitate the donor's intentions.

**C. Other Vehicles.**

Nothing in this policy should be construed to limit the authority of the foundation president to accept planned gifts not expressly covered herein, provided due diligence is conducted and law and policy are observed.

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## HELP

### People to contact

#### Position Title

Director, Gifts and Records Management

Vice President for Development/President of the Foundation

Assistant Vice President for Development/Chief Financial Officer of the  
Foundation

Associate Vice President for Development (Development Resources)

### Additional information and helpful resources

*NCPG Counting Guidelines, 2<sup>nd</sup> Edition*

*CASE Management and Reporting Standards, 3<sup>rd</sup> Edition*

#### Foundation policies

2.1 Gift Acceptance Policy Title I, Principles and Definitions

2.2 Gift Acceptance Policy Title II, Outright Gifts

2.3 Gift Acceptance Policy Title III, Pledges

2.5 Gift Acceptance Policy Title V, Restrictions on Gifts

2.6 Gift Acceptance Policy Appendices

#### Foundation procedures

2.4a Gift Annuity Establishment Procedure

2.4b Gift Annuity Execution Procedure

2.4c Planned Giving Acknowledgment Procedure