



**EAST STROUDSBURG
UNIVERSITY
FOUNDATION**

**Gift Acceptance Policy
East Stroudsburg University Foundation**

Approved by the ESU Foundation Board November 14, 2019

Revised May 14, 2020

Table of Contents

| | |
|--|----|
| Introduction | 3 |
| Policy Amendment and Review..... | 3 |
| Fiscal Policies Committee | 3 |
| Foundation Acceptance of Gifts | 4 |
| Definition of a Gift..... | 4 |
| Restricted Gifts..... | 5 |
| Gift Acceptance Conditions..... | 6 |
| Fees | 8 |
| Appraisals..... | 8 |
| Legal Counsel | 8 |
| Gift Acknowledgement..... | 9 |
| Types of Acceptable Gifts | 9 |
| Outright Gifts | 9 |
| Closely Held Securities | 11 |
| Restricted Securities | 12 |
| Mutual Fund Shares..... | 12 |
| Gifts of Real Property | 13 |
| Gifts of Real Property with Retained Life Estates and Other Restrictions or Limitations | 14 |
| Tangible Personal Property | 14 |
| Bargain Sale | 16 |
| Other Personal Property | 17 |
| Deferred Gifts | 17 |
| Bequests..... | 17 |
| Charitable Remainder Trusts..... | 18 |
| Charitable Lead Trust | 18 |
| Designating the Foundation as Beneficiary | 19 |
| Life Insurance Policies | 20 |
| Policy Effective Date | 20 |

Introduction

The Board of Directors of the East Stroudsburg University Foundation, Inc. (the "Foundation"), with an understanding of its mission and responsibilities for receiving charitable gifts for the benefit of the East Stroudsburg University (the "University"), is required to follow federal, state and board approved rules and regulations regarding charitable contributions and has established the following Gift Acceptance Policy (the "Policy").

The purpose of the Policy is to give guidance and counsel to those individuals within the Foundation and the University community concerned with soliciting gifts and must consult with the Foundation Accounting Office to determine if a gift meets the criteria for acceptance. All gifts are to be accepted or rejected in accordance with the policies set forth herein. To prevent misunderstandings and conflicts, these guidelines should be viewed as flexible and realistic to accommodate unpredictable fundraising situations and donor expectations. Such situations and expectations, however, must be consistent with the University's mission and this Policy. Generally, if a donor imposes substantial restrictions on the use of the donated item, the charitable deduction may be disallowed by the Internal Revenue Service (IRS). Any specific restrictions associated with a gift needs to be accepted by the University and the Foundation.

The scope of this Policy is limited to acceptance or rejection of proposed gifts; it is not intended to cover disposition of property owned by the Foundation.

In the event this policy conflicts with any other Foundation Policy, the Foundation Board shall resolve said conflict. Moreover, any conflicts will be interpreted and construed in a manner to preserve and protect the assets of the Foundation.

Policy Amendment and Review

Responsibility for review of and recommended amendments to the Policy shall be that of the Finance and Investment Committee ("FIC"). This Policy shall be reviewed by the FIC at least annually. To amend the Policy, a written amendment shall be prepared by the FIC and submitted to the Board of Directors for review and approval.

Additionally, the Foundation Accounting office in consultation with external leadership shall have the authority to amend the Policy to comply with the law whenever it becomes inconsistent with the Internal Revenue Code of 1986, as amended, (the "IRC"), the regulations promulgated thereunder, or other applicable state or federal laws as of the effective date of the legal change. The Foundation Accounting office shall provide a written report to the FIC explaining the reason for any change to this Policy. The Foundation Accounting office shall also submit any changes or amendments for approval at the next meeting of the Board of Directors.

Finance and Investment Committee

The Board of Directors of the Foundation, through the FIC, is responsible for formulating, implementing and amending this Policy. The FIC shall exercise the authority, oversight and

responsibilities specified in this Policy. This responsibility cannot be delegated or waived by the FIC. The chairperson of the FIC, or a member of the committee, shall report to the Board of Directors as needed.

A meeting of the FIC may be convened by the chairperson of the FIC if a specific proposed gift constitutes an exception to the standards outlined in this Policy and/or the gift has been challenged regarding its origin or scope. The FIC will review the information that has been presented by staff and, if the issues involved have been satisfactorily resolved, the FIC may accept or reject the gift in question. If the issues involved have not been satisfactorily resolved, the FIC will either request additional information or decline or return the gift.

Foundation Policy for Acceptance of Gifts and Solicitation

The Foundation's Board of Directors shall, through the Executive Director and/or the Foundation Business office, accept all philanthropy to the Foundation, provided such gifts are in conformity with this Policy. The Executive Director and/or Foundation Accounting office shall follow the guidelines set forth in this Policy, particularly when negotiating or, when authorized, entering into endowment agreements, trust agreements and other restricted gift agreements or deferred gift agreements. As stated in this Policy, certain types of gifts must be reviewed and approved by the Foundation Executive Director prior to acceptance.

Once the Foundation has accepted a gift, it becomes Foundation property. From this point, the donor has no direct decision-making power regarding the disposition of the gift, although the Foundation shall comply with those restrictions accepted at the time the gift was made.

The level of information required by the Foundation to make an informed decision regarding the acceptance of a gift will vary depending upon the nature of the gift. If it appears a gift may not be acceptable from the outset of discussions with the donor, the Foundation will endeavor to reach that conclusion as soon as possible and convey such conclusion to the Gift Officer or other appropriate person so that he or she can suggest alternate types of contributions.

- a. The fundraising program of the University encompasses all gift solicitations on behalf of the University and its colleges/units or affiliated entities. All fundraising on behalf of the University shall be conducted in accordance with the University and Foundation's policies.
- b. All bequests or other gifts of \$100,000 or more received by the Foundation without specific restrictions or written documentation may be used to establish endowed funds or to meet strategic needs of the university as agreed on by the Executive Director of the Foundation and the Board of Directors.
- c. The administration of all gifts for the benefit of the University is the responsibility of the Foundation. The Foundation fund management and financial policies are overseen by the Foundation Board through the Executive Committee and the Finance and Investment Committee.
- d. Gifts will be invested in accordance with the Foundation policies, and donors may not control the investment of specific gifts. This is particularly true in cases where

the donor wishes to direct that a specific investment be made or that a specific investment manager be used. Gifts will be invested in accordance with the Board approved Investment Policy at the discretion of the Finance and Investment Committee.

e. The Foundation Accounting Office and Advancement Services will process and record gifts, deposit gifts into the proper funds, and issue gift receipts to donors.

f. Naming authority lies with the Executive Director and the Foundation Board of Directors. A recommendation to name or change or alter in any way the name of a previously named facility, activity or program must follow the ESU Foundation Naming Opportunities Policy.

Definition of a Gift

A gift is defined as a voluntary transfer of assets from a person or an organization to the Foundation where no goods or services are expected, implied or forthcoming for the donor. Gifts usually take the form of cash, securities, real property or personal property. The following criteria generally identify a gift:

- a. A gift is motivated by charitable intent.
- b. Gifts are irrevocable transfers of assets. The Foundation is not obliged to return unexpended funds. (If for some reason, the Foundation is unable to comply with the donor's intent, or if the gift has been misdirected to the Foundation, a return of gift may be issued at the Foundation's discretion, less any out of pocket expenses. The Executive Director is authorized to approve the return of a gift.)
- c. Gifts are not generally subject to an exchange of consideration or other contractual duties between the Foundation and the donor, except for certain deferred gifts as set out in this Policy, although objectives may be stated, and funds may be restricted to a specific purpose.
- d. A period of performance is not specified.
- e. Donors are not provided formal financial accountings. A general report to the donor stating the utilization or impact of the gift is appropriate, and may be desirable, especially in the case of memorial or scholarship gifts.
- f. Generally, funds received from individuals, closely held corporations, and family foundations will be classified as gifts. Funds received from corporations, corporate foundations, and major foundations are classified as gifts unless the grant requires performance or other consideration
- g. A Gift is not completed until it has been received and accepted by the Foundation in writing.

Restricted Gifts

A gift may be either unrestricted or restricted to a general area of use that contributes to the benefit of the University. Unless recommended by the FIC, when accepting any restricted gifts, the governing document should include the following: "If the Board of the Foundation determines that the restrictions applicable to the gift are no longer practicable, the Board may revise the restrictions to further such purposes of the Foundation which the Board determines are consistent with the donor's intentions." If the restriction(s) placed on the use

of the funds contributed to the Foundation have been rendered illegal, unreasonable or unable to be fulfilled, and if the donor(s) are unavailable to alter the account restriction(s), and the Foundation is not authorized to alter the restrictions as provided above, the Foundation may consult with the Executive Director and may, if necessary, seek approval of a court with jurisdiction to remove or modify such restriction(s). If termination of the restriction(s) is sought, the Foundation will seek to use such funds for a purpose that reflects as near as possible the original restriction. Restrictions shall be deemed unreasonable or unable to be fulfilled due to circumstances, including, but not limited to: the termination of a University program; a surplus of funds available from other sources to fulfill the designated purpose; the insufficiency of the restricted funds to fulfill the designated purpose where no funds from other sources are available to supplement the restricted funds; and the designated purpose is no longer consistent with the mission of the University and its individual programs.

Gift Acceptance Conditions

The Foundation will accept only gifts that are consistent with the core educational values of the University and are:

- a. compatible with the mission of the University and of its individual programs;
- b. in compliance with the IRC and other federal statutes, regulations, rulings, or court decisions that stipulate the conditions under which contributions can be tax deductible favored; and
- c. compatible with the Foundation's tax-exempt status.

The Foundation will not accept any gift that:

- a. violates any federal, state or local statute or ordinance;
- b. creates a fund to provide for scholarships, fellowships, professorships, chairs or lecture series with restrictive clauses that could cause humiliation to the University;
- c. contains a condition that requires any action on the part of the University that is unacceptable to University administration;
- d. commits the University to name a fund where the gift is potentially revocable in any way;
- e. requires the University and its administration to employ a specified person now or at a future date;
- f. contains unreasonable conditions (i.e. a lien or other encumbrance) on gifts of partial interests in property;
- g. requires tuition payments for a family member of the donor;
- h. exposes the Foundation to litigation or other liabilities;
- i. any activity that would violate the provisions of Chapter 901 issued under the Local Option Small Games of Chance Act (10 P. S. § § 311—327) i.e. raffles/drawings/50/50 (this list is not exhaustive and is intended for illustration purposes only);
- j. requires the payment of maintenance costs or other expenses (e.g. debt service) for which no specific provision has been made; generates unrelated business income to the Foundation; or appears to be financially unsound;

- k. sponsored research funds specifically if they involve contract deliverable, fee-for-services, proprietary research, or drug protocol since the Foundation does not have the adequate controls to monitor such funds;
- l. scholarship funds where the donor selects the recipient or if a gift is earmarked for a specific person attending the University. Payments of this nature are not qualified charitable gifts and should be made payable directly to the University Bursar;
- m. funds submitted from other University departments or centers or affiliates which represents proceeds from the sale of goods or services, no matter how worded;
- n. funds submitted for other activities outside of the Foundation operating purposes as established in its Articles of Incorporation;
- o. funds to benefit a specific individual. Consequently, gifts made to support scholarly activities of a faculty member are made irrevocably to the institution and will not be transferred to another organization or institution in the event that faculty member leaves the University.

The Foundation retains the right to immediately sell all gifts of stock or property so that it can invest the proceeds in accordance with the Foundation's investment policy.

The Foundation recognizes that the donor must have donative intent and accept the gift's fair market value as determined pursuant to this policy. Otherwise, there is the potential for disappointment and discrepancy between the amount of the gift reported by the donor on IRS Form 8283 and the sale proceeds reported later by the Foundation on IRS Form 8282. Under no circumstances will the Foundation agree to hold properties for more than two years if the donor's primary intent for such a provision is to circumvent IRS reporting requirements.

Conflicts of Interest

- a. Donor Conflicts. A gift shall not be accepted by the Foundation if such acceptance would not be in the interest of the donor. Prospective donors are urged and advised to seek the assistance of personal and financial legal counsel in matters relating to his/her charitable, financial and estate planning, including any resulting tax or estate consequences. It is within the province of neither the Foundation nor its staff to give legal, accounting, tax or other advice to prospective donors.
- b. Board and Staff Conflicts. All University personnel must be circumspect in all dealings with donors to avoid even the appearance of any act of self-dealing. Any transaction in which a University employee has a "material financial interest" with a donor is an act of self-dealing. In reviewing self-dealing transactions, the Foundation Board shall consider a financial interest material to an employee if it is sufficient to create even an appearance of a conflict.
- c. Acts of Self-Dealing. The Foundation Board or Audit/Budget Committee will examine all acts of self-dealing including, but not limited to:
 - 1. Personal Benefit. Individuals who normally engage in solicitation of gifts

or grants on behalf of the University shall not personally benefit by way of commission, contract fee, salary, or any other form of benefits from any donor in the performance of their duties on behalf of the Foundation. (Individuals include faculty, administrators, staff, or their family members.)

2. Purchase, Sale, or Leasing from a Donor. The relationship between donors and University personnel are developed over time and are unique; consequently, purchases, sales, exchanges, or leasing property from an individual donor by a member of the faculty, administration, or staff will be subject to review for potential conflict.
3. Borrowing from a Donor. Faculty, administrators or staff of the University or Foundation are prohibited from borrowing funds or entering into any form of credit extension with an individual donor.
4. Administration of Gifts. Employees may not make gifts to funds used to support a program or department over which they have discretion, can direct use of, or have signature authority.
5. Fees.
 - A. Finder's Fees or Commissions: No finder's fee or commission of any type will be paid by the Foundation to any party in connection with the completion of a gift to the Foundation without the prior written approval of the Foundation Board of Directors.

B. Professional Fees: All fees incurred by the donor in the completion of a gift to the Foundation will be paid by the donor unless payment, or a portion thereof, by the Foundation is authorized by the Foundation Board of Directors.

- d. All appraisals of real and personal property contributed to the Foundation shall be done in accordance with IRS Publication 561, *"Determining the Value of Donated Property."* A real property valuation should be prepared by a Member Appraisal Institute (MAI) appraiser. Personal property should be appraised by a qualified appraiser acceptable to the Foundation Board of Directors. Expenses incurred to obtain an appraisal shall be the responsibility of the donor.

Legal Counsel

While the Foundation may provide prospective donors with illustrations of various charitable giving techniques, it shall not give donors tax or legal advice and all illustrations provided to prospective donors should include express disclaimers to this effect.

The Foundation shall encourage donors to consult independent tax and/or legal counsel prior to making a contribution to the Foundation. It is the donor's responsibility to directly employ and compensate independent legal and tax counsel in these transactions. Prior to signing agreements as to gifts, such as gifts of partial interests, charitable remainder trusts and charitable lead trusts, counsel for the donor should review and approve the document.

Gift Acknowledgement

The Foundation will acknowledge the receipt of all gifts in writing and in a manner, which satisfies the IRS's substantiation requirements set forth in Internal Revenue Code ("IRC") Section 170(f) for the deduction of charitable gifts by individual donors.

Types of Acceptable Gifts

Gifts are either outright or deferred, and their use is either unrestricted or restricted. The most common gifts to the Foundation are outright gifts. In addition to cash gifts, the Foundation accepts gifts of securities, real property, and personal property. Deferred gifts, also called planned gifts, are arranged with the Foundation during the donor's lifetime, but the benefits do not accrue until a later time, usually after the death of the donor or his/her beneficiaries. Bequests are the most common deferred gift. Other such gifts include naming the Foundation as the beneficiary of a life insurance policy.

The following gifts are acceptable but not intended to represent an exclusive list of appropriate gifts:

1. Cash (Checks/Credit Cards/Matching Gifts)
2. Publicly Traded Securities
3. Closely Held Securities
4. Restricted Securities
5. Mutual Fund Shares
6. Real Property
7. Real Property with Retained Life Estates and other restrictions or limitations
8. Tangible Personal Property
9. Bargain Sale
10. Other Personal Property
11. Deferred Gifts
12. Bequests
13. Charitable Remainder Trusts
14. Charitable Lead Trust
15. Life Insurance Policies
16. Real Estate and/or Real Property

Gift Acceptance Policy for Cash

Cash will be defined as, but not limited to cash, checks, credit card transactions, wire transfers, and payroll deductions.

a. Policy:

- a. **Cash.** The Foundation recommends that all donations of cash collected on campus be hand delivered to the Foundation Accounting Office on campus, located at 215 Alumni Center Drive, East Stroudsburg, PA 18301. Once the cash is received at the office, it will be counted, verified, and receipted.

- b. Checks.** Contributions made by check are considered to be effective for income tax purposes when the check is unconditionally delivered or mailed as long as the check clears the donor's bank. Donors should be encouraged to indicate the purpose of their gift on the check and enclose any related documents needed to process their gift. Contributions should be mailed and made payable to the following:

ESU Foundation
200 Prospect St.
East Stroudsburg, PA 18301

- c. Wires.** Cash contributions made by wire are accepted by the Foundation under special circumstances. Donors should contact a development officer or the Foundation Accounting Office at 570-422-3333 to discuss this type of transaction.

- d. Automatic Clearing House.** Cash contributions made by ACH are accepted by the Foundation in limited circumstances. Donors should contact the Foundation Accounting Office at 570-422-3333 to discuss this type of transaction.

- e. Credit Cards.** The Foundation accepts the following credit cards as payment for a contribution: Visa, MasterCard, Discover and American Express. The IRS has ruled that a contribution charged to a bank credit card is deductible by the donor when the amount is actually charged since the cardholder becomes immediately indebted on the date of the charge. To make a donation via credit card on the web, donors may use the Foundation's secure website, www.esufoundation.org.

- f. Payroll Deductions.** Employees can make charitable contributions to the Foundation via a payroll deduction. An online Payroll Deduction Form may be completed or a paper Employee Payroll Deduction Form, distributed during Annual Fund and pledge drives. To sign up for payroll deduction online, employees may use the secure website at: www.esufoundation.org/annual-giving.

Many companies offer payroll deduction programs to their employees, enabling them to benefit the East Stroudsburg University Foundation. The companies process the donations and typically send a check or remittance to the Foundation with a list of employees and the amount each donated. The Foundation processes these form/gifts once received.

- g. Matching Gifts.** Individuals making gifts and pledges that are eligible for company matching gifts are encouraged to utilize these programs to maximize the value of their gift or pledge to the Foundation. Donors will be notified by the Foundation if they receive any benefits in exchange for their gift that are more than the IRS threshold.

The Foundation will acknowledge and recognize all gifts appropriately according to its gift acknowledgement and recognition procedures. The Foundation will credit an individual donor for the matching gift associated with their personal gift at the time the matching gift is received from the company. At this time the corporation will also be credited with the matching gift so that it can be recognized appropriately.

Matching gifts will be recorded as gift income when the matching gift check is received. Matching gifts will only be recorded as pledges if and when an intent-to-pay acknowledgement letter is received from the corporation prior to receiving a matching gift check.

Publicly Traded Securities

a. Policy:

Securities that are traded on the New York and American Stock Exchanges, as well as other major U.S. and foreign exchanges and the NASDAQ; corporate bonds; government issues and agency securities may be accepted by the Foundation.

b. Guidelines:

The Foundation may sell such securities as soon as possible after the securities have been transferred to the Foundation. The value of a gift of securities is the mean (average) of the high and low of the stock(s) or bond(s) on the day the transfer is affected by the donor to the Foundation. The value of less actively traded securities, rarely traded securities or a security that does not trade on the gift date should be determined according to IRS Publication 561.

Donors should notify the Foundation of the securities being gifted, the number of shares, the intended gift date and the intended use of the gift. Donors will be provided the information regarding the Foundation's brokerage firm upon request.

The ESU Foundation's IRS Employer Identification number is **22-2826714**.

If the donor has physical custody of the certificates, they should be sent unsigned by registered mail to the Foundation. Send signed stock/bond power form separately from the stock/bond certificates. The signature on the stock/bond power must match the name on the certificates.

Closely Held Securities

a. Policy:

Closely held or non-publicly traded securities may be accepted only after prior review and approval by the Foundation.

b. Guidelines:

Valuation of closely held securities may be difficult due to infrequent trading which makes it difficult to establish fair market value. If a donation of closely held stock is being considered, IRS Publication 561 should be followed in valuing this type of security. Unless there is an active market for a security, if the value of the gift is estimated to be \$5,000 or more, the donor shall provide an appraisal report prepared by a qualified MAI appraiser.

Prior to appraisal, closely held securities will be acknowledged by description and valued initially by the Foundation at \$1.00. The Executive Director will report such gifts to the Finance and Investment Committee at their next meeting for their review. If the FIC assigns a different value to the gift it will be booked at that assigned value.

The donor is advised to consult IRS Publication 561 and their own counsel in establishing the value of their gift for tax purposes. If, after review, a value other than \$1.00 has been assigned to the gift by the FIC the Foundation will so advise the donor and provide written documentation.

Restricted Securities

a. Policy:

Restricted securities (also known as unregistered securities, investment-letter stock, control stock or private placement stock) are infrequently given as gifts because of the difficulty in transferring ownership and determining fair market value. They may be accepted only after approval by the Foundation.

b. Guidelines:

If restricted securities are being considered as a gift to the Foundation, IRS Publication 561 should be consulted when determining the value of the securities. If the value of the gift is estimated to be \$5,000 or more, the donor shall provide an appraisal report prepared by a qualified appraiser.

Restricted securities will be acknowledged by description and valued initially by the Foundation at \$1.00. The Executive Director will report such gifts to the Investment Committee at their next meeting for their review. If the Investment Committee assigns a different value to the gift it will be booked at that assigned value.

The donor is advised to consult IRS Publication 561 and their own counsel in establishing the value of their gift for tax purposes. If, after review, a value other than \$1.00 has been assigned to the gift by the Investment Committee the Foundation will so advise the donor and provide written documentation.

Mutual Fund Shares

a. Policy:

Mutual fund shares may be accepted by the Foundation.

b. Guidelines:

The fair market value of mutual fund shares will be determined by the public redemption price of the shares on the valuation date of a gift of this nature. If such a price is not readily available, then the value shall be determined as if the shares were un-traded securities in IRS Publication 561.

Prior to submitting transfer processing requests with your Financial Adviser and/or Broker; additional information is required for the Foundation to accept this transfer.

- The donor will need to provide the following information: name of the mutual fund, ticker symbol and number of shares desired to transfer.
- ESUF's Senior Director of Finance and Administration will contact the Foundation's Investment firm to verify that this mutual fund transfer is possible and to request a BIN (broker identification number) be set up for this specific transaction. (It will take at least 24 hours to set up a new BIN and each BIN is unique for each Mutual Fund.)
- ESUF's Senior Director of Finance and Administration will then provide the BIN information to the donor in coordination with the Gift Officer.

Gifts of Real Property or Real Estate

a. Policy:

The Foundation may accept gifts of real property, both improved and unimproved, in accordance with this Policy.

The Foundation may accept gifts of oil and gas interests in the form of royalty or mineral interests in accordance with this Policy. Generally, the Foundation will attempt to sell any property received as a gift at a reasonable price, as reflected by the current market as soon as possible. However, all gifts of property will be reviewed on a case-by-case basis and may be considered for retention.

b. Guidelines:

The Foundation may require the following information to consider acceptance of a gift of real property:

- a. A title insurance commitment showing a marketable title in the donor's name, free and clear of unacceptable encumbrances, issued by a reputable title insurance company;
- b. An MAI¹ appraisal by a qualified appraiser;
- c. A phase one environmental audit by a qualified engineer indicating that ownership will not expose the Foundation to environmental liabilities;
- d. At the election of the Foundation, a market feasibility study for the property;
- e. ALTA² survey of the property by a registered land surveyor;
- f. Evidence of compliance with ADA³ (when applicable);
- g. A structural engineering report (when applicable);
- h. A review of leases (for leased property);
- i. A disclosure statement for residential property (when applicable).

Under applicable Treasury regulations, a donor must pay for any initial appraisal made on

the property. It is the responsibility of the donor to pay all costs incurred in transfer of the property, including the cost of compliance with any of the Foundation's requirements outlined above.

Special attention shall be given to a proposed gift of real estate encumbered by a mortgage that will not be paid in full by the donor at the time of transfer. The Foundation's ownership of such encumbered real property may generate unrelated business income to the Foundation pursuant to the IRC and disqualification of certain split interest gifts.

Gifts of Real Property with Retained Life Estates and Other Restriction or Limitations

a. Policy:

The Foundation may accept either a gift of real property with a retained life estate or subject to other interest(s) for terms of years, or other limitations as to timing of the vesting of the interest or use or sale restrictions with approval of the Foundation.

b. Description:

A gift of real property with a retained life estate involves the transfer of the title to a personal residence or farm to the Foundation whereby the donor or another person retains use of the property for a term of years or the life/lives of the donor and/or another person.

c. Guidelines:

Such gifts are subject to both the general conditions and the guidelines for acceptance of outright gifts of real property as set forth in this Policy entitled "*Gifts of Real Property*". The Foundation shall encourage donors to consult independent tax and/or legal counsel prior to making a gift of this type. The agreement creating the life interest must provide that the donor and/or life tenant shall remain responsible for the payment of mortgages, taxes, insurance, utilities, maintenance/repairs and all other costs associated with the property, unless other specific provisions are made for the payment of these expenses. Donor(s) shall not violate or allow to be violated any environmental laws/ordinances covering this property.

Tangible Personal Property – Gifts-In-Kind

a. Policy:

Gifts-in-kind can be valuable additions to the University and must be handled in the appropriate manner so the gift can be tracked, and the donor recognized. The Foundation must approve in advance the acceptance of all non-cash gifts. A Gift-In-Kind Form must be completed and signed by all appropriate personnel for the Foundation to accept the gift. Exceptions may be made if it is preferable for the University to receive gifts-in-kind instead of the Foundation. The Foundation Accounting Office and Executive Director will review the gifts prior to acceptance for expenses and costs associated with accepting the gift, and the costs associated with any ongoing maintenance of accepting the gift. The Foundation Accounting Office may use an

independent third-party recommendation of the associated costs of accepting and maintaining the gift. The Foundation will consider gifts of tangible personal property, including but not limited to, works of art, manuscripts, literary works, boats, motor vehicles, and computer hardware, only after a review indicates that the property is readily marketable, and free and clear of encumbrances or needed by the University for use in a manner which is related to its mission. Authority to accept gifts of tangible personal property has been delegated to the Executive Director with consultation with the University's President Council and approval, if required.

b. Guidelines:

No gift of personal property subject to the requirement of ownership by the Foundation in perpetuity shall be accepted without approval of the Foundation. No perishable property or property that would require special facilities or security to be properly safeguarded shall be accepted without approval of the Foundation. Book collections will be accepted only with approval of the Director of the Kemp Library. Art collections and other museum artifacts will be accepted only with approval of the Executive Director of the Foundation and/or other appropriate University officers or directors. For tangible personal property with an estimated fair market value of less than \$500, the donor must furnish the Foundation with the following information:

1. Donor's name, address, and telephone number;
2. Contact person if the donor is a corporation;
3. Donor's social security number or federal tax identification number;
4. Brief physical description of the donated asset, including an explanation of the method used to determine the fair market value.

a. All gifts-in-kind donated on behalf of ESU will be made to the Foundation rather than to the University. Only the Foundation is authorized to accept gifts-in-kind, and each such gift must be approved by the Executive Director and the Foundation Accounting office. By processing gifts-in-kind through the Foundation, the donor will receive an acknowledgement receipt for his or her tax records. The donor may also be eligible to be included in the Foundation's donor recognition program. Gifts-in-kind are generally not eligible for state match except when specifically allowed by the state guidelines for the Trust Fund for Matching gifts.

b. Unless otherwise specified as a condition of the gift, the Foundation, in assuring that the donor's intent for the gift is honored, is empowered to retain the gift of property, transfer it to the University, or liquidate it for the benefit of the University. When property is transferred from the Foundation to the University, it is subject to restrictions on University property.

c. The official tax receipt sent to the donor from the Foundation for a non-cash gift will describe the gift but will not assign value to the non-cash gift. For non-cash gifts (except publicly traded securities) with a value in excess of \$5,000, it is necessary for the donor to complete and file an IRS Form 8283 to be eligible for a charitable contribution income tax deduction. IRS Form 8283 will be signed by the Chief Financial Officer of the Foundation. All appraisal fees associated with the gift- in-kind shall be borne by the

donor and not the Foundation or the University. If subsequently required, the Foundation will also use IRS Form 8282 to report information to the IRS and donors about the disposition of certain charitable deduction property made within three (3) years after the donor contributed the property.

d. If a gift-in-kind is accepted, such gift should be consistent with the mission of the University or may be readily liquidated and the proceeds used by the Foundation to support the University. Acceptance of such gift will not involve significant additional expense in its present or future use, display, maintenance, or administration; no financial or other burdensome obligation or expense is or will be directly or indirectly incurred by the Foundation or the University as a result of the gift.

Because donors' charitable tax deductions may be impacted by the Foundation's use or disposition of such gifts, the Foundation shall notify donors in writing, prior to acceptance of the gift, one of the following options:

(a) Your gift will be retained by the Foundation for use in furtherance of its mission for a minimum of three years and until and unless a change of circumstances arises; or

(b) Your gift may not be retained by the Foundation, and the Foundation has the right to sell or otherwise transfer your gift for such consideration and at such time as the Foundation may determine.

Notwithstanding any provision of this Gift Acceptance Policy, whenever such a gift is accepted after providing a donor with the notice described in subsection (a), the gift shall be retained by the Foundation unless and until an unforeseen change of circumstances arises that would subject the Foundation to a recurring financial loss. In such event, the Foundation shall only sell or transfer any such property after the Foundation Board of Directors has approved the proposed sale or other disposition.

e. If a gift-in-kind is accepted and approved by the Executive Director and the Foundation Accounting Office and then subsequently transferred to the University, the department accepting the property is liable for any associated costs of keeping the gift and use of the gift. A letter of acceptance of the property must be provided by the department to the Foundation Accounting Office.

Bargain Sale

a. Policy:

The Foundation, upon review and approval, may purchase real estate, securities, or other property on a bargain sale basis.

b. A "**bargain sale**" is a sale of property to the Foundation for an amount less than the property's current fair market value. The excess of the value over the sales price generally represents a contribution to the Foundation.

c. Ordinarily the purchase price for the property should not exceed 60% of its appraised value. Exceptions may be made with the prior approval of the Foundation. The bargain sale price may be paid either in a lump sum or in installments. Restrictions as to the type of asset set forth above shall also be met.

Other Personal Property

a. Policy:

Other personal property of any description, including mortgages, notes, copyrights, royalties, partnership interests, closely held business interests, undivided interests in property, future and partial interests and other illiquid financial assets may be accepted only upon prior review and approval of the Foundation.

b. Guidelines:

A written summary of the proposed gift shall be submitted to the Foundation. At a minimum, the summary shall include the following information:

- description of the asset;
- the purpose of the gift, whether its unrestricted or restricted and if restricted, the University department(s) to benefit from the gift;
- estimate or appraisal of the asset's fair market value and marketability;
- potential for income and expenses, encumbrances, and carrying costs prior to disposition;
- any environmental risks or problems revealed by audit or survey;
- credit history or financial statement of financially responsible party, if applicable;
- any special arrangements requested by the donor concerning disposition (e.g., price considerations, time duration prior to disposition, potential buyers, realtors or brokers with whom the donor would like the Foundation to list the property, etc.);

Deferred Gifts

Any planned gift agreement that requires execution by the Foundation shall first be reviewed and approved as to form and substance by the Foundation's legal counsel. It is recommended that prospective donors who are considering gifts to the Foundation that will take effect at the donor's death, consult with the Foundation's Executive Director regarding how to properly designate the gift and to discuss any trust or bequest restriction that is being considered.

Bequests

a. Policy:

Direct, unrestricted bequests shall be accepted by the Foundation if the underlying assets are in conformity with the guidelines set forth in a prior section of this Policy entitled "Gift Acceptance Policy for Cash". The Foundation reserves the right to reject gifts from

the estates or trusts of deceased donors that are not in conformity with the terms of this Policy.

b. Description:

A bequest to the Foundation is made in the donor's will or revocable trust. The donor can designate a specific amount, a percentage, or the remainder of an estate to the Foundation.

c. Guidelines:

Donors should be encouraged to notify the Foundation Planned Giving Office when considering a bequest in order to ensure that the assets left to the Foundation meet the criteria set forth in this Policy.

Charitable Remainder Trusts

a. Policy:

The Foundation shall not accept a charitable remainder trust without prior review and approval of the Foundation. Where the trust is testamentary, that is, one that arises upon the death of the donor, the Foundation reserves the right to disclaim any interest that would be in violation of this Policy.

b. Description:

A charitable remainder trust is a separately administered trust established by the donor. It provides for payments to the donor and/or other named beneficiary(ies) either for life or a term of years (not exceeding twenty). At the end of that period the remaining assets are distributed to one or more charities.

A charitable remainder annuity trust pays a fixed annual amount to the income beneficiary, which must be at least 5% of the fair market value of the assets initially contributed to the trust. This amount does not change and no additional gifts may be made to the annuity trust after its creation.

A charitable remainder unitrust pays the income beneficiary a fixed percentage (at least 5%) of the fair market value of trust assets, as valued annually. Because the value of assets can be expected to change from year to year, the unitrust payment will vary in amount each year. Additional contributions may be made to the trust after it is established if the trust agreement so provides.

Three variations of the unitrust exist. A "straight" unitrust pays the income beneficiary the stipulated amount, even if it is necessary to invade principal to do so. A "net-income" unitrust pays the lesser of the stipulated amount or the actual net income, so principal will not be invaded. A "net-income with make-up-provision" unitrust is like the net income unitrust except that excess earnings can be applied to cover accrued deficiencies resulting from the net income being less than the stipulated amount.

c. Guidelines:

The Foundation may serve as trustee of any charitable remainder trust to which the initial contribution is at least \$100,000 (unless for good cause the Foundation approves a lesser amount) and in which the Foundation is named as the sole residuary beneficiary. With the prior approval of the FIC, the Foundation may accept the trusteeship of a charitable remainder trust in which it has less than 100% but more than 50% remainder interest.

If the income interest is for life, the beneficiary (ies) must be at least 50 years of age unless the Foundation approves a younger age.

Where payments are to be made for the lives of multiple beneficiaries, there may be no more than two beneficiaries unless approved by the Foundation.

Charitable Lead Trust

a. Policy:

Charitable lead trusts shall not be accepted by the Foundation without prior review and approval of the trust agreement by the Foundation. Where the trust is testamentary, that is, one that arises upon the death of the donor, the Foundation reserves the right to disclaim any interest that would be in violation of this Policy.

b. Description:

A charitable lead trust is a trust in which the income, or "lead" interest, is paid to the Foundation, and the "remainder" interest is given to one or more non-charitable beneficiaries, who could be either the donor or family members. The amount paid to the Foundation may be either a fixed sum (an "annuity trust" interest) or a percentage of the trust assets as valued each year (a "unitrust" interest). At the conclusion of the payment period, the trust assets are returned either to the donor or to someone designated by the donor.

c. Guidelines:

The Foundation may serve as trustee of a charitable lead trust to which the initial contribution is at least \$100,000. A trust may be funded with a lesser amount, subject to prior approval of the Foundation.

The trust term may be at the discretion of the donor, subject to the approval of the Foundation.

Designating the Foundation as Beneficiary

a. Policy:

The Foundation will accept any proceeds that it receives as a designated beneficiary (or an alternate beneficiary) of a life insurance policy, a deferred annuity contract, an IRA, a defined benefit plan, a 401(k) plan, a defined contribution (profit sharing) plan or other qualified

plan, unless the designation imposes restrictions or a trust arrangement, in which case, prior review and approval by the Foundation is required.

Life Insurance Policies

a. Policy:

The Foundation will accept gifts of life insurance policies, including whole life, variable and universal life policies, which meet the guidelines specified below. The Foundation can also be named as a beneficiary of a term insurance policy.

b. Guidelines:

Gifts of life insurance policies which meet the following criteria may be accepted:

1. The policy is either paid-up or, if not paid-up as of the date of the gift:

- has a minimum face value of \$50,000;
- has a payment schedule not to exceed twelve years and which assumes an interest rate not to exceed the average historical dividend rate for the prior three-year period (for existing policies an "in force" illustration will be required); and
- requires a written pledge of a charitable contribution from the donor to the Foundation in a total amount which equals or exceeds the total premiums due, and with pledge payments scheduled so as to equal or exceed each policy premium payment as that payment becomes due. This written pledge also will acknowledge the absolute ownership by the Foundation of the policy given and acknowledge the resulting right of the Foundation to cash-in the policy and apply the proceeds of the same in accordance with donor intent.

2. The Foundation is designated as the owner and the beneficiary of the policy. While the policy will identify the Foundation as the beneficiary, there should also be a written agreement between the donor and the Foundation to transfer ownership of the policy to the Foundation.

Policy Effective Date

The Gift Acceptance Policy was adopted November 14, 2019 and became effective on that date. All gift agreements shall be governed by the Gift Acceptance Policy in effect at the time the original gift was accepted.