

WESTERN MICHIGAN UNIVERSITY FOUNDATION GIFT ACCEPTANCE POLICY

Reviewed and approved by Finance Committee: March 15, 2019

Board of Directors approved: March 29, 2019

Purpose of the Policy

This policy establishes guidelines to be followed by the Western Michigan University Foundation (WMUF) in the solicitation, acceptance, and use of gifts in support of Western Michigan University. The policy addresses ethical practices, authority to negotiate and accept gifts, donor recognition, gift restrictions, endowment agreements, accounting and investment guidelines, and acceptance of outright and planned gifts by the University and the Foundation.

The WMU Foundation processes and accepts gifts on behalf of the WMU Homer Stryker M.D. School of Medicine (WMed) and the Paper Technology Foundation. Like the WMU Foundation, both entities are able to accept charitable gifts. This gift acceptance policy will apply to gifts accepted by the WMU Foundation on behalf of both entities.

This policy outlines the administrative, legal, and accounting practices and procedures to be followed to ensure that consistent and equitable relations are maintained with donors.

Specifically, the WMU Foundation will adhere to the following tenets:

Standards of Ethical Practice

It is the policy of the Foundation to encourage, inform and assist donors who wish to support the mission and priorities of Western Michigan University, but never to pressure or attempt to unduly persuade prospective donors. Persons acting on behalf of the Foundation will do so with fairness, honesty, integrity, ethics and openness.

The Foundation will not provide legal, tax or estate planning advice to donors. Individuals acting on behalf of the Foundation may provide general legal and tax information obtained from reliable qualified sources to prospective donors, but they should advise donors to consult with competent professional advisors with respect to the legal and tax implications of gifts.

The Foundation will not accept any gifts that in the opinion of the Foundation's executive director or the board of directors may jeopardize the Foundation's tax-exempt status.

- Persons acting on behalf of the Foundation will fully disclose the role and relationship of each party involved in the planning or negotiation of gifts to the Foundation.

- Licensed professionals affiliated with the Foundation may represent donors for any proposed gift to the Foundation only after full disclosure is made to the donor of such affiliation.
- Individuals acting on behalf of the Foundation may not receive financial benefit from any gift to the Foundation, except for salaries to employees and standard and reasonable fees to licensed professionals. Finders' fees and commissions will not be paid to persons engaged to contact or cultivate prospective donors or to promote gifts to the Foundation.
- Except as required by law, all information obtained from or about donors or prospective donors will be held in strict confidence by the Foundation and may be shared among staff members and board members only to the extent required to carry out their duties and responsibilities. Specific requests from donors for confidentiality or anonymity will always be honored, to the maximum extent permitted by law.
- Generally, to avoid a potential conflict of interest, the Foundation will not serve as personal representative, executor, or administrator of any estate, or trustee of any trust.

The Foundation will not accept gifts from any donor who stipulates the designation of a specific recipient (for example, a scholarship recipient).

Authority to Negotiate, Accept, Decline, or Disclaim Gifts

The executive director of the Foundation has the authority to accept gifts made to the Foundation or the University in accordance with the provisions of this policy, which in the opinion of the executive director of the Foundation will assist the Foundation in carrying out its mission and goals. The Foundation executive director may decline or disclaim any gift that is (1) considered to be inappropriate, (2) would not serve the purposes of the Foundation or that of the University, or (3) the acceptance of which would be contrary to the provisions of this policy or other policies of the Foundation, or contrary to any policy of the University.

The executive director of the Foundation is responsible for the development, maintenance, and oversight of procedures for the execution and adherence to the provisions of this gift acceptance policy.

The executive director of the Foundation may engage other professionals **and/or the Audit Committee** in order to make a judgment regarding the acceptance, decline, or disclaimer of any gift. The executive director may refer any decision with respect to the acceptance, decline, or disclaimer of any gift to the appropriate committee of the Foundation.

The executive director of the Foundation may delegate these authorities to any employee, provided such delegation is reported to the Foundation's appropriate committee.

Recognition of Donors

Donors will be advised at the time of each gift that the Foundation will publicly recognize donors, unless requested otherwise by the donor. Requests declining public recognition will be documented and retained in the permanent files of the Foundation.

Recognition of donors will be made on the basis of the fair market value of the gift(s) made to the Foundation. The specific value of individual gifts will not be disclosed publicly, unless agreed to in writing by the donor and the Foundation. The value of gifts for public recognition will be categorized by ranges of value as determined by the executive director of the Foundation with the advice and consent of the appropriate board committee according to the following guidelines:

- Only formally documented irrevocable gifts, pledges and deferred commitments will be recognized.
- Gifts will be recognized at values eligible for a charitable deduction as governed by IRS regulations (*e.g.* documentation proving fair market value or an appraisal for tangible personal property).
- Recognition that includes the naming of a facility, college, school, department, program, faculty chair, professorship, fellowship or other specific naming opportunity in honor of a donor will be made in accordance with the written naming guidelines of the University.
- Written receipts will be provided to donors in a timely manner to enable them to comply with IRS regulations requiring charitable gift receipt documentation.

Gift Restrictions and Limitations of Use

The Foundation will honor the donor's intent with respect to the use of any gift that does not conflict with applicable law, or the Foundation and the University's mission, provided the intent can be honored within the capabilities of University faculty and staff, facilities, and finances.

The Foundation may accept gifts of tangible assets that are readily marketable and/or converted into cash at the discretion of the Foundation in order to provide the greatest amount of flexibility in meeting the mission of the Foundation or University. Approval of the Foundation's executive director is required to accept any gift of tangible assets with conditions requiring retention, unusual restrictions, or unusual limitations. If the

donor intends to impose such conditions on a gift, prior approval by the president of Western Michigan University is required.

Endowment and Gift Limitation Agreements

The terms and conditions of all gifts to the Foundation on which the donor has placed limitations (the use of the gift or restrictions on distributions of the gift) must be documented in writing and signed by the donor and authorized by the executive director of the Foundation. A sample gift agreement is attached.

Endowed gifts will be invested in the Foundation's endowment fund and governed by the Foundation's investment and spending policy. Written endowed gift agreements (i.e., Declarations of Intention) will also acknowledge that the donor has made the gift to establish a permanent fund for the benefit of the University or a specific unit of the University. Agreements that include investment and spending guidelines that differ from the Foundation's general policy must be approved by the University.

Distributions from an endowment fund will be made in accordance with existing state statutes governing endowment investment and spending. Investment return will be allocated to an endowment fund based upon a total return concept.

Accounting and Investment Standards

The Foundation will maintain accounting records that are consistent with all state and federal laws that are applicable.

Guidelines for Acceptance of Outright Gifts

The Foundation has the authority to accept outright gifts (i.e., those in which complete title of the gifted property vests immediately with the Foundation), including those gifts on which the donor has placed restrictions on distributions from the gift or limitations on the use of the gift.

If the Foundation elects to pay a part or all of the costs associated with the transfer of gifts from donors or the sale of assets, such costs will be paid from the gift or on the proceeds of the sale of the gift, not from the general assets of the Foundation.

The WMU Foundation will accept the following outright gifts:

- 1. Cash and Publicly Traded, Marketable Securities**

Gifts of cash and publicly traded, marketable securities that can be converted to cash by sale on recognized security exchanges may be accepted without limitation by the Foundation. These gifts will be valued for gift purposes in accordance with IRS procedures in effect for the determination of charitable income-tax deductions.

2. Non-publicly Traded Securities

Gifts of stock in non-publicly traded corporations or limited liability companies, and interest in limited partnerships or joint ventures may be accepted only if the Foundation determines that the asset can be sold within a reasonable period of time and is in the best interest of the Foundation or the University.

The Foundation will not accept any interest in general partnerships or other business entities in which the Foundation may be liable for debts, judgments, or other liabilities incurred by the business entity. The Foundation will generally not accept a gift of a non-publicly traded security for which the Foundation may become responsible for the management of the entity that has issued the security.

Because of the specific knowledge required for each gift of non-publicly traded securities, the appropriate board committee will set a minimum dollar amount on a case-by-case basis deemed acceptable by the Foundation. An appraisal by an independent qualified appraiser that meets the standards established by the IRS for deduction as a charitable contribution will be provided to the Foundation. The donor will pay the cost of the appraisal unless the Foundation agrees to pay part or all of the cost based on the relative value of the gift.

3. Real Estate

The Foundation may accept gifts of real estate, including fractional interests, assignments of leases, leasehold interests, mineral rights, royalty interests, or other rights severed from the fee title. Because of the time and cost associated with administering and managing real property, the real estate committee should set a minimum dollar value deemed acceptable by the Foundation.

Upon notification of a prospective donor's potential contribution of real estate, the executive director of the Foundation, or a member of the Foundation's real estate committee, or other persons acting on the Foundation's behalf, will make an on-site inspection of the property to make a preliminary assessment of the property based on the following:

- The property meets the minimum dollar market value set by the real estate committee of the Foundation;

- There is no apparent environmental contamination that would require remediation by the Foundation;
- There is apparent legal ingress and egress;
- The property may reasonably be expected to be marketable in one year or less unless the real estate committee deems it prudent to hold the property;

A written report of the inspection and findings will be retained in the Foundation's files.

Prior to acceptance of the gift, the following will be provided to the Foundation:

- Appraisal by an independent appraiser licensed in the state in which the property is located that meets the standards to support a charitable deduction for the gift, as prescribed by the IRS.
- A Phase I environmental assessment prepared by an independent firm licensed in the state where the property is located that reflects any environmental contamination for which the Environmental Protection Agency or state or local governing authority would require remediation.
- Verification that all liens and encumbrances are satisfied and title defects corrected prior to acceptance of title by the Foundation, and a commitment for an owner's title insurance policy issued by a title insurance company licensed in the state where the property is located.
- Costs associated with obtaining the above documents will be the responsibility of the prospective donor, unless the Foundation agrees to pay part or all of the costs based on the value of the real estate to be given.

4. Non-publicly Traded, Closely Held Business Interests

The Foundation will not accept gifts of non-publicly traded closely held business interests unless the Foundation determines that the business interest should be retained as an asset of the Foundation. The board of directors of the Foundation, in consultation with the executive director and treasurer, must approve all such gifts.

5. Tangible Personal Property

Gifts of tangible personal property acceptable to the Foundation include gifts that the donor possesses or has the right to sell, give, or otherwise dispose of. Types of personal property gifts include, but are not limited to, works of art, taxidermy, stamp and coin collections, manuscripts, literary works, boats, motor vehicles,

machinery, equipment, furniture, jewelry, computer hardware and software (only after a review indicates that the property is either readily marketable or needed by the University in a manner that is related to education, research, or a combination thereof). The Foundation will accept gifts of personal property only if (1) the property is free of liens and encumbrances; (2) its physical condition is satisfactory to the Foundation; (3) it can be sold within a reasonable period of time and in accordance with IRS guidelines; (4) the costs of relocating the property to the Foundation's possession are commensurate with its value; (5) the value of the asset has been established in writing by an independent appraiser or expert with knowledge of the current market for that asset and (6) if it can be retained by the University/Foundation to promote their purpose.

6. Life Insurance Policies

The Foundation may accept gifts of life insurance policies by a transfer of ownership from the owner of the policy to the Foundation. The policy will be valued at the value recognized by the IRS for a charitable gift deduction at the time of transfer to the Foundation. The Foundation may exercise the rights of ownership of the policy at any time, including continuation of premiums on the policy if not a paid-up policy, redemption of the policy, conversion to a paid-up policy, conversion to an extended term policy, or any other ownership right under the policy. If the donor has expressed intent to pay future premiums due on the policy, such intent will be obtained in writing, and contributions for future premiums will be paid to the Foundation and remitted by the Foundation to the insurance company. Contributions from the donor for premium payments will be recognized as cash contributions to the Foundation at the time received by the Foundation, which is in accordance with IRS guidelines.

A donor may designate the Foundation as a beneficiary or contingent beneficiary of a life insurance policy. The gift should be recognized at the time and in the amount of the benefit when paid to the Foundation.

7. Gifts of Other Assets

Gifts of assets for which guidelines have not been provided in this policy may be accepted with approval of the executive director of the Foundation in consultation with the treasurer.

Guidelines for Acceptance of Other Planned Gifts

The Foundation may accept planned gifts or any gift made by a donor by will, trust, or other legal instrument in which title to the property does not vest immediately in the Foundation. Such gifts may be revocable or irrevocable.

- Irrevocable gifts will be recognized at values established and recognized under IRS regulations for charitable gifts for federal income-tax deductions.
- Revocable planned gift commitments (i.e., bequests) will be recorded as expectancies on gift records at their full face value at the time the commitment is formally documented.

Planned gifts generally acceptable by the Foundation include charitable bequests, retirement plans, charitable gift annuities, charitable remainder trusts, charitable lead trusts, remainder interests subject to life estates, and pay-on-death accounts.

- Charitable bequests and retirement plans. Donors can make charitable bequests to the Foundation in wills or living trusts, or they can name the Foundation as beneficiary of their retirement plans.
- Charitable gift annuities. The Foundation will accept contracts that are signed between the Foundation and the donor where University assets back the income payments of a gift annuity contract. The annual payment to the annuitant is based on the donor's age and the fair market value of the contribution made by the donor even though the actual gift to the Foundation has a value less than the donor's contribution. Gift annuity rates will be consistent with recommendations of the American Council on Gift Annuities.
- Charitable remainder trusts (CRT's) including annuity trusts and unitrusts. The Foundation will accept annuity trusts in which the donor (and beneficiary if one is designated) receives for life an annual payout at a fixed percentage based on the starting valuation of the trust. Income in excess of the annual payout will be added to the principal of the trust. The Foundation will also accept unitrusts, in which the donor (and beneficiary if one is designated) receives for life an annual payout at a fixed percentage of the fair market value of the assets in the trust, based on annual valuations. In the case of all CRT's, the minimum percentage payout is five percent annually but a payout at a higher percentage rate may be provided if determined reasonable by the Foundation's executive director and treasurer.
- Charitable lead trusts. The Foundation will accept lead trusts or gifts designed to generate periodic payments to the Foundation for a period of several years, after which the trust terminates and the assets pass to the designated individuals either outright or in trust.
- Remainder interest subject to life estate. The Foundation will accept gifts of a personal residence or farm that is free of mortgage while the donor retains a life estate, and the Foundation receives the remainder interest.

The guidelines for acceptance of gifts as set forth in this policy will be applicable to assets received through planned gift instruments. If representatives of the Foundation participate in the process of establishing a planned gift, the donor will be advised of applicable policy provisions so that the planned gift documents will conform to this policy. In instances in which the Foundation has no knowledge of the planned gift until the terminating event occurs, consideration will be given to disclaiming any asset that does not conform to this policy.

The Foundation will advise prospective donors that they should engage professional representation and that cost associated with the preparation of all required legal documents must be paid by the donor to ensure that the interests of the donor are fully represented by counsel.

All costs associated with the administration of and distribution from a planned gift instrument, except for gift annuities administered on behalf of the Foundation by the University, will be paid from the assets or income of the trust, estate, or other applicable legal arrangement used for the planned gift. If the planned gift to the University includes provisions for the establishment of an endowment fund, transfer to an existing endowment fund, or other limitations on the use of the gift, the Foundation may use the gift assets to cover any costs.

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