

**DELAWARE TECHNICAL AND COMMUNITY COLLEGE
EDUCATIONAL FOUNDATION
GIFT ACCEPTANCE POLICY**

Statement of Purpose

The purpose of this policy is to establish criteria for accepting gifts to the Delaware Technical and Community College Educational Foundation (Foundation). Gift acceptance includes current and deferred gifts of cash, personal property, real property, securities, life insurance, and other contributions.

Stating the Purpose of Gifts

The purpose of any endowed gift (i.e., \$25,000 or more) to the Foundation will be defined in a written donor agreement or deferred gift letter of intent signed by the donor, or his or her appointed representative and an officer of the Foundation. In most cases, additional gifts may be made to existing accounts of the Foundation without restating the original purpose of the gift and without a separate donor agreement.

If a gift is being used to establish an endowed fund, it is the policy of the Foundation to develop a signed donor agreement prior to accepting a current outright gift, or in the case of a planned gift in which the donor is living, as soon as possible after the Foundation becomes aware of its existence.

The purpose of a gift must fall within the broad objectives of the Foundation. Each proposed fund or gift will be considered on a case-by-case basis. The Foundation reserves the right to accept or decline any proposed fund or gift.

All donor agreements shall be signed by the President of the Foundation (hereafter “President”), following a review by the College’s Chief Legal Counsel, Vice President for Institutional Effectiveness and Development, and Vice President for Finance. The President shall have authority to vary the terms and conditions of the sample donor agreement that is part of the Foundation’s Trust Fund Guidelines.

The College will make prospective donors aware of the following benefits and liabilities that may influence a donor’s decision to make a gift to the Foundation:

- the irrevocability of a gift
- the Foundation’s variance power, if so stated in the Donor Agreement
- the Foundation’s spending policy and definition of endowment accounts
- prohibitions on donor restrictions
- items subject to variability: market value, investment return, and income yield
- any applicable administrative and investment management fees, including any additional fees charged for more complicated gifts (real estate, art collections etc.)

Donors will be encouraged to consult with independent legal counsel and financial advisors in making their decision. In no event will the College or Foundation give or dispense financial or legal advice or opinions to the donor. Donors will also be provided with a written donor agreement. Their signature on this document will provide evidence that they have read the donor agreement and attached documents thoroughly and that they have agreed to the provisions of these documents.

The President is authorized by the Board of Trustees of the Foundation (hereafter "Board") to accept new gifts and funds subject to the policies outlined herein. The President may rely upon the opinions of the College's Chief Legal Counsel, Vice President for Institutional Effectiveness and Development, and Vice President for Finance as part of the decision making process to accept new gifts and funds.

Minimums

Currently the Foundation's minimum size is \$25,000 for an endowed account. Gifts of any size to existing accounts are gratefully accepted.

Gift Review Requirements

A) The President is authorized by the Board to accept the following gifts on an on-going basis which are to be deposited with the Administrative Trustee:

- **Cash or cash equivalents and checks**
The Foundation accepts donations of cash, checks, or money orders.
- **Marketable securities and mutual funds**
It is the general policy of the Foundation to sell marketable securities immediately upon receipt. The Foundation will govern the disposition of securities and will make all decisions regarding the sale or retention of securities. Specific procedures regarding gifts of stock and mutual funds are available upon request from the Foundation. In general, if it is determined that it is in the best interests of the Foundation to retain a gifted security, this will be done for a designated period of time with a minimum automatic sale order (usually the basis of the gift) in effect.
- **Gifts of personal property for use in the College's offices or programs.**
- **Gifts of personal property not intended for use in the College's offices or programs.**
It is the general policy of the Foundation to sell personal property in a commercially reasonable manner as soon as practical following receipt. If the value exceeds \$5,000, a donor is required to have a qualified appraisal performed and submitted on IRS Form 8283. This may be done at the donor's or the Foundation's expense. If the Foundation sells the property within two years it must inform the donor and IRS of the sale price of the item(s) and must file IRS Form 8282.

The following should be taken into consideration before acceptance: Whether or not the property is related or unrelated to the exempt purposes of the Foundation; whether the

property is readily salable; taxes and insurance; transportation and storage costs; security; maintenance and repair requirements; and the potential cost of selling the item.

If ownership of the donated property will require expenditures for maintenance, insurance, storage, display, etc., a source of funds should be identified or committed by the donor prior to acceptance of the gift.

Expenses related to the acceptance, management, sale, or other expenses attributable to the acquisition or disposition of the property shall be charged against the income or sale proceeds of the property.

B) Gifts that may require additional review and consultation with the Board are:

- **Real estate**

If a donor wishes to contribute real estate or an interest in real estate to the Foundation, whether as an outright gift or through a deferred giving arrangement, the President shall consider all facts and circumstances pertinent to whether the Foundation should accept the gift. Donors should always be advised to confer with their own counsel to review the terms of the gift.

Policies regarding the acceptance of real property, including life estate gifts, follow this document. (See Addendum A).

C) The Foundation reserves the right to refuse any gift that it believes is not in the best interest of the Foundation. If a gift is not accepted, the Foundation will contact the prospective donor immediately. Examples of gifts that may be declined include:

- **Gifts of stock in non-publicly traded corporations**

Donors wishing to make gifts of stock in a corporation whose shares are not publicly traded must have it valued by a reputable independent accounting or appraisal company prior to making a contribution. The Foundation will seek expert advice as to whether to sell the stock immediately or to hold it and will make all decisions regarding the sale or retention of the stock.

The acceptability of a gift of non-publicly traded stock shall depend on the ultimate financial liability of the Foundation and the amount of management attention required; the marketability of the interests; and the costs of sale of the intended gifts.

- **Gift of securities not readily marketable**, which are not assessable, have no apparent value, which may not be assigned or which in any way could create a liability to the Foundation, will generally not be accepted.

- **Partnership or LLC interests**

The Foundation does not accept gifts of general partnership or LLC interests due to potential liability. The acceptability of a gift of a limited partnership interest will depend

on the ultimate financial liability of the Foundation, the amount of management attention required, the ability to sell interests, and the cost of sale of the intended gifts.

This type of hard-to-value property is best valued by a qualified appraiser. Consideration will be given to whether generated partnership income is unrelated business income subject to income tax.

- **Gifts whose structures fall outside the ordinary purposes, bylaws and procedures of the Foundation**

Acknowledgment

Accepted gifts will be acknowledged by the College in a written format in accordance with federal IRS regulations.

Income Tax Deductions

The charitable income tax deduction claimed by an individual is generally his/her responsibility. However, the Foundation will follow the requirements and guidelines established by the IRS for reporting and receiving gifts of property.

Restrictions

In conformity with Treasury Department regulations governing public charities, gifts to the Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Foundation from freely and effectively employing the transferred assets or the income derived therefrom, in furtherance of its exempt purposes. Exceptions to this policy include split-interest gifts in which the assets are temporarily restricted, such as life estates.

Investment of Gifts

Donor's advice will be carefully considered in determining disposition, retention, or investment of any gift. However, the Board reserves the right to make all investment decisions regarding gifts received.

In making a gift to the Foundation, donors give up all right, title, and interest to the assets contributed. In particular, donors give up the right to choose investments, investment managers, and brokers, or to veto investment choices for their gifts. In special circumstances, such as the formation of a supporting organization, the donor and the Foundation may, by mutual agreement, design a specific investment strategy appropriate for the purposes of the gift.

Planned Gifts

A planned gift is a donation, usually other than a direct outright gift of cash which (1) usually includes assets other than cash; (2) uses tax advantaged devices as set forth by the Internal Revenue Code and Regulations; (3) involves increased face-to-face communication between the donor and a representative of the College; and (4) usually involves the counsel and advice of a financial/legal professional. Most planned gifts, although not all, are deferred. Deferred implies that the Foundation must wait for a number of years after the gift is assigned before receiving the actual possession and full enjoyment of the donated property.

The College's planned giving program encompasses all types of gifts whose benefits do not fully accrue to the Foundation until some future time (such as the death of the donor or other income beneficiaries or the expiration of a predetermined period of time) or whose benefits to the Foundation are then followed by the interests of non-charitable beneficiaries. The common types of planned giving opportunities offered by the College for the benefit of the Foundation are listed below.

- **Gifts by Will or Living Trust**

The Foundation may receive bequests from people who direct, through a will or a trust, that certain money or property be transferred to the Foundation. The Foundation encourages such donors to discuss their charitable plan with the College and provide a letter of intent outlining the purpose of their gift. Sample bequest language is available from the College, but donors are encouraged to consult a professional advisor for additional assistance.

- **Gifts of Life Insurance**

A donor may make a gift of life insurance to the Foundation in several ways. The donor may choose to give a life insurance policy irrevocably designating the Foundation as owner and beneficiary of an existing life insurance policy. The Foundation can also be designated as a percentage beneficiary of a life insurance policy owned by the donor. In addition, the Foundation accepts tax-deductible gifts of insurance policy dividends.

- **Charitable Gift Annuities**

The College has a charitable gift annuity program. Donors may irrevocably purchase a gift annuity and receive an income stream for the life or lives of one or more income beneficiaries designated by the donor. Upon termination of the income beneficiary's interest, the remainder is transferred as an endowment to the Foundation for uses specified by the donor at the time the gift was made, or for the unrestricted use by the Foundation.

A complete disclosure statement regarding the charitable gift annuity is available and individual proposals may be created at a donor's request.

- **Charitable Trusts:**

- **Charitable Remainder Trust**

Under a *charitable remainder unitrust* the donor irrevocably transfers money, securities, or other property to a trustee selected by the donor. The trustee pays the donor, or one or more income beneficiaries designated by the donor, a fixed percentage of the net fair market value of the trust's assets, as determined each year. The payments are made for the life or lives of the income beneficiaries or for a fixed period not to exceed 20 years. Upon termination of the income beneficiary interest, the assets of the unitrust will be transferred to the Foundation.

A *charitable remainder annuity trust* is similar to the unitrust except that the income beneficiary receives a fixed dollar amount annually for the trust.

The Foundation does not typically serve as a trustee for charitable trusts, although it will consider serving in this role on a case-by-case basis.

Charitable remainder trust guidelines, as well as a checklist for charitable remainder trusts funded with real estate, may be available from the Foundation for educational purposes.

➤ **Charitable Lead Trust**

Under a charitable lead trust, the Foundation receives an income interest in the trust assets for a period of years or the lives of one or more individuals. At the end of this time, the assets are distributed to non-charitable beneficiaries designated by the donor.

ADDENDUM A

Policy for the Acceptance of Gifts of Real Estate

This policy was developed to protect the funds and assets of the Foundation and to ensure proper stewardship of the gifts and assets entrusted to the Foundation.

Gifts of real estate, including all forms of interests in real property, may be accepted on behalf of the Foundation in accordance with these policies. Each proposed gift will be reviewed and considered on a case-by-case basis. The Foundation may accept or reject any proposed gift. The following should be taken into account before acceptance: existing mortgages and liens against the property, taxes, condition and state of repair, zoning and land use violations, historical uses, presence of hazardous substances, the possibility of generating unrelated business income, and similar factors.

Authority to Accept Gifts of Real Estate

Gifts of real estate may require additional review and consultation with the Board. The President will rely on the opinions of the College's Legal Counsel and Vice President for Finance as part of the decision making process.

Conditions for Acceptance

In general, it is the policy of the Foundation to accept gifts of real estate only if they are to be sold with the proceeds used for the general purposes of the Foundation or for a designated charitable purpose as provided by the donor. In the case of life estate gifts, such a sale will likely take place after the lifetime of the donor. A gift of real estate may also be accepted under the following conditions on a case by case basis: if it is to be used by the College in connection with established or specifically approved educational programs or activities; or if it is to be held for the production of income.

Prohibited Transactions

The Foundation will not accept property that would jeopardize its tax-exempt status, or expose it to expenses for which no source of funds has been identified.

Expenses

Prior to acceptance of any gift of real estate, a source of funds should be identified or committed by the donor for maintenance, upkeep, security, insurance, etc. of the donated property during the expected time of ownership of the property by the Foundation.

Expenses related to the acceptance, management, sale, or other expenses attributable to the acquisition or disposition of the property shall be charged against the income or sale proceeds of the property.

Conditions Affecting Acceptance

1. If the property is to be used by the College, it shall be in good physical condition. If it is not in compliance with applicable building, health, and safety codes, or requires repairs or improvements, a source of funds for the cost of bringing the property into compliance must be identified prior to acceptance.

Prior to acceptance of the real property, the Foundation shall take such steps as are reasonably necessary to ascertain whether or not there are any environmental or similar risks associated with the property, such as the presence of hazardous substances on or under the property and, if so, to determine the potential liability arising from those risks.

2. If the property is to be held for the production of income, a *pro forma* positive cash flow analysis must compare favorably to the amount of income that would be obtained if the property were sold and the proceeds invested as a part of the general endowment pool.
3. If the property is to be sold, it should be marketable within a reasonably short period of time. Acceptance of offers to purchase property from the Foundation requires the signature of the President. Per IRS regulations, no agreement to sell a property to a pre-designated purchaser may be made prior to receipt of the gift.

Procedure

Prior to formal acceptance, the College shall obtain the following:

1. Preliminary title report covering the subject property (the title report shall reflect that title is vested in the donor in the form represented, and is subject to no claims, liabilities, or major defects of title);
2. A current valid appraisal performed by a qualified appraiser. The donor may be asked to pay the costs associated with obtaining any necessary final appraisal;
3. A list of improvements to the property;
4. A current list of leases, if any;
5. A list of encumbrances, liens, pending assessments, and current expenses, if any;
6. A commitment for title insurance;
7. A physical inspection of the property by an employee, agent of, or consultant to the College; and
8. Boundary Survey

Conditional acceptance may be made subject to satisfactory completion of each of the foregoing.

Hazardous Waste Considerations

Prior to formal acceptance, the Foundation may require that a Phase One environmental inspection- be made at the donor's expense by a reputable, licensed environmental engineer or firm competent to advise the donor and the Foundation whether further inspections and investigations are required.

Grant Deed

Upon acceptance of the gift of real estate, the Foundation will ensure that the grant deed is properly conveyed to its possession. This includes having the donor sign the deed and recording it with the appropriate county. The President or his/her designee has the responsibility for the proper safeguarding of all deeds.

Internal Revenue Service Form 8283

The Internal Revenue Service requires that Form 8283 be completed so it can be filed with the donor's tax return. Upon acceptance, the Foundation will be responsible for completing the "Donee Acknowledgment Section" of IRS Form 8283, mailing the original form to the donor and a copy to the Foundation.

Internal Revenue Service Form 8282

The Internal Revenue Service requires that Form 8282 be completed and filed (with respect to any real estate for which a Form 8283 has been filed) when that property is disposed of by the recipient institution within two years of the date of gift. Upon disposition, the Foundation will be responsible for filing Form 8282, if required in a timely manner.

Life Estates

Simple Life Estate Agreements

In the case of property donated to the Foundation subject to a life estate, the life tenant shall enter into an agreement in writing providing that the life tenant shall pay all the costs of maintenance and upkeep of the property including but not limited to repairs, improvements, taxes, insurance, etc.

Life Estate with Lump Sum or Series of Payments

These opportunities will be evaluated on a case-by-case basis. If the life tenant is also to receive a lump sum payment or a series of payments, a financial analysis will be done to determine the return on investment to the Foundation. The analysis will include the life tenant's life expectancy, projected appreciation rate of the property, and estimates of future interest rates. Donor-authorized "impounds" from the lump sum will be necessary to cover maintenance, upkeep, insurance, property taxes, etc.

Cost Recovery

Funds to cover costs such as appraisals, hazardous substance assessments, taxes, insurance, maintenance, and unanticipated expenses may be advanced from other funds of the Foundation and recovered at the time disposition of the property is made. Donors shall be advised of this policy.

Documentation of Acceptance of Property

The Foundation shall acknowledge its acceptance of any gift of real property in writing. Documentation may be in the form of a memo to the file or more formally by letter.

Exception Authority

The President may make exceptions to these policies when such exceptions are deemed to be in the best interest of the Foundation. Such exceptions shall be in writing and set forth the basis of the exception.

