

University Administrative Policy

Policy Name: Gift Acceptance Policy

Responsible Office: Salem State University Foundation, Inc.

Originator of the Policy: Institutional Advancement

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1. Rationale

This policy (the "Policy") is designed to assure that all gifts to, or for the use of, the Foundation are structured to benefit the Foundation (for the ultimate benefit of the University) while ensuring fidelity to donor intent. Because some gift situations may be complex, or more costly than beneficial, or restricted in a manner not

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**GIFT ACCEPTANCE POLICY
AND GUIDELINES
FOR
SALEM STATE UNIVERSITY FOUNDATION, INC.**

Responsible Office: Institutional Advancement
Responsible Officer: Executive Director, Salem State University Foundation, Inc.

Approved by Salem State University Foundation:
May 11, 2015.
Amended and restated as of February 8, 2021

(Supersedes all previously approved related documents)

February 2021

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I. INTRODUCTION

The Salem State University Foundation, Inc. (the "Foundation") was incorporated in 1977 as a not-for-profit organization. Classified as a tax-exempt 501(c)(3) organization by the Internal Revenue Service, the Foundation exists to secure and manage private gifts for the benefit of Salem State University (the "University"). The Foundation has been recognized by the University as the primary and preferred recipient for charitable gifts to or for the benefit of the University. Working with the University and other partners, the Foundation operates under the leadership of a board of directors comprised of alumni and community leaders who take their roles seriously as stewards of contributed private funds.

This policy (the "Policy") is designed to ensure that all gifts to, or for the use of, the Foundation are structured to benefit the Foundation (for the ultimate benefit of the University) while ensuring fidelity to donor intent. Because some gift situations may be complex, or more costly than beneficial, or restricted in a manner not keeping with the Foundation's goal of benefiting the University, this policy has been developed to outline the procedures for assessing and accepting gifts to the Foundation for the University's benefit.

The guidance in this policy concerning the reporting of gifts for tax purposes is based on the law at the time this policy is adopted. Dollar thresholds (e.g., \$5,000) applicable to non-cash gifts, etc.), reporting requirements to the Internal Revenue Service, and other matters relating to the tax treatment of charitable contributions may be affected by subsequent legislative, regulatory and judicial developments. To the extent such requirements are inconsistent with applicable tax and other legal requirements, such requirements shall override inconsistent provisions in the Policy.

II. GUIDING PRINCIPLES

While the procedures set forth herein are detailed and often specific to the type of gift contemplated, they shall be interpreted in light of two overriding principles:

While this document is intended to provide guidance to Foundation and University personnel regarding acceptance of prospective gifts, donors are ultimately responsible for ensuring that the proposed gift furthers their charitable, financial and estate planning goals. Therefore, donors are to be encouraged to seek the advice of independent legal and financial counsel in the gift planning process. It is within the province of neither the Foundation nor its staff or University employees to give legal, accounting, tax or other advice to donors or prospective donors.

III. ETHICS POLICY & CONFLICTS OF INTEREST

In carrying out the responsibilities outlined in this document and all activities associated with philanthropy, individuals involved will adhere to the highest level of ethical standards. The Foundation Board of Directors (the "Board") and University employees will use the nationally adopted *Donor Bill of Rights* issued by the Council for the Advancement and Support of Education (CASE) as a guide. CASE is a nationally recognized organization that establishes and publishes reporting and valuation standards for gifts.

The Foundation shall promote gifts that serve to fulfill its mission and comply with established legal and ethical fundraising laws and standards. To this end, the Foundation reserves the right to refuse gifts that do not fulfill its mission or that violate any legal or ethical law or standard.

IV. GIFT ACCEPTANCE POLICY

A. Background and Authority

Overall responsibility for assuring compliance with the requirements of this Policy is assigned to the Board. The Board may delegate certain responsibilities relating to the recommendation of acceptance of gifts to the Gift Acceptance Committee (the "Committee"). In appropriate cases, as set forth more particularly below, gift proposals shall be further screened by University leadership, the Foundation's legal advisors, the Audit/Finance Committee, the Investment Committee, and/or the Foundation Board.

B. Changes to Policy

The terms and conditions of this Policy are subject to change at any time. Nothing in this Policy is intended to be construed, nor shall be deemed to create, any right or remedies in any third party, including, but not limited to, any donor to the Foundation or University. If applicable, any rights and obligations with respect to a particular donor will be set forth in the gift instrument executed in connection with the gift.

C. Gift Acceptance Committee

The Gift Acceptance Committee is charged, by the Foundation Board of Directors, with the oversight of the review process of gifts of significant risk, to ensure that such are in accordance with the mission and priorities of Salem State University, and so that each is appropriately screened, administered, accounted and stewarded. Once a gift has been

accepted, the Institutional Advancement is responsible for recording and acknowledging it. Gifts to the Frederick E. Berry Library & Archives come under the overarching guidance of the Gift Acceptance Committee. The Gift Acceptance Committee shall consist of the following members:

- x Executive Director of the Foundation (non-voting)
- x President of the Foundation Board
- x Chair of the Foundation Fundraising and Engagement Committee
- x Chair of the Foundation Audit/Finance Committee
- x Chair of the Institutional Advancement/Marketing & Communications Committee of the Board of Trustees (non-voting if not a member of the Foundation Board)
- x One (1) representative of the University administration, designated by the President of the University (non-voting if not a member of the Foundation Board)

1. Committee Meeting

The Committee shall meet on an ad hoc basis as necessary, at the request of the Executive Director of the Foundation.

2. Quorum Required

The Committee must have a quorum (a majority) in attendance in order to vote to approve or decline gifts. Attendance may be considered to be in person, or participating via call or video conference.

3. Majority Vote Required

Decisions must be made by a majority vote of the Committee. If a majority decision cannot be reached, the gift will be declined or the Committee may, in its discretion, determine whether a gift will be forwarded to the full Foundation Board for review and final decision.

The Gift Acceptance Committee shall review all gifts of significant risk. All such gifts of significant risk shall be documented by written agreement between the donor and the Foundation and must be approved by the Committee before the Foundation may accept the gifts. Gifts that are determined to be too restrictive, i.e., those that are not consistent with Salem State University's goals or not able to be managed, may be declined.

Gifts of significant risk may include:

- x Non-publicly traded securities
- x All gifts of real property
- x Gifts of personal property if not usable by the Foundation or the University

- x All gifts of real or tangible property subject to donor restrictions regarding the disposal of such property
- x Any bargain sale of property where a donative element is associated with the acquisition of property by the Foundation below its fair market value
- x Cash gifts with significant donor restrictions
- x All gifts of unusual items or gifts of questionable value
All gifts that risk the assets or reputation of the University or Foundation, or violate the law

D. Special Situations

1. Gifts in Support of New Programs or Positions

Any gift that commits the University and its resources to create or support a new program or position (e.g., an endowed academic chair, fund, new academic program, etc.) shall require the approval of the President of the University and the Chair of the Board of Trustees, and as the situation may require, further consultation with the Executive Committee of the Board of Trustees, prior to any review by the Gift Acceptance Committee.

2. Gifts in Support of Research Projects and Activities

In the case of a gift offered in support of a specific professor's projects or research activities, the professor shall disclose any business or pecuniary ties that exist between the donor and the professor to the Salem State University Vice President of Finance and Facilities for evaluation. If any business or pecuniary ties are identified, acceptance of the gift would require approval from the Gift Acceptance Committee. If an exception is granted for acceptance of the gift, the Foundation staff will inform the head of the department in which the professor holds his or her appointment, to exercise oversight of the gift to ensure the conformance of gift utilization with this policy.

President of the University who shall endeavor to maintain the donor's anonymity (except upon a request from the University's Board of Trustees or as required by law). Partially anonymous gifts that maintain a donor's anonymity for recognition purposes are acceptable.

5. Refunding of Gifts

The refunding of gifts, unless the gift instrument requires, presents issues that may require review by the Attorney General and must be reviewed by a knowledgeable attorney. In approved cases, the unexpended amount of the gift will be returned to the donor and the credit and tax documentation will be addressed.

V. USE OF LEGAL COUNSEL

The Foundation shall seek the advice of legal counsel in matters relating to acceptance of gifts as appropriate. Review by counsel is recommended for:

- x Closely held stock transfers that are subject to restrictions or buy agreements
- x Documents naming Salem State University or the Salem State University Foundation, Inc. as Trustee;
- x All gifts involving contracts, such as bargain sales or other documents requiring Salem State University to assume an obligation;
- x All transactions with potential conflict of interest that may invoke IRS sanctions.
- x All gifts of significant risk.

VI. DEFINITIONS

1. Cash and Cash Equivalents

Cash and cash equivalents include currency, checks, electronic fund transfers (EFT), U.S. payroll deposits and credit card contribution.

Mailed cash gifts are reported the date the cash is received and stamped in the Advancement Services department. If gifts are transferred via EFT or wire, the date of the gift is the date that the money is transferred into the Foundation's bank account. When gifts are received by credit card, the date of the gift is the date the credit card charge is submitted by the Foundation to the credit card processor.

2. Publicly Traded Securities

Publicly traded securities include securities that are traded on an exchange or other publicly reported market; it is the policy of the Foundation to sell these securities as expeditiously as possible. Gifts of securities take the form of publicly traded securities, i.e. stocks, bonds and mutual funds. Gifts of securities are valued at the average of the high and low price of the security as of the date of the gift.

Mailed gifts of securities (physical certificates) are reported the date of the postmark on the envelope.

donations only after a review indicates that the property is either readily marketable or needed by the University. It is the policy of the University to sell or otherwise dispose of all gifts of personal property as expeditiously as possible, unless the items can be used by the University in a manner related to learning, discovery or engagement. The University's intention to either resell the property or retain and use it to further its charitable activities shall be communicated to the donor in writing at the time of the gift. The Foundation will comply with IRS standards regarding the length of time it must hold such property before selling.

6. Gifts-in-kind

Gifts-in-kind to be held and used by the University, for which donors are eligible for a charitable gift deduction, in accordance with current IRS regulations, should be reported at the fair market value placed on them by an independent, expert appraiser.

- a. The cost of appraisals is born by the donor, unless agreed upon before acceptance.
- b. Only those gifts-in-kind that can be converted to cash, or items such as equipment, books, artworks, etc. that can be used in support of learning, discovery or engagement should be reported.
- c. Salem State University's *In-Kind Contribution Form* must be fully completed.
- d. Receiving departments must agree to use the in-kind materials before the gift is accepted and the Executive Director of the Foundation or his/her designee must approve the acceptance of in-kind gifts valued in excess of \$5,000.
- e. Depending on the appraised value of the donated item, IRS Form 8283 may be submitted to the Executive Director of the Foundation, or his/her designee, for signature.
- f. If the donor does not supply a value, someone in the receiving department who can

policy), or (2) the Foundation receives a gift of life insurance and the Foundation is beneficiary and owner of the policy. Life insurance is valued at the cash surrender value at the time of the gift. Subsequent premium payments are considered gifts when received by the Foundation. Authority to accept gifts of life insurance is held by the Executive Director of the Foundation, in consultation with the Senior Director of Development.

The following criteria apply to insurance gifts when the Foundation is owner and beneficiary:

- a. The premium must be a lump sum payment or annual premium payments for not more than 10 years;
- b. The policy may not be a term insurance policy;
- c. The donor agrees to be responsible for making additional

Pooled income funds are sometimes called a charitable mutual fund, as it allows the donor to combine gifts with those of other individuals to participate in life income trusts with smaller initial gifts. The annual income is based upon the donor's investment in the fund and varies with the actual earnings in the fund.

9. Life Estate

Donors may receive a sizable charitable income tax deduction by making a gift to the Foundation of their personal residence or farm, while retaining full use and rights to the property during their lifetime.

10. Revocable Trust

Through a written agreement, the donor transfers assets to a trustee. Income is paid to the donor for the term of the trust.

D. Grants

Grants are revenues received by the Foundation from individuals, corporations, foundations, and other sources, for the support of Salem State University programs and projects. Grants fall into two main categories:

Those grants received in accordance with the terms of approved grant proposals for specific programs and projects. Commitments of the Foundation's or University's resources or services are made as a condition of the grant, and an accounting of the use of the funds may be required by the grantor. New projects, programs and positions shall follow guidelines outlined in Section IV., D. *Special Situations* subsections 1 and 2.

E. Endowments

An endowment account will be established for participation in the endowment pool when a minimum of \$50,000 is received by a donor who expresses the desire, either through his or her specific written communication that the donation be treated as endowed funds, i.e. a permanent fund, rather than spent on a current basis.

1. If an initial gift is less than \$50,000 but a pledge is made to reach that threshold, then distributions from the endowment pool will be reinvested until the minimum amount is met. However, if the minimum threshold of \$50,000 is not reached

C. Payment of Fees Related to Gifts

The Foundation may incur and pay reasonable fees for professional services rendered to or for the benefit of the Foundation in connection with the completion of a gift to the Foundation. Where advisors retained by the Foundation prepare documents or render services of any kind to the Foundation and/or to a donor on behalf of the Foundation, the donor shall be informed that the professional involved is retained by the Foundation and is not acting on behalf of the donor and that any advice given or documents prepared should be reviewed by donor's counsel prior to completion of the gift.

D. Gift Acknowledgment

In keeping with IRS regulations, donors to the Foundation will receive a receipt verifying that the Foundation is an organization described in Section 501(c)(3) of the Internal Revenue Code and eligible to receive deductible gifts. The acknowledgment shall state whether goods or services were provided in return for the donation and if so, the fair market value of such good or service. Institutional Advancement will mail or provide receipts electronically to donors as appropriate, except for in-kind gifts and deferred gifts which will receive an acknowledgment with a description of the item or deferred gift for the donor's records.

For payments that are known to be gifts but whose fund designation is not clearly defined, Institutional Advancement shall designate such gifts to the Annual Fund Unrestricted Fund and Advancement Services shall send a receipt with the fund designation, unrestricted

If Institutional Advancement is not certain that a payment is a gift, a receipt is not mailed. In such instances, Institutional Advancement or the Foundation will contact the responsible University personnel for clarification.

The Foundation, through the Office of Institutional Advancement, will send calendar year-end charitable gift statements to donors who have made multiple gifts totaling \$1,000 and above in the month of January. These statements will list individual and cumulative gift values and the date of each gift in the previous calendar year. Acknowledgment of gifts to the Foundation and compliance with the current IRS requirements in acknowledgment of such gifts shall be the responsibility of the Executive Director of the Foundation and the Board of Directors. IRS Publication 561 *Determining the Value of Donated Property* and IRS Publication 526 *Charitable Contributions* will be used as the standard, along with CASE guidelines.

It is the responsibility of donor(s) to accurately and properly document their charitable gifts on their individual IRS tax returns and consult their legal, financial and tax advisors, when necessary.

E. Modification of Gift Terms

The University and the Foundation are legally obligated to use gifts in accordance with donor terms, restrictions, and preferences. However, The University and the Foundation may seek to modify a restricted gift if the restriction or preference has become unlawful, impractical, impossible to achieve, or wasteful, in accordance with the Uniform Prudent Management of Institutional Funds Act (UPMIFA), and use the following procedure.

Identifying When a Restricted Gift Should Be Modified

- x Unlawful- The terms are illegal to carry out
- x Impractical- Circumstances arise in which the terms cannot be carried out without substantial burden to the university or substantial impairment of the charitable purpose, or term restrictions are subjective, i.e. a student exhibits good behavior
- x Impossible to Achieve- The object of the funding has ceased to exist, making the terms impossible to satisfy
- x Wasteful- The funding is no longer necessary for its intended purpose

Modifying the terms and restrictions of a fund is a significant proposition. If the donor is alive, he or she can be sought out for written consent and recommendation. If the donor is deceased and does not have a modification clause, the Foundation is required to go to the Attorney General to modify gift terms, if desired. If the donor is deceased and the related terms do have a modification clause, a search for a new contact must take place. If a new contact is found, he or she can give written consent and recommendation, but if a new contact isn't found, the decision will need to be put through to the chair of the Foundation Fundraising and Engagement Committee and then to a vote of the full Foundation Board.