



GIFT ACCEPTANCE POLICY

The George W. Bush Foundation

The George W. Bush Foundation (“Foundation”), a 501(c)(3) not-for-profit organization, is organized for the purposes of endowing a Presidential archival depository; to maintain a fund or funds of real or personal property, or both; and to raise, expend, or distribute the whole or any part of the income or principal thereof exclusively for the promotion or operation of the George W. Bush Presidential Library and Museum and the George W. Bush Institute (collectively known as the George W. Bush Presidential Center or the Bush Center”), and to perform any other, charitable, scientific, literary, or educational activities that promote the Bush Center. The Foundation pledges all of its assets for use in performing these purposes.

The Foundation’s responsibilities include the management and administration of contributions received on behalf of the Bush Center. The Foundation is responsible for:

- a. The management and administration of all bequests, estates, trust arrangements, and endowments in which the Bush Center or the Foundation is the intended beneficiary;
- b. Investment of all funds and securities;
- c. Accounting and reporting for individual gift accounts;
- d. Internal valuation of gifts for Internal Revenue Service and State reporting purposes;
- e. Compliance with Federal and State laws and regulations regarding said contributions; and
- f. Acceptance, management, and sale of gifts of real and personal property.

The Foundation respects and values that philanthropy is based on voluntary action for the common good and fully supports the Donor Bill of Rights shown as Appendix A to this document.

Purpose of Policies and Guidelines

The George W. Bush Foundation and its staff encourage and solicit current and deferred gifts from individuals, corporations, and foundations to secure the future growth, sustainability, and mission of the George W. Bush Presidential Center. It is the purpose of these policies and guidelines to govern the acceptance of gifts by the Foundation and to provide guidance to prospective donors (and their advisors) when making gifts designated to the Foundation.

Use of Legal Counsel

The Foundation shall seek the advice of the Bush Center's Legal Counsel in matters relating to the acceptance of gifts when appropriate. Review by the Bush Center's Legal Counsel is recommended for such matters as:

- a. Closely held stock transfers that are subject to restrictions or buy-sell agreements;
- b. Documents or Gift Agreements naming the Foundation as Trustee;
- c. Gifts involving contracts, or other documents, requiring the Foundation to assume obligation;
- d. Transactions with potential conflict of interest that may invoke IRS sanctions (including any transaction to which a board member is a party); and
- e. Any other instances in which use of counsel is deemed appropriate by Foundation leadership.

Conflict of Interest

The Foundation does not provide legal advice to prospective donors. It is the sole responsibility of the donor, when appropriate, to seek the assistance of personal legal and financial advisors to guide their decisions in matters relating to their gifts and the resulting tax and estate planning consequences. For its part, the Foundation will comply with the Model Standards of Practice for the Charitable Gift Planner promulgated by the Partnership for Philanthropic Planning (formerly the National Committee on Planned Giving), shown as Appendix A (The Donor Bill of Rights) to this document.

Gifts Defined

A gift is defined as a voluntary transfer of assets from a person or 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 gift is motivated by charitable intent.
- 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 the gift may be issued at the Foundation's discretion, less any out-of-pocket expenses.
- 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.
- A period of performance is not specified.

- Generally, 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 requested by the donor. However, donors to named endowment funds will receive an annual statement of activities reflecting endowment fund financial performance.
- Generally, funds received from individuals, closely held corporations and family foundations will be classified as a gift. Funds received from corporations, corporate foundations and major foundations are classified as gifts unless the grant requires performance or other consideration.

Gift Designations

A gift may be either unrestricted or restricted to a general area of use that contributes to the benefit of the Bush Center. 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), the Foundation may consult with Board leadership and Legal Counsel, 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 Bush Center 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 Bush Center and its individual programs.

The Foundation's policy to establish and manage endowment funds is shown as Appendix B to this 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 IRS Publication 1771 for the deduction of charitable gifts by individual donors.

Types of Gifts

- Cash
- Tangible Personal Property
- Securities
- Deferred Gifts
- Designating the Foundation as a Beneficiary
- Bequests
- Real Estate
- Life Insurance
- Retirement Plan Beneficiary Designations
- Split Interest Agreements
 - Charitable Gift Annuities
 - Charitable Remainder Trusts
 - Charitable Lead Trusts
 - Pooled Income Funds
 - Perpetual Trusts
- Oil, Gas, Mineral Interests and other Real Assets

Cash – Cash is acceptable in any form. Checks shall be made payable to The George W. Bush Foundation.

Tangible Personal Property – All other gifts of tangible personal property (art, coins, equipment, cars, etc.) shall be examined in light of the following criteria:

- Does the property fulfill the mission of the Foundation?
- Is the property marketable?
- Are there any undue restrictions on the use, display, or sale of the property?

The Board of Directors of the Foundation shall make the final determination on the acceptance of other tangible property gifts. Every effort will be made to sell all gifts of tangible property as soon as possible.

Securities – The Foundation can accept both publicly traded securities and closely held securities (subject to Gift Acceptance Committee review).

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 Chief Financial Officer and Legal Counsel. It is recommended that prospective donors (or their legal/financial representative), who are considering gifts to the Foundation that will take effect at the donor’s death, consult with the Foundation’s Vice President of Development and Chief Financial Officer regarding how to properly designate the gift and to discuss any trust or bequest restriction that is being considered.

Designating the Foundation as Beneficiary – 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 management, in which case, prior review and approval by the Foundation is required.

Bequests – Direct, unencumbered bequests shall be accepted by the Foundation if the underlying assets are in conformity with the guidelines set forth in the ‘Gifts Defined’ section of this Policy. 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.

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.

Donors should be encouraged to notify the Foundation when considering a bequest in order to ensure that the assets left to the Foundation meet the criteria set forth in this Policy and to discuss an restriction that is being considered.

Real Estate – Gifts of real estate may include developed property or undeveloped property. Prior to acceptance of real estate, the Foundation shall require an initial environmental review of the property. In the event that the initial inspection reveals a potential problem, the Foundation shall retain a qualified inspection firm to conduct an environmental audit. Costs of the audit shall be an expense of the donor unless an exception is approved by the Foundation’s leadership.

The Foundation will make the determination to hold or sell the accepted real estate. When appropriate, a title binder shall be obtained by the Foundation prior to the acceptance of the real property gift. The cost of the title binder shall generally be an expense of the donor.

Prior to the acceptance of the real property, the gift shall be approved by the Gift Acceptance Committee in coordination with the Development Committee.

Life Insurance Policies - 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 life insurance policy.

Guidelines:

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

1. The policy is paid-up or, if not paid-up as of the date of the gift:
 - a. has a minimum face value of \$100,000;
 - b. 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
 - c. 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 the pledge payments scheduled so as to equal or exceed each policy premium payment as that payment becomes due. This written pledge agreement 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 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 within ninety days of the date the gift agreement is approved and accepted.

Retirement Plan Beneficiary Designations - Donors and supporters of the Bush Center will be encouraged to name the Foundation as beneficiary of their retirement plans. Such designations will not be recorded as gifts until such time as the gift is irrevocable.

Charitable Gift Annuities – Charitable gift annuities may be arranged with the Foundation as recipient of the remaining principal after payments have terminated.

Charitable Remainder Trusts - The Foundation may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the Gift Acceptance Committee. Consisting of the Vice President of Development, the Foundation’s Legal Counsel and its Chief Financial Officer. The Foundation will not accept appointment as trustee of a charitable remainder trust.

Charitable Lead Trusts - The Foundation may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the Gift Acceptance Committee. The Foundation will not accept appointment as trustee of a charitable remainder trust.

Pooled Income Funds – The Foundation will accept donations from a pooled income fund where the Foundation is a named beneficiary beneficiary, but will not act as administrator.

Oil, Gas, Mineral Interests, and other Real Assets - The Foundation may accept oil and gas property interests, when appropriate and would encourage the owners of such to liquidate the interests and give funds directly to the Foundation. Prior to acceptance of an oil and gas interest the gift shall be approved by the Gift Acceptance Committee.

Guidelines

Criteria/guidelines for acceptance of the property shall include:

1. Gifts of surface rights should have a value of \$20,000 or greater.
2. Gifts of oil, gas, and mineral interests should generate at least \$5,000 per year in royalties or other income (as determined by the average of the three years prior to the gift).
3. The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate.
4. 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.
5. The property should undergo an environmental review to ensure that the Foundation has no current or potential exposure to environmental liability.

Gifts that fall outside this policy i.e., do not fall into any category noted above, will be considered by the Gift Acceptance Committee on a case-by-case basis and subject to acceptance by the Foundation's Board of Directors.

Policy Effective Date

The Gift Acceptance Policy was adopted March 8, 2017, 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.

Policy Amendment and Review

Responsibility for review of the recommended amendments to the Policy shall be that of the Development Committee of the Foundation. This Policy shall be reviewed periodically by the Development Committee. To amend the Policy, a written amendment shall be prepared by the Development Committee and submitted to the Board of Directors for review and approval.

Additionally, the President / CEO of the Foundation 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 regulations promulgated thereunder, or other applicable state or federal laws as of the effective date of change. The Foundation President / CEO shall provide notification to the Development Committee explaining the reason for any change to this Policy. The Foundation President / CEO shall also submit any changes or amendments for approval at the next meeting of the Development Committee of the Foundation Board.

APPENDIX A

The Donor Bill of Rights

PREAMBLE

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fundraising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent. This statement recognizes that the solicitation, planning, and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and as such often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

I. PRIMACY OF PHILANTHROPIC MOTIVATION

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. EXPLANATION OF TAX IMPLICATIONS

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. FULL DISCLOSURE

It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. COMPENSATION

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finders fees, commissions, or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift are never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

V. COMPETENCE AND PROFESSIONALISM

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact, and mutual respect.

VI. CONSULTATION WITH INDEPENDENT ADVISORS

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisors of the donor's choice.

VII. CONSULTATION WITH CHARITIES

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donor organization, the Gift Planners, in order to ensure that the gift will accomplish the donor's objectives, should encourage the donor, early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planners shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

VIII. DESCRIPTION AND REPRESENTATION OF GIFT

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

IX. FULL COMPLIANCE

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. PUBLIC TRUST

Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity, and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities, May 7, 1991. Revised April 1999.

APPENDIX B

ENDOWMENT GIFT POLICY

The George W. Bush Foundation

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This Endowment Policy was adopted by and approved by the Board of Directors at its duly noticed meeting on November 16, 2016.

I. Purpose of Endowment Policy

The George W. Bush Foundation (“the Foundation”) establishes and manages endowment funds. The objective is to ensure that each donor’s contribution fulfills the donor’s intent while complying with the accounting and law requirements as well as the Foundation’s policies as approved by the Board of Directors.

The endowment funds help to assure the long-range financial security of the Foundation and the George W. Bush Presidential Center. Because it is critical to maintain the highest standards of stewardship over a longtime horizon, and in consideration of the generosity and commitment from our donors, the Endowment Policy is revised from time to time. This assists to avoid unforeseen issues for these long-term holdings and allows the Foundation to fulfill its promise to the donor to manage funds wisely.

In addition, endowment funds often span many generations and as times, society, and financial markets change, it is important to review and realign policy. A donor may establish a named endowment fund by providing pledged gifts over time totaling \$25,000 or more, provided that the time period does not exceed five years. A donor may give an endowment gift or pledge of any size to the unrestricted general operating endowment fund or to one of three Impact Center restricted endowment funds.

Endowment funds are comprised of special asset classes held by the Foundation. The terms for these asset classes may vary based on whether the classes are described in the Texas Uniform Prudent Management of Institutional Funds Act (“TUPMIFA”) or in Accounting Principles Generally Accepted in the United States of America (“US GAAP”). Both accounting requirements and legal rules govern the endowment funds. Asset classes are described below in Section IV.

II. Assets covered by the Endowment Policy

Texas adopted revised rules governing institutional funds in 2007, effective as of September 1, 2007, for existing and new funds, referred to generally as TUPMIFA. Endowment funds are one type of institutional funds to be governed by this law. An endowment fund is one that, under terms of a gift instrument or agreement, is not wholly expendable on a current basis. This provides for permanent and term endowments as defined in Section IV below.

Certain assets are specifically excluded from the definition of institutional funds, and therefore are not endowment funds: program-related assets (assets used in the charitable program), funds held by a third-party trustee (aside from another institution or another charity), and a fund where a beneficiary (not an institution) holds an interest, such as a charitable remainder trust while the income beneficiary is still receiving payments. Consequently, these three classes will not be affected by this endowment policy.

All other types of funds described in Section IV are covered by this policy.

III. Alignment with UPMIFA and GAAP Guidelines

This policy is intended to comply with and be administered under the UPMIFA rules as provided in the Texas Property Code § 163.005(g) (2010). These provisions specifically provide for management and investing of the funds as well as appropriation (spending) or accumulation. They also provide mechanisms for modification of funds where necessary.

GAAP rules are followed consistently in order to comply with audit requirements for financial statements.

IV. Terminology and Definitions

Permanent Endowments

Assets held as endowment funds vary by classification. Permanent endowments are “permanently restricted funds,” better known in common parlance as “true endowment,” which means the donor has set forth specific restrictions to last in perpetuity.

Term or Temporary Endowments

Temporarily restricted funds means the donor has restricted the funds in some temporal manner. Thus, an endowment fund may be designed to last for a set number of years, and then released to become an unrestricted fund. In other provisions, the donor may allow interest, gain, and principal to be appropriated, or amortized, over time until the fund is fully expended. A third usage of temporary restriction is to restrict not only the fund to endowment, but also its distribution to a specific use or program.

Quasi-Endowment

Quasi-endowment, or the accounting term “funds functioning as endowment,” means that the Foundation imposed a restriction upon itself, calling a fund a quasi-endowment. However, UPMIFA and GAAP rules specifically state that the term endowment fund does not include assets an institution designates as endowment for its own use. Consequently, quasi-endowment funds are actually unrestricted funds the Foundation chooses to treat as an endowment.

V. Investment of Endowment Funds

All types of endowment funds, including quasi-endowments, will be invested in accordance with the Foundation’s approved Investment Policy Statement.

In accordance with standards required by UPMIFA, subject to the intent of the donor expressed in a gift instrument, and in compliance with the Foundation’s duty of loyalty expressed in UPMIFA, the endowment funds will be managed and invested in good faith and with the care an ordinarily prudent person would exercise in similar circumstances.

Gifts intended for endowment that are non-income producing in-kind or illiquid assets will be managed separately while illiquid. All illiquid assets designated to fund an endowment will be sold when the Foundation deems prudent, and the net proceeds after the sale will then be included in the endowment investment pool subject to the Investment Policy Statement. While illiquid or non-income producing, all assets will be valued annually to determine fair market value.

VI. Spending Policy

Purpose of Rule

The spending policy is part of the Investment Policy statement and governs the distributions from all endowment funds. The intent of the spending policy is three-fold: to achieve consistency with regard to all three types of endowment funds addressed in Section IV, to balance the expenditures in order to preserve the funds’ ability over time to support then-current activities, and to enhance the value of the funds to extend their benefits to future generations.

Components of Expenditure

In accordance with UPMIFA, it is lawful to provide for distributions from principal, gain, whether realized or unrealized, and income (dividends, interest, rents, royalties). The Foundation may appropriate or accumulate so much of the funds as it determines prudent for the uses, benefits, purposes, and duration of an endowment fund. To limit such authority to spend or accumulate, a donor must specifically state a limitation or restriction in the gift agreement. It is the intent of the spending policy to achieve consistency in the management of the numerous endowment funds, and therefore the Foundation will not encourage variations from its spending policy on a per donor basis.

Spending Rate

The distributable amount for payout each year is based on four and one-half percent (4.5%) of the average of the market values on December 31st for each of the three consecutive years (12 quarters) preceding the calendar year in which the payout is to be made. For new accounts, only those accounts showing funds on deposit for at least one full calendar year will be included in the average. This rate may be altered by a vote of the Board of Directors of the Foundation.

In general, the four and one-half percent (4.5%) amount distributable in accordance with the set spending rate will be composed first from realized total return, and if insufficient, from principal, unless principal usage is specifically prohibited by a donor's written direction. Income and gain in excess of the distributable amount as defined in this spending policy shall be added back to the fund to be reinvested for growth and to preserve and enhance the value of the fund. The reinvested amounts will be identified as spending reserves and to the extent that a current year's investment total return is insufficient to meet the spending rate, the reserves may be drawn upon for distribution.

For quasi-endowments, the reserve will be added to principal of the fund and such enhanced principal will be expendable in accordance with the true endowment spending policy or the governing resolution of the quasi-endowment fund, if any, or the direction of the Board of Directors.

Illiquid Assets Held as Endowment

No distribution will be made from illiquid and non-income producing assets held in endowment until the assets are liquidated, are added to the endowment investment pool, and therefore become income producing. However, if illiquid assets are producing net income after administrative expenses, distributions may be made from the income of the asset.

Income earned on illiquid assets held as endowment may be distributed in accordance with a donor's expressed, written intent in the gift agreement, or by approval of the Board of Directors if no intent was expressed by the donor in the gift agreement.

Gifts Received from the Proceeds of Estates

A donor may name the Foundation as a beneficiary under their will. If the gift is not part of a designated planned gift and is unrestricted as to purpose and the gift is greater than the threshold amount of \$25,000, the Foundation Board will designate the gift as quasi-endowment.

VII. Assessment of Fees

Fees Assessed

All endowment accounts in the endowment pool are subject to fees assessed annually at the rate of 1.00% of the market value of the endowment account. The fees are charged to provide for the endowment operation and infrastructure support necessary to sustain the endowment and its purposes. The assessed fee shall be a priority distribution and shall be distributed to the general operating fund of the Foundation. The Foundation may take up to 10% of an endowment gift for unrestricted use for operational purposes. This operational funding will support the immediate needs of the Foundation while long-term endowment funds appreciate.

Illiquid Assets

Illiquid and non-income producing assets that are not yet part of the endowment investment pool are not subject to this fee assessment, unless the Foundation determines this fee is needed to cover administrative support for such an asset.

VIII. Administration of New Funds

New Accounts and Endowments Pledged Over Time

All new named endowment fund accounts will be required to exceed the \$25,000 threshold amount. Endowments created prior to the adoption of this policy will be “grandfathered” and not subject to the new threshold requirement. All pledged named endowment fund accounts being funded over time will be operated as an endowment, unless expressly provided in the gift agreement.

IX. Modification or Termination of a Fund

In General

The Foundation may seek to modify a restricted gift if the restriction has become unlawful, impracticable, impossible to achieve, or wasteful. Such modification or release of restriction shall be done in a manner consistent with the provisions of UPMIFA. If the donor is alive, the Foundation will seek written consent of the donor to modify or release the restriction on the fund. With the donor’s written consent, the Foundation may modify or release a restriction without court approval.

If the donor is not available to provide written consent, a restriction may be modified upon petition to court.

Endowments with No Further Purpose; Unusable Funds

Where the stated purpose or use of the fund, or the investment or management of the fund, as provided in the gift instrument, is no longer achievable due to it being unlawful, impracticable, impossible to achieve, or wasteful, the Foundation may petition the court, with notice to the Texas Attorney General, to modify the purpose in a manner consistent with the stated purpose, or modify the investment to further the purpose of the fund.

Endowments with Insufficient Funds

Where the Foundation determines that a restriction in a gift instrument on investment, management or purpose is unlawful, impracticable, impossible to achieve, or wasteful, the Gift Acceptance Committee, in consultation with the Board of Directors, will review the relevant facts in conjunction with the permissible modification options under Texas Property Code Section 163.007 (Release or Modification of Restrictions on Management Investment, or Purpose) and Texas Property Code Chapter 123 (Attorney General Participation in Proceedings Involving Charitable Trusts) to pursue the most appropriate legal option for restructuring the gift in order to allow the Foundation to use the funds in a manner as near as possible to the stated purpose or restriction.

Endowments Where Gift Agreement Allows for Modification

In some events, a donor may include an “escape clause” or a “cy pres” clause in the gift instrument, allowing the Board of Directors or its delegate to modify a stated purpose to determine another purpose as similar as possible that is usable by the Foundation. In these cases, the Foundation will not seek court approval as the gift agreement controls the modification.

Donor Conduct

In at any time the donor fails to conduct himself or herself without due regard to public morals and decency, or if the donor commits any act or becomes involved in any situation or occurrence tending to degrade the donor in the community, or which brings the donor into public contempt or scandal, or which materially and adversely affect the reputation of the business of the Foundation, whether or not information in regard thereto becomes public, the Foundation shall have the right to remove donor’s recognition rights as required pursuant to the related gift agreement.

X. Restatement of Endowment Policy

Responsibility for review of the recommended amendments to the Policy shall be that of the Development Committee of the Foundation's Board of Directors. This Policy shall be reviewed periodically by the Development Committee. To amend the Policy, a written amendment shall be prepared by the Development Committee and submitted to the Board of Directors for review and approval. Additionally, the President / CEO of the Foundation 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 regulations promulgated thereunder, or other applicable state or federal laws as of the effective date of change. The Foundation President / CEO shall provide notification to the Development Committee explaining the reason for any change to this Policy. The Foundation President / CEO shall also submit any changes or amendments for approval at the next regularly scheduled meeting of the Development Committee of the Foundation Board of Directors.