

The webcast will start at 1 p.m. Eastern

Please note:

- **Handout** – You can print or download the webcast handout at capincrouse.com/gift-acceptance-policies-webcast
- **CPE** – CPE certificates will be emailed to you within the next few weeks. To receive CPE credit you must respond to the polling questions, which are not available on mobile devices. Therefore, in order to receive CPE credit you must log in via a computer.
- **Recording** – A recording of today's webcast will be available at capincrouse.com. Click **Nonprofit Resources**, and then select **Webcast: Recorded** from the list on the right.



Developing Gift Acceptance Policies for Charitable Planned Gifts

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Agenda

- Introduction
- Bequests
- Life Insurance Gifts
- Charitable Gift Annuities
- Charitable Trusts
- Remainder Interests in Personal Residences/Farms

Introduction

- Why have a gift acceptance policy?
 - Sets donor expectations
 - Reduces likelihood of a misunderstanding
 - Guides staff in donor communications
 - Helps to foster consistency
 - Provides for the orderly acceptance of complex gifts
 - Addresses gift circumstances before they arise
 - Sets a policy framework for addressing the unexpected/unknown

Introduction

- A gift acceptance policy should:
 - Restate your mission in the context of gift acceptance
 - State the purpose of the gift acceptance policy

From Carnegie Mellon University's Gift Acceptance Policy

The purpose of the Gift Acceptance, Counting, and Reporting Policy is to provide a set of standards by which gifts are reviewed, accepted, recorded, and receipted by Carnegie Mellon University. The policy applies to all gifts of private support received by the university, including units, programs, and centers. This policy focuses on Advancement reporting, not financial accounting and reporting.

Introduction

- A gift acceptance policy should: (continued)
 - Communicate to donors that they should be represented by their own legal counsel
 - State that your organization cannot provide legal or tax advice
 - State that the donor should pay for his or her own legal counsel
 - If you allow an exception to this, the inherent conflict of interest should be addressed
 - The tax reporting of any legal fees paid by your organization should be addressed

Introduction

- A gift acceptance policy should: (continued)
 - Communicate to donors that they should be represented by their own legal counsel (continued)

From Rotary International's Gift Acceptance Policy

Donor's Use of Legal Counsel

It is the donor's responsibility to retain appropriate independent tax and legal counsel in these transactions. Before signing gift agreements, such as gifts of partial interests, charitable gift annuities, charitable remainder trusts, and charitable lead trusts, counsel for the donor will be given the opportunity to review and approve the documents.

From Carnegie Mellon University's Gift Acceptance Policy

- e. No employee of the university shall provide financial planning services for any donor. Prospective donors should be encouraged to seek the assistance of their own financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. Further, to avoid conflicts of interest or the appearance of improper influence, the university shall not pay legal or other fees for the preparation of a donor's will or living trust that names the university as a beneficiary.

Introduction

- A gift acceptance policy should: (continued)
 - Specify when your organization will engage legal counsel
 - This could depend on the type of property that is the subject of the gift, the type of gift (current vs. planned gift), the nature of a restriction, the amount of the gift, etc.

From Rotary International's Gift Acceptance Policy

The Rotary Foundation's Use of Legal Counsel

Split-interest gifts and outright gifts of assets other than cash or publicly traded securities will be reviewed in advance by Rotary International's Office of the General Counsel. Under certain circumstances, the Office of the General Counsel will retain outside legal counsel to assist with the evaluation of potential gifts.

Introduction

- A gift acceptance policy should: (continued)
 - Specify when your organization will engage legal counsel (continued)

From Lancaster General Health Foundation's Gift Acceptance Policy

II. Involvement of Legal Counsel

The LGHF office shall seek the advice of legal counsel in matters relating to acceptance of gifts where appropriate. LGHF will also strongly urge and advise the donor to seek independent professional counsel prior to making a gift. Involvement by legal counsel is recommended for:

- Review of closely-held stock transfers that are subject to restrictions or buy-sell agreements;
- Review of documents naming LG Health as Trustee;
- Review of all gifts involving contract, such as bargain sales, real estate transfers, or other documents requiring LG Health to assume an obligation;
- Review of all transactions with potential conflict of interest that may invoke IRS sanctions; and
- Such other instances in which use of counsel is deemed appropriate.

Introduction

- A gift acceptance policy should: (continued)
 - Describe your policy with respect to restricted gifts
 - For example, when a restriction requires board approval
 - Specify the use of written gift agreements where appropriate

From Carnegie Mellon University's Gift Acceptance Policy

- i. A gift agreement documents the mutual understanding between a donor and the university in relation to the donor's charitable contribution. A formal gift agreement is generally required for new obligations entered into by the university, both for multi-year commitments and outright gifts of \$20,000 or more. Examples include, but are not limited to: new endowed funds; new and/or newly named physical spaces (e.g., building, facility, or portion thereof); and new and/or newly named academic units, programs, or centers. In general, the terms of any gift should be as flexible as possible to permit the most productive use of the funds over time, while clearly stating the intent of the donor.

Introduction

- A gift acceptance policy should: (continued)
 - Describe how gifts will be counted for progress toward a fundraising goal, purposes of naming opportunities, and other similar purposes

From Lancaster General Health Foundation's Gift Acceptance Policy

Real Estate and Personal Property: LGHF will credit major gifts of real estate and personal property at full fair-market value placed upon them by an independent appraiser, usually contracted and paid for by the donor. Should the real estate or personal property be sold, losses or gains will not affect the value credited upon receipt of the property.

Introduction

- A gift acceptance policy should: (continued)
 - Describe the types of gifts you will accept, including which planned gifts
 - You may also choose to include a list of unacceptable gifts

From Carnegie Mellon University's Gift Acceptance Policy

- a. The university will make every effort to accommodate and accept all charitable contributions from donors. However, it will not accept gifts that:
 - i. Violate the terms of this policy;
 - ii. Violate a federal, state, or other law;
 - iii. Are too difficult or expensive to administer;
 - iv. Could create unacceptable liability or cause the university to incur future unanticipated or anticipated expenses;
 - v. Are for purposes that do not further the university's mission;
 - vi. Could damage the reputation of the university;
 - vii. Would jeopardize the university's tax-exempt status; or
 - viii. Provide a donor with goods or services of financial value in exchange for the donor's gift, unless such value is fully disclosed in the time and manner as required under federal and state law and regulations.

Introduction

- A gift acceptance policy should: (continued)
 - Describe any external reporting requirements
 - E.g., completing IRS Form 8283; issuing Forms 1099-R for charitable gift annuities
 - State your policy regarding appraising property for which the donor will require an appraisal to substantiate the donor's gift
 - Describe roles and responsibilities with respect to gift administration

Introduction

- Adopting a gift acceptance policy
 - Management should prepare and recommend a gift acceptance policy to the governing board
 - The governing board should review and adopt the gift acceptance policy

Bequests

- Source of bequest language

From Carnegie Mellon University's Gift Acceptance Policy

- c. University employees may provide donors with suggested bequest language or assistance with other language pertaining to gift designation within the university.

- How is a bequest counted?

From Lancaster General Health Foundation's Gift Acceptance Policy

goal, but will be tracked separately. **Bequests intentions shall be counted at the full and net present value in campaign totals if: the donor is age 65 or older; the commitment is for a single life, or if double life, the second donor also conforms to the age limitation; and the will states a specified amount of percentage of the estate based on a credible estimate of future value of the estate.** In general, deferred gifts made to campaigns are not eligible for named or plaqued spaces unless these gifts are irrevocable. (Sample Irrevocable **Bequest** Pledge documents for couples and individuals are attached as Appendix D.)

Bequests

- Honoring bequest intentions

From Carnegie Mellon University's Gift Acceptance Policy

- e. Bequest Intentions
 - i. The university will accept and retain documentation of bequest intentions regardless of revocability or the age of the donor.
 - ii. The Office of Gift Planning is responsible for developing guidelines on how such intentions will be counted and recognized in University Advancement's database of record based on factors such as the revocability of the gift and the age of the donor.

- Accepting bequeathed assets

From Rotary International's Gift Acceptance Policy

Legacy Gifts (bequests)

A legacy gift to the Foundation is a gift made in the donor's will, revocable trust, or a similar estate planning document that effects a transfer at death. Popular designations that benefit the Foundation include a gift of a specific amount, a percentage of the estate, or the remainder of an estate.

Direct, unencumbered gifts will be accepted by the Foundation if the underlying assets are in conformity with the guidelines set forth in Section VI.A of this Policy, "Outright Gifts."

Donors are encouraged to notify the Foundation when considering a bequest in order to ensure that it meets the criteria set forth in this Policy.

Life Insurance

- Named as beneficiary of a life insurance policy

From Carnegie Mellon University's Gift Acceptance Policy

- i. The university may accept a designation as beneficiary or owner of a life insurance policy.

From Rotary International's Gift Acceptance Policy

The Foundation will accept any funds 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 are required.

- Who will pay premiums?

From Carnegie Mellon University's Gift Acceptance Policy

- ii. The university will not accept policies where the university is obligated to make any future premium payments unless the donor commits to making annual gifts to cover such payments and/or understands that the university may unilaterally exercise its right to surrender the policy for its cash surrender value.

Life Insurance

- Other policy acceptance criteria

From Rotary International's Gift Acceptance Policy

If the policy to be gifted is fully paid as of the date of the gift:

- The policy must have a minimum face value of \$1,000
- The life expectancy of the insured must be less than 15 years, as determined actuarially
- The Foundation must have the ability to liquidate the policy for cash value net of any liquidation charges
- The policy must be free of loans when the Foundation takes ownership

If the policy to be gifted is not fully paid as of the date of the gift, and the donor requests that the Foundation make the premium payments on the donor's behalf:

- The policy must have a minimum face value of \$5,000
- The life expectancy of the insured must be less than 15 years, as determined actuarially
- The Foundation must have the ability to liquidate the policy for cash value net of any liquidation charges
- The policy must be free of loans when the Foundation takes ownership
- The donor must agree to forward contributions to the Foundation in amounts equal to the cost of corresponding periodic premium payments
- The amount of the periodic premium must be more than \$200

Life Insurance

- Other policy acceptance criteria (continued)

From Rotary International's Gift Acceptance Policy

If the policy to be gifted is not fully paid and the donor will pay future owed premiums directly to the insurance company until the policy is fully paid:

- The policy must have a minimum face value of \$1,000
- The life expectancy of the insured must be less than 15 years as determined actuarially
- The Foundation must have the ability to liquidate the policy for cash value net of any liquidation charges
- The policy must be free of loans when the Foundation takes ownership

From Lancaster General Health Foundation's Gift Acceptance Policy

6. Life Insurance: A gift of whole life insurance can be made to LG Health by naming "Lancaster General Hospital" as the irrevocable owner and beneficiary of the policy. The gift should be valued at its interpolated terminal reserve value or cash surrender value, upon receipt. The policy can either be paid-up, or, if not paid-up as of the date of the gift, has a minimum face value of \$100,000. Gifts of life insurance policies require charitable contributions from the donor to LG Health in the amount of any premiums, including unscheduled premiums, which may become due. If the donor contributes future premium payments, LGHF will include the entire amount of the additional premium payments as a gift in the year that they are made. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, LG Health may continue to pay the premiums; convert the policy to paid-up insurance; or surrender the policy for current cash value.

Life Insurance

- Will you accept ownership of term life policies?
 - Is a term life policy eligible for counting in a campaign?
- Counting life insurance gifts

From Lancaster General Health Foundation's Gift Acceptance Policy

Life Insurance: Paid-up life insurance policies may be counted in a campaign in one of two ways: the cash surrender value, counted as a current outright gift; or the death benefit value, counted at both the face value and the discounted present value.

Charitable Gift Annuity

- Gift annuity rate

From Rotary International's Gift Acceptance Policy

The Foundation usually follows the annuity rates recommended by the American Council on Gift Annuities. The number of annuitants, their ages, and the date the payments begin determine the annuity rate. Generally, the longer the donor waits for the annuity to begin payment, the higher the annuity rate.

- Some states require use of the American Council on Gift Annuities annuity rates
- Using lower rates may be appropriate for noncash gifts where there are costs of sale; or in other instances where the published rate is inappropriate

From Carnegie Mellon University's Gift Acceptance Policy

- iv. The university will follow the gift annuity rates suggested by the American Council on Gift Annuities (ACGA). However, for ages where the suggested ACGA rate is significantly higher than the rate of return on the university's gift annuity pool, donors may be asked to accept a rate lower than the suggested ACGA rate in order to maximize the residuum.

Charitable Gift Annuity

- Minimum funding gift/age of annuitant

From Rotary International's Gift Acceptance Policy

There is a maximum of two annuitants for each annuity, and they must be at least 50 years of age at the time of the gift. The minimum amount required to establish a gift annuity is \$10,000. The charitable receipt for tax purposes is based on IRS calculations that determine the probable amount that will benefit Foundation programs and is less than the face value of the gift.

From Lancaster General Health Foundation's Gift Acceptance Policy

2. Charitable Gift Annuities: LG Health may offer charitable gift annuities. The minimum gift for funding is \$10,000. The minimum age for life income beneficiaries is 55. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries is 45. No more than two life income beneficiaries will be permitted for any gift annuity. Charitable gift annuities of \$1,000,000 or greater must be approved by the LG Health CFO. Annuity payments may be made on a quarterly,

From The University of Arizona Foundation's Gift Acceptance Policy

Current and deferred charitable gift annuities may be established with at least \$20,000. Additional gift annuities may be established with at least \$10,000. Under IRS regulations, there may be no more than two annuitants. Each beneficiary should be at least 65 years old at the time the gift annuity is funded or, in the case of a deferred annuity, at the time the annuity is to start. Gift annuity payments are made on the first day of each payment

Charitable Gift Annuity

- Acceptable funding assets

From Lancaster General Health Foundation's Gift Acceptance Policy

████████████████████ LG Health will not accept real estate, tangible personal property, or other illiquid assets in exchange for current charitable gift annuities.

████████████████████ LG Health may accept real estate, tangible personal, or other illiquid assets in exchange for deferred gift annuities so long as there is at least a 5-year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the CFO of LG Health approves the arrangement.

Charitable Gift Annuity

- Fees

From The University of Arizona Foundation's Gift Acceptance Policy

Life income gifts received after December 13, 2005: Each gift, regardless of its type/form, will bear a 1 percent annual fee assessed on the last day of each calendar quarter in which that gift has a fair value during such quarter. This will allow the Foundation to recover (i) the external cost of investment administration and (ii) the costs incurred by the Office of Financial Services (oversight, accounting, and audit) and Gift Planning (gift procurement and ongoing stewardship). In addition, each gift annuity agreement will also bear a 5 percent fee upon termination, with such fees to be used solely to build a gift annuity reserve fund. Such a reserve fund will help protect the Foundation should any gift annuity agreement result in a loss to the Foundation's Unrestricted Fund.

Charitable Gift Annuity

- Other matters
 - Disclaimer regarding CGA illustrations prepared during the discussion process
 - Disclaimer regarding tax advice on charitable deduction computations
 - Consider including a brief educational summary of a CGA

Charitable Trusts

- Minimum funding

From The University of Arizona Foundation's Gift Acceptance Policy

[REDACTED] The minimum amount needed to fund a unitrust or an annuity trust is \$100,000. An exception to the minimum funding threshold is to allow charitable remainder annuity trusts to be established for \$25,000 in states where the University of Arizona Foundation is not registered to issue charitable gift annuities. [REDACTED]

From Rotary International's Gift Acceptance Policy

The Foundation may serve as trustee of a charitable remainder trust to which the initial contribution is at least \$100,000 and in which the Foundation is named as the sole charitable beneficiary. If the income

Charitable Trusts

- **Maximum term/Number of beneficiaries**

From The University of Arizona Foundation's Gift Acceptance Policy

The expected horizon of a charitable remainder trust at the time it is established should not exceed 35 years. Charitable remainder trusts shall have no more than five (5) total income beneficiaries. Charitable remainder annuity trusts shall have an expected net present value equal to at least 35 percent of the initial funding amount of the trust. Net

From Rotary International's Gift Acceptance Policy

at least \$100,000 and in which the Foundation is named as the sole charitable beneficiary. If the income interest is for life, the beneficiary or beneficiaries must be at least 50 years of age, and there may be no more than two beneficiaries. The value of the charitable contribution for tax purposes is based on IRS calculation

Charitable Trusts

- **Serving as Trustee**

- **Will your organization serve as trustee or co-trustee?**

From Carnegie Mellon University's Gift Acceptance Policy

iii. The university may serve as trustee of a charitable remainder trust provided it is named irrevocably as a beneficiary of at least 50% of the remainder and that the university's required minimum value of the trust is met.

From Rotary International's Gift Acceptance Policy

The Foundation may serve as trustee of a charitable remainder trust to which the initial contribution is at least \$100,000 and in which the Foundation is named as the sole charitable beneficiary. If the income interest is for life, the beneficiary or beneficiaries must be at least 50 years of age, and there may be no more than two beneficiaries.

From The University of Arizona Foundation's Gift Acceptance Policy

The Foundation will agree to serve as trustee of a planned gift as long as the terms and conditions outlined in these policies are met. The decision to accept the trusteeship or successor trusteeship of a planned gift shall be subject to the approval of the Office of Gift Planning, according to the terms and conditions outlined in this policy document.

The Foundation will agree to serve as the trustee of a charitable remainder trust so long as it is named a 50 percent or more remainderman of the trust.

Charitable Trusts

- Serving as Trustee (continued)
 - Will your organization serve as trustee or co-trustee?

From Carnegie Mellon University's Gift Acceptance Policy

- iii. Due to the potential for liability, the university may accept an appointment as trustee of a charitable lead trust only upon review of all relevant circumstances and approval by the Vice President for University Advancement, the university Treasurer, the Chief Investment Officer, and the Office of the General Counsel.

From Lancaster General Health Foundation's Gift Acceptance Policy

██ LG Health may accept a designation as Income Beneficiary of a charitable lead trust but will not accept appointment as Trustee of a charitable lead trust.

From Rotary International's Gift Acceptance Policy

The Foundation may serve as trustee of a charitable lead trust to which the initial contribution is at least \$100,000, and the trust term may be at the discretion of the donor, subject to approval by the Foundation where the Foundation acts as trustee.

Charitable Trusts

- Serving as Trustee (continued)
 - Will your organization serve as trustee or co-trustee?

From The University of Arizona Foundation's Gift Acceptance Policy

If a donor wishes to direct or restrict the investment of a trust's assets, the donor should be encouraged to serve as his or her own trustee or to secure the services of another trustee or administrator. The Foundation will not serve as co-trustee of a trust with a donor.

Charitable Trusts

- Drafting of trusts

From The University of Arizona Foundation's Gift Acceptance Policy

Drafting and review of documents. The Foundation's Office of Gift Planning shall be responsible for preparing any trust agreements for which it will serve as trustee. If the donor has his or her own attorney prepare the document, the Foundation's Office of Gift Planning shall review the document before the gift is accepted. [REDACTED]

Charitable Trusts

- Other matters

- Consider including a brief educational summary of the types of charitable trusts
- Disclaimer regarding charitable trust illustrations prepared during the discussion process
- Disclaimer regarding tax advice on charitable deduction computations

Remainder Interest Gifts

- **Responsibility for maintenance**

From Lancaster General Health Foundation's Gift Acceptance Policy

5. Remainder Interests in Property: LGHF will accept a remainder interest in a personal residence, farm or vacation home subject to the provisions of Paragraph 4 above. 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, LGHF may use the property or reduce it to cash. Where LGHF 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.

- **Other Matters**

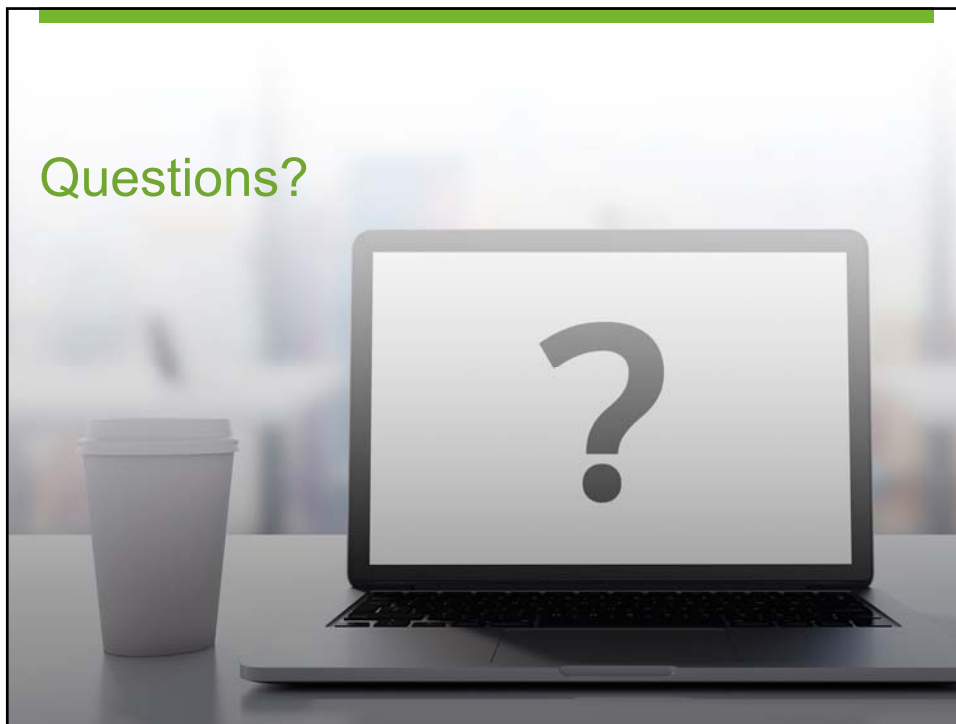
- Include responsibility for maintaining insurance
 - May want to have your organization receive copies of premium notices
- Right of entry and inspection
- Right to approve alterations or improvements

Remainder Interest Gifts

- **Other matters (continued)**

- Disclaimer regarding remainder interest illustrations prepared during the discussion process
- Disclaimer regarding tax advice on charitable deduction computations

Questions?



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**How New FASB Rules
Affect Form 990
Reporting**

October 25

1 p.m. Eastern

Presented by: Dave Moja

**Unrelated Business Activity
Update**

November 15

1 p.m. Eastern

Presented by: Dave Moja





Thank You

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