

[NAME OF ORGANIZATION]

GIFT ACCEPTANCE POLICY AND GUIDELINES

Purpose

The Board of Directors (“the Board”) and its staff solicit current and deferred gifts from individuals, corporations, and foundations to support Organization operations, secure its growth, and fulfill its mission. These policies and guidelines (“Policy”) govern the acceptance of gifts by [NAME OF ORGANIZATION] (“the Organization”) in order to ensure that the Organization’s interests are fulfilled and protected and that donors are in agreement and understand how their gift will be utilized. The provisions of this Policy shall apply to all gifts received by the Organization for any of its programs or services.

Gift Acceptance Committee

The Gift Acceptance Committee (GAC) shall include the [choose from: Executive Director, President, Treasurer, Finance Committee Chair, Director of Finance & Administration, Director of Development, Development Committee Chair], and other leaders as appointed by the President. The Board has delegated to the GAC responsibility to review gifts other than cash or cash equivalents, unless such gift is accompanied by an unusual and possibly inappropriate designation. The GAC is charged with properly screening and accepting or rejecting those gifts and making recommendations to the Board on gift acceptance issues, including policies regarding naming opportunities.

The GAC reviews and approves or denies acceptance of any gifts with significant issues that conflict with this policy and guidelines and is responsible for reviewing and making determinations as to exceptions to the policies as noted below. Any gift acceptance issues that significantly conflict with this policy will be submitted to the Board for approval.

The GAC will periodically, but no less than once a year, review these policies and make recommendations to the Board for changes. Annually, the GAC will review compliance with the policies and guidelines. All actions of the GAC are subject to the Organization’s Conflict of Interest Policy.

Organization staff, with the approval of the GAC, may accept gifts that fall within these policy guidelines.

The [(appropriate senior professional, chair of the Finance Committee, or other lay leader), [in consultation with the (title of finance professional, Treasurer, other)]], is responsible for developing gift agreements (where appropriate), administration of current gifts and legacy gifts, including issuing gift acknowledgments and documenting the purpose of all charitable gifts, in compliance with IRS requirements and in accordance with the procedures established by the Organization. [May be broken out by areas of responsibility.] The Organization may seek assistance from The Jewish Community Foundation of the East Bay on any of the above activities.

Gift Acceptance

The Organization will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are consistent with its stated mission, purposes, and priorities and are consistent with law. Because the acceptance of a gift involves a legal obligation to use the gift for the specified purposes of the Organization and may involve commitments that will exist in perpetuity, the authority to accept gifts is held by the Board. The Board, Executive Director, and Organization staff are subject to the policies and guidelines set forth in this document.

Under these policy guidelines, a gift may be accepted by staff if the gift meets the requirements outlined in the guidelines. Other gifts or exceptions will require review and approval of the GAC and Board.

The Organization will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the corporate charter of the Organization, gifts that are too difficult to administer, and gifts that are inconsistent with the stated mission or programming of the Organization. The Organization reserves the right to refuse acceptance of a gift if the Board deems the gift inappropriate.

The general gift acceptance policy is to inform, serve, guide, and otherwise assist donors who wish to support its activities, but never under any circumstances, to pressure or unduly persuade a donor to complete a gift. The gift acceptance policy incorporates the Association of Fundraising Professional Code of Ethical Standards, attached hereto as an appendix.

To assure that each donor has a complete and independent explanation of their charitable gift and to avoid potential conflicts of interest, persons acting on behalf of the Organization shall encourage the donor to seek independent counsel through their own personal legal and financial advisors. Persons acting on behalf of the Organization are not authorized to and shall not provide legal or tax advice in connection with their solicitation efforts.

Persons acting on behalf of the Organization shall advise the donor that it is the donor's responsibility to obtain any necessary appraisals, all legal and tax advice regarding the proposed gift, file appropriate personal or other required tax returns, and defend against any challenges to claims for tax benefits.

The [*appropriate senior professional, chair of the Finance Committee, or other lay leader*], [*in consultation with the (title of finance professional, Treasurer, other)*] or designee(s) are authorized to negotiate planned giving agreements with prospective donors, following guidelines outlined in this policy statement.

- Planned giving agreements requiring execution by the Organization shall first be reviewed and approved by the GAC, and where deemed appropriate, by legal counsel.
- The Organization may not serve as a trustee for a planned giving vehicle.

Consultation with Legal Counsel and Other Advisers

When deemed appropriate the Organization shall seek advice of legal counsel and other advisers (“Counsel”) in matters relating to acceptance of gifts. Review by Counsel is recommended for:

1. Closely held stock transfers subject to restrictions or buy-sell agreements.
2. Gifts involving contracts, such as bargain sales or other documents requiring the Organization to assume an obligation.
3. Transactions with potential conflicts of interest that may invoke IRS sanctions.
4. Other instances in which use of Counsel is deemed appropriate by the GAC, including the preparation of documents related to acceptance of gifts.

Types of Gifts

The list set forth below is not meant to be inclusive, but is representative of gifts commonly given to charitable institutions. In all cases other than cash or cash equivalents, the offered gift shall be evaluated for acceptance.

The following gifts are generally acceptable:

1. Cash
2. Tangible Personal Property
3. Securities
4. Real Estate
5. Remainder Interests in Real Property
6. Oil, Gas, and Mineral Interests
7. Royalties and Distribution Rights
8. Bargain Sales
9. Life Insurance and Life Insurance Beneficiary Designations
10. Charitable Remainder Trusts
11. Charitable Lead Trusts
12. Retirement Plan Beneficiary Designations
13. Partnership Interests and Interests in Limited Liability Companies (LLC)

In addition to other criteria that may be determined by the GAC to be appropriate, the following criteria are to be considered for the acceptance of each gift form:

1. **Cash:** Cash is acceptable in any form.
2. **Tangible Personal Property:** All gifts of tangible personal property shall be examined in light of the following criteria and other criteria deemed appropriate:
 - Does the property fulfill or advance the mission of the Organization?
 - Does it have a use related to the mission of the Organization?
 - Is the property marketable?
 - Are there any undue restrictions on the use, display, or sale of the property?
 - Are there any carrying costs for the property?
 - Can the property be sold easily?

- Are there costs associated with transportation, storage, selling, maintenance, and/or repair of the property?
- Are there any risks associated with ownership of the property?

The GAC will make the final determination on the acceptance of tangible property gifts.

- 3. Securities:** The Organization can accept both publicly traded securities and closely held securities.
- **Publicly Traded Securities:** Marketable securities may be transferred to an account maintained at one or more brokerage firms or trust companies, commercial banks or delivered physically with the transferor's stock power attached. As a general rule, all marketable securities will be sold upon receipt unless otherwise directed by the GAC. In some cases, applicable securities laws may restrict marketable securities. In such instance the GAC, in consultation with Counsel, if deemed appropriate, shall make the final determination on accepting the restricted securities.
 - **Closely Held Securities:** Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in limited partnerships and limited liability companies or other ownership forms, can be accepted subject to the approval of the GAC. However, gifts must be reviewed prior to acceptance to determine:
 - There are no restrictions on the security that would prevent the Organization from converting those assets to cash;
 - The security is marketable; and
 - The security will not generate any undesirable tax consequences or liability for the Organization.

If potential problems arise on initial review of the security, further review and recommendation by Counsel may be sought before making a final decision on acceptance of the gift. The GAC and Counsel shall make the final determination on the acceptance of closely held securities. Every effort will be made to sell closely held securities as quickly as possible.

- 4. Real Estate:** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, the Organization shall require an initial environmental review of all prior uses of the property, and a review to ensure that the property has no environmental damage, no history of environmental damage, and is not susceptible to environmental damage. In the event that the initial inspection discloses an existing or potential problem, the Organization, if it still desires to proceed to accept the gift, shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall be an expense of the donor, although the Organization will consider such expense at the advice of the GAC. When appropriate, a title insurance commitment shall be obtained by the Organization prior to acceptance of the real property gift. The costs of

this title insurance shall be an expense of the donor, although the Organization will consider such expense at the advice of the GAC. Prior to acceptance of the real property, the gift shall be approved by the GAC and Counsel. Criteria for acceptance of the property include, but are not limited, to the following:

- Whether the property is useful for the purposes of the Organization.
- Whether the property is marketable.
- Whether there are any restrictions, reservations, easements, or other limitations associated with the property.
- Whether there are any carrying costs, which may include insurance, property taxes, mortgages or notes, etc. associated with the property.
- Whether the environmental review, including the audit if required, reflects that the property is not contaminated, damaged, or subject to contamination or damage.

5. **Remainder Interests in Property:** The Organization may accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of paragraph 4 above concerning gifts of real estate. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, the Organization may use the property or reduce it to cash. Where the Organization receives a gift of a remainder interest, expenses for maintenance, real estate taxes and any property indebtedness are to be paid by the donor or primary beneficiary, although the Organization will consider such expenses at the advice of the GAC.

6. **Oil, Gas, and Mineral Interests:** The Organization may accept oil, gas, and mineral interests. Before accepting such interests, the gift shall be approved by the GAC and Board, in consultation with Counsel. Criteria for acceptance of the property include, but are not limited by, the following:

- Gifts of surface rights should have a value of \$20,000 or higher.
- Gifts of oil, gas, and mineral interests should generate at least \$3,000 per year in net income (as determined by the average of the three years prior to the gift).
- The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate.
- A working interest is rarely accepted. A working interest may only be accepted when there is a plan to minimize potential liability and tax consequences.
- The property must undergo an environmental review to ensure there is no current or potential exposure to environmental or other liability.

7. **Royalties and Distribution Rights:** The Organization may accept gifts of royalties or distribution rights on published works (including, but not limited to, books or films) when there is clear evidence of marketability or assurance of an income stream. The published work must be consistent with the policies and mission of the Organization. The GAC will determine whether such a gift should be accepted after receiving a qualified appraisal of the offered work, the cost of which shall be borne by the donor, although the Organization will consider such expense at the advice of the GAC.

- 8. Bargain Sales:** The Organization may enter into a bargain sale arrangement. All bargain sales must be reviewed and recommended by the GAC and approved by the Board. Factors used in determining whether a bargain sale is appropriate, include, but are not limited to the following provisions:
- The Organization shall obtain an independent appraisal, at the expense of the donor, to substantiate the value of the property, although the Organization will consider such expense at the advice of the GAC.
 - If the Organization assumes debt with the property, it shall determine that the debt ratio is less than 50 percent of the appraised market value.
 - The Organization must determine that it will use the property, or that there is a market for sale of the property allowing sale within 12 months of receipt.
 - The Organization must calculate the costs to safeguard, insure, and expense the property including property tax if applicable during the holding period.
 - The considerations previously mentioned for Real Estate will also be applicable to property being considered for bargain sale.
- 9. Life Insurance:** If the Organization is simply named as beneficiary of a life insurance policy, it will be accepted. If the Organization is named as both beneficiary and irrevocable owner of an insurance policy, the GAC will review various options before determining a course of action, possibly to include the donor contributing future premium payments. If the donor does not elect to continue making gifts to cover premium payments on the life insurance policy, the Organization may (1) continue to pay the premiums; (2) convert the policy to paid up insurance; or (3) surrender the policy for its current cash value at the time of the donor's election.
- 10. Charitable Remainder Trusts:** The Organization may accept designation as remainder beneficiary of a charitable remainder. The Organization will not accept appointment as a trustee of a charitable remainder trust.
- 11. Charitable Lead Trusts:** The Organization may accept a designation as income beneficiary of a charitable lead trust. The Organization will not accept appointment as trustee of a charitable lead trust.
- 12. Retirement Plan Beneficiary Designations:** Donors may name the Organization as beneficiary of their retirement plans. Donors will be recognized as having made such gifts for purposes of designation in any legacy literature or program.
- 13. Partnership Interests and Interests in Limited Liability Companies (LLC):** the Organization does not accept gifts of general partnership interests. Prior to approval of gifts of any other limited partnership interests or interests in an LLC, all relevant partnership and LLC agreements will be reviewed by Counsel, with particular attention to the activity of the partnership/LLC and how allocations are made. The underlying assets and liabilities of the partnership/LLC will also be reviewed.

Legacy Gifts

The Organization is a participant in Create a Jewish Legacy, a legacy giving program established by the Jewish Community Foundation of the East Bay (“Foundation”). Pursuant to participation in Create a Jewish Legacy and the Organization’s non-binding Create a Jewish Legacy partnership agreement, testamentary gifts by will or trust, retirement plan, life insurance beneficiary designation, or other after-lifetime giving instrument (“legacy gifts”) shall be subject to the provisions of the Organization’s Legacy Gift Policy. (Copies of the Create a Jewish Legacy partnership agreement and the Organization’s Legacy Giving Policy are attached hereto as Exhibits A and B.)

Legacy gifts received with specific testamentary language as to purpose, use, or restriction for expenditure are also subject to this Gift Acceptance Policy. The Organization shall request a copy of the testamentary language establishing the legacy gift from the executor, administrator, trustee, or counsel representing executor, administrator, or trustee (herein referred to as “legal representative”).

In the event that the testamentary language is vague or unclear, the Organization shall request from the legal representative any applicable information, including but not limited to, verifiable statements of purpose, legacy statements, or letters of intent, to determine intent. In the event that neither a specific gift intent nor restriction on use can be reasonably determined, the gift shall be accepted as an unrestricted gift to the Organization.

Impossibility of Fulfillment of Restricted Use

In the event that circumstances arise that make it impossible to fulfill the specific restricted gift intent of the donor, the Organization, after so establishing the impossibility of fulfillment, shall be permitted to use the gift funds for another purpose or program to the extent that the new use shall be as closely aligned with the original intended use as possible.

Notice shall be given to the donor and legal representative stating the circumstances and reasons making it impossible to fulfill the donor’s intent. The Organization shall seek information from the donor or the donor’s legal representative regarding the donor’s intent at the time the gift was designated. This information shall be used in creating an appropriate alternative use for the gift funds. Where possible, an agreement establishing the use of the funds shall be drafted and provided to the donor or legal representative for review and assent prior to any action taken with respect to the gift funds.

Donor Acknowledgment

All gifts to the Organization, regardless of amount or form of gift, will be acknowledged promptly in writing.

Recognition of Gifts; Confidentiality of Donor Information

Donors to the Organization, with their permission, will be recognized and acknowledged consistent with Organization practice, policies, and procedures *[outlined in the Organization's development plans]*. Donors shall be advised that upon request their gifts may remain anonymous. Information concerning donors and prospective donors shall be held in strict confidence by the Organization.

This Gift Acceptance Policy and Guidelines was adopted on _____ by the Board of Directors of *[name of organization]*.

Appendix

Association of Fundraising Professional Code of Ethical Standards



CODE OF ETHICAL STANDARDS

ETHICAL STANDARDS (Adopted 1964; amended Oct 2014)

The Association of Fundraising Professionals believes that ethical behavior fosters the development and growth of fundraising professionals and the fundraising profession and enhances philanthropy and volunteerism. AFP Members recognize their responsibility to ethically generate or support ethical generation of philanthropic support. Violation of the standards may subject the member to disciplinary sanctions as provided in the AFP Ethics Enforcement Procedures. AFP members, both individual and business, agree to abide (and ensure, to the best of their ability, that all members of their staff abide) by the AFP standards.

PUBLIC TRUST, TRANSPARENCY & CONFLICTS OF INTEREST

Members shall:

- 1 not engage in activities that harm the members' organizations, clients or profession or knowingly bring the profession into disrepute.
- 2 not engage in activities that conflict with their fiduciary, ethical and legal obligations to their organizations, clients or profession.
- 3 effectively disclose all potential and actual conflicts of interest; such disclosure does not preclude or imply ethical impropriety.
- 4 not exploit any relationship with a donor, prospect, volunteer, client or employee for the benefit of the members or the members' organizations.
- 5 comply with all applicable local, state, provincial and federal civil and criminal laws.
- 6 recognize their individual boundaries of professional competence.
- 7 present and supply products and/or services honestly and without misrepresentation.
- 8 establish the nature and purpose of any contractual relationship at the outset and be responsive and available to parties before, during and after any sale of materials and/or services.
- 9 never knowingly infringe the intellectual property rights of other parties.
- 10 protect the confidentiality of all privileged information relating to the provider/client relationships.
- 11 never disparage competitors untruthfully.

SOLICITATION & STEWARDSHIP OF PHILANTHROPIC FUNDS

Members shall:

- 12 ensure that all solicitation and communication materials are accurate and correctly reflect their organization's mission and use of solicited funds.
- 13 ensure that donors receive informed, accurate and ethical advice about the value and tax implications of contributions.

- 14 ensure that contributions are used in accordance with donors' intentions.
- 15 ensure proper stewardship of all revenue sources, including timely reports on the use and management of such funds.
- 16 obtain explicit consent by donors before altering the conditions of financial transactions.

TREATMENT OF CONFIDENTIAL & PROPRIETARY INFORMATION

Members shall:

- 17 not disclose privileged or confidential information to unauthorized parties.
- 18 adhere to the principle that all donor and prospect information created by, or on behalf of, an organization or a client is the property of that organization or client.
- 19 give donors and clients the opportunity to have their names removed from lists that are sold to, rented to or exchanged with other organizations.
- 20 when stating fundraising results, use accurate and consistent accounting methods that conform to the relevant guidelines adopted by the appropriate authority.

COMPENSATION, BONUS & FINDER'S FEES

Members shall:

- 21 not accept compensation or enter into a contract that is based on a percentage of contributions; nor shall members accept finder's fees or contingent fees.
- 22 be permitted to accept performance-based compensation, such as bonuses, only if such bonuses are in accord with prevailing practices within the members' own organizations and are not based on a percentage of contributions.
- 23 neither offer nor accept payments or special considerations for the purpose of influencing the selection of products or services.
- 24 not pay finder's fees, commissions or percentage compensation based on contributions.
- 25 meet the legal requirements for the disbursement of funds if they receive funds on behalf of a donor or client.