

## ***Policies and Procedures***

<b>SECTION:</b> <b>Financial</b>	<b>NO.</b> <b>3.1.27.</b>	
<b>CHAPTER:</b> <b>General</b>	<b>ISSUED:</b> 4/20/2021	<b>LAST REVISION DATE:</b>
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### **PURPOSE**

The purpose of this policy is to provide guidelines for evaluation of charitable gifts prior to acceptance by Creighton University.

### **POLICY**

This policy governs how proposed gifts to Creighton University are evaluated prior to acceptance. It is Creighton's policy that:

- A. All charitable gifts must be solicited or reviewed by University Relations or Development prior to acceptance by the University as referenced in University Policy 3.1.5.
- B. Any non-cash charitable gift, except publicly traded securities with an estimated fair market value of \$100,000 or greater will be reviewed by the Gift Acceptance Committee. The University also reserves the right to refer all gifts, including cash gifts or gifts of publicly traded securities, for review by the Gift Acceptance Committee when appropriate.
- C. This policy and associated procedures supersede and replace all previous versions, govern the acceptance of gifts by the University, provide guidance to prospective donors and their advisors and apply to all gifts received, for any purpose, by the University or any of its divisions or ancillary entities.
- D. Creighton University representatives will represent only the interests of the University and will not advise prospective donors on personal legal and financial matters relating to their contributions and the resulting tax and estate planning consequences.
- E. The University shall, from time to time, establish priorities for special projects or programs for which funding is sought.

### **DEFINITIONS**

#### **A. Definition of Charitable Contribution**

A charitable contribution is any voluntary transfer of assets from an individual, corporation, foundation or other organization to or for the use of a qualified charitable organization, like Creighton University, without the donor receiving, or expecting to receive, anything of equal value. Common forms of charitable gifts include, but are not limited to cash, securities, real property or personal property.

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### **PROCEDURE**

#### **A. General Gift Acceptance Guidelines**

1. In general, Creighton University will accept only gifts and grants from individuals, organizations or other sources that are consistent with its mission, educational values and Jesuit Catholic traditions. The University will not accept any gift that:
  - a. violates federal, state or local statute or ordinance, the University's Articles of Incorporation or By-laws;
  - b. creates a or supports a fund with restrictive clauses that could cause embarrassment to the University, or that reserves to the donor or his/her representative the right to designate the recipient;
  - c. contains a condition that requires any action on the part of the University that is in violation of University policy;
  - d. commits the University to name a building, facility, institute, center, or an endowment fund where the gift is potentially revocable in any way;
  - e. requires the University and its administration to employ a specified person at a future date;
  - f. contains unreasonable conditions (i.e. lien or other encumbrance) on gifts of partial interests and property;
  - g. requires tuition payments for a family member of the donor or directs the tuition payment to any designated person;
  - h. may expose the University to litigation or other liabilities;
  - i. requires the payment of material maintenance costs or other expenses or which require the University to assume burdensome administrative responsibilities for which no specific provision has been made with the donor;
  - j. will generate any undesirable tax consequences for the University; or
  - k. appears to be financially unsound.
  
2. Return of a Gift
 

The University may return a gift to the donor if the University determines that it could cause damage to Creighton's reputation, standing or integrity to be associated with a specific donor or to use a gift for its intended purpose. In this case, the disposition of the gift will be guided by Creighton's mission, educational values and

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Jesuit Catholic traditions and will depend on the specific circumstances of the case and any legal restrictions imposed by a gift agreement.

### 3. Redirection of a Gift

The University reserves the right to redirect a gift to another non-profit organization if the University determines that it could cause damage to Creighton's reputation, standing or integrity to be associated with a specific donor or to use a gift for its intended purpose. In this case, the disposition of the gift will be guided by Creighton's mission, educational values and Jesuit Catholic traditions, and will depend on the specific circumstances of the case and any legal restrictions imposed by a gift agreement.

### B. The Gift Acceptance Committee

1. The Gift Acceptance Committee is charged with the responsibility of reviewing all gifts submitted to it and making recommendations to the President and/or Board of Trustees on gift acceptance issues when appropriate.
2. The Committee shall consist of the following Creighton University employees:
  - a. Vice President for University Relations who also shall chair the committee;
  - b. General Counsel for the University, as ex-officio, non-voting member;
  - c. Executive Vice President for Operations or his or her designee;
  - d. Provost or his or her designee;
  - e. Associate Vice President for Finance;
  - f. Senior Director of Gift and Estate Planning  
Should the Senior Director of Gift and Estate Planning be unable to participate, the Assistant Vice President of Development shall serve in his/her place;
  - g. The Rector of the Creighton University Jesuit Community, or his designee;
  - h. One Dean from the University's Schools and Colleges selected by the Provost. If the gift in question shall impact the school or college represented by this Dean, said Dean shall recuse him/herself from the voting process;
  - i. The Dean of the School or College to which the gift is to be restricted, as appropriate, as a non-voting member;
  - j. A faculty member with expertise, demonstrated by scholarship and teaching, in ethics, which faculty member shall be appointed by the President; and

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- k. Such other members as may be appointed by the President. The President may appoint for specific gift agenda items any faculty or staff with expertise relevant to the particular gift.

### **C. Use of Legal Counsel**

1. Creighton University may seek the advice of outside legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is required for:
  - a. Closely held stock transfers, particularly those that are subject to restrictions or buy-sell agreements;
  - b. Gifts involving contracts, such as bargain sales or other documents requiring the University to assume an obligation;
  - c. Transactions with potential conflict of interest or which may conflict with IRS regulations;
  - d. Transactions involving interests in non-publicly traded securities, real estate, oil, gas and mineral interests and bargain sales; and
  - e. Other instances where deemed appropriate by the Gift Acceptance Committee.

### **D. Types of Acceptable Gifts**

Gifts accepted by Creighton University fall into two general categories: outright or deferred. The most common gifts to the University are outright gifts. Outright gifts come in many forms and in addition to cash gifts (cash, checks or credit card gifts), the University also accepts gifts including, but not limited to, gifts of securities, real property, and personal property.

Deferred gifts, often referred to as planned gifts, are arranged with the University during the donor's lifetime, but the benefits to the University do not accrue until a later date, usually after the death of the donor and/or his/her beneficiaries. Bequests are the most common deferred gift. Other such gifts include naming the University as the beneficiary of a life insurance policy, qualified retirement plan, charitable gift annuity or other life income agreement. The University has approved the gifts listed in Section E which are subject to the guidelines and policies set forth in this document and the established policies to be followed in the solicitation and acceptance of gifts and grants to the University. Gifts not addressed directly by this policy still are subject to the policy's general terms and

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conditions and will be evaluated on a case-by-case basis.

### **E. Outright Gifts**

#### **1. Cash, checks and credit cards**

In general, Creighton University accepts all gifts of cash, check or credit card.

#### **2. Non-Cash and In-Kind Gifts**

- a. Non-Cash gifts are non-monetary assets or property, often where the donor has agreed that the asset should be converted to cash for the benefit of the University. They can include stocks and securities, real estate, and other items requiring more than nominal effort to convert into cash.
- b. In-Kind Gifts are a subset of non-cash gifts, where the offered asset or property shall be used as presented. Specifically, these gifts could include computer hardware and software, analytical equipment, vehicles, library archive collections, musical instruments, and any material that the University may use in its educational mission.
- c. Additionally, and subject to the conditions and criteria outlined in this document, Creighton generally accepts gifts of the following:
  - i. Tangible Personal Property;
  - ii. Real Estate;
  - iii. Oil, Gas and Mineral Interests; and
  - iv. Bargain Sales.

### **F. Gift Acceptance Criteria by Outright Gift Type**

The following acceptance criteria shall guide the acceptance of each gift type:

1. **Cash:** Cash gifts are acceptable by cash, check or credit card. Checks shall be made payable to Creighton University. Proposed gifts that do not meet the general gift acceptance guidelines above either will not be accepted or will be referred to the Gift Acceptance Committee.
2. **Securities:** Creighton University generally accepts both publicly traded securities, including mutual funds, and closely held securities.
  - a. **Publicly traded securities:** Publicly traded securities generally can be accepted by the University without review by the Gift Acceptance Committee. Securities may be transferred to a custodial account maintained at one or more

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brokerage firms or delivered by mail or in person with the transferor's signature or stock power attached.

Mutual funds may be transferred to one of the University's custodial accounts maintained at a brokerage firm, or if the University's brokerage account cannot hold shares, an authorized corporate signatory of the University may choose to open an account with the mutual fund company if one is not already open.

As a general rule, all marketable securities shall be sold unless otherwise directed by the Investment Committee of the Board of Trustees or in the case of extenuating circumstances. In some cases, marketable securities may be restricted by applicable securities laws; in such instances the final determination on the acceptance of the restricted securities shall be made by the Gift Acceptance Committee

- b. Closely Held Securities: Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, can be accepted subject to the approval of the Gift Acceptance Committee. However, gifts of these assets must be reviewed by the Committee prior to acceptance to determine that:
  - a. there are no restrictions on the security that would prevent the University from ultimately converting those assets to cash in a reasonable amount of time;
  - b. the security is marketable;
  - c. the security will not generate any undesirable tax consequences for the University; and
  - d. the University is in possession of a qualified appraisal

If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The final determination on the acceptance of closely held securities shall be made by the Gift Acceptance

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Committee and legal counsel when necessary. It is possible that for the limitation of Creighton’s exposure, gift acceptance may be conditioned on the transfer of the security to a limited liability company wholly owned by the University. Every effort will be made to sell non-marketable securities as quickly as possible.

3. **Qualified Charitable Distributions**  
Subject to Section III.C. above, General Gift Acceptance Guidelines, Qualified Charitable Distributions from IRA and Roth-IRA accounts to Creighton University may be accepted without review by the Gift Acceptance Committee, subject to the rules and regulations issued by the IRS.
4. **Tangible Personal Property:** All gifts of tangible personal property under \$100,000 appraised value shall be reviewed by the Associate Vice President for Finance and those in excess of \$100,000 appraised value shall be referred to the Gift Acceptance Committee. In either event, the gifts will be evaluated based upon the following:
  - a. Expected usage of property by the University in support of its educational mission
  - b. Marketability of property
  - c. Restrictions on the use, display, or sale of the property
  - d. Carrying costs for the property
  - e. Ownership transfer terms and adverse tax consequences

The final determination on the acceptance of tangible property gifts shall be made by the Associate Vice President for Finance or Gift Acceptance Committee as appropriate.

5. **Real Estate:** Gifts of real estate may include developed property, undeveloped property, farmland or gifts subject to a prior life interest. All gifts of real estate must be reviewed and approved by the Gift Acceptance Committee.
  - a. Prior to acceptance of real estate, the Committee shall evaluate the need for a Phase 1 environmental review of the property to ensure that the property has no associated environmental liability. Should the Phase 1 review reveal a

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potential problem, the University may request that the prospective donor obtain an environmental audit from a qualified inspection firm at the donor's expense.

- b. The Committee will evaluate the need for an independent appraisal to supplement the one provided by the donor and proceed accordingly.
  - c. When appropriate, title insurance shall be provided to the University prior to the acceptance of the real property gift, generally at the donor's expense.
  - d. Other considerations to evaluate prior to accepting gifts of real property could include, but are not limited to:
    - i. Proximity to campus or potential future development use;
    - ii. Restrictions, reservations, easements, or other limitations associated with the property;
    - iii. Carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property;
    - iv. Results of environmental audit if obtained;
    - v. Current and prior usage of the property;
    - vi. Assessment of property marketability; and
    - vii. Structure of ownership transfer;
  - e. The Investment Sub-Committee of the Board of Trustees shall approve the disposition of any real estate gift with an original donation value or sales price over \$5 million.
6. Oil, Gas, and Mineral Interests:
- Creighton may accept oil and gas property interests, when appropriate. All proposed gifts of oil and gas interests shall be reviewed by the Gift Acceptance Committee and shall be referred to outside counsel or consultants for evaluation. In general, criteria for acceptance of the property shall include, but not be limited to:
- a. Gifts of surface rights must have a value of \$20,000 or greater;
  - b. Gifts of oil, gas and mineral interests must generate at least \$3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift);
  - c. The property may not have extended liabilities or other considerations that make receipt of the gift inappropriate;



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- d. 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;
- e. The property should undergo an environmental review to ensure that the University has no current or potential exposure to environmental liability; and
- f. The University must be in possession of a qualified appraisal report

### 7. Bargain Sales:

Creighton may enter into a bargain sale arrangement only after review and endorsement by the Gift Acceptance Committee. Evaluation criteria prior to acceptance include, but are not limited to:

- a. The University must obtain an independent appraisal substantiating the value of the property.
- b. If the bargain sale agreement confers debt to the University, the debt ratio on the property must be less than 50% of the appraised market value.
- c. The University 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.
- d. Carrying costs during the projected holding period.
- e. Possession of a qualified appraisal provided by the donor.

### G. Deferred Gifts

In general, Creighton University accepts deferred gifts. All deferred gifts may be subject to review by the Gift Acceptance committee and include, but are not limited to:

#### 1. Bequests

Direct, unencumbered bequests can be accepted by the University without review by the Gift Acceptance Committee if the underlying assets and bequest stipulations conform to the guidelines set forth in Procedure Section A. "General Gift Acceptance Guidelines" and Procedure Section E "Outright Gifts."

If the underlying assets do not conform to the guidelines set forth in Procedure Section A. "General Gift Acceptance Guidelines" and Procedure Section E "Outright Gifts," the bequest shall be referred to the Gift Acceptance Committee for review. The University reserves the right to reject gifts from the estates or trusts of deceased donors

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that are not in keeping with the terms of this policy.

For this document, a bequest to the University is made through a donor's will or revocable trust.

2. Charitable Gift Annuities

Charitable gift annuities shall not be offered by Creighton University unless solicited and prepared with the assistance of the Office of Estate and Trust Services. In general, charitable gift annuities are not subject to review by the Gift Acceptance Committee prior to acceptance.

3. Charitable Remainder Trusts

Creighton University shall not accept a charitable remainder trust without prior review and approval of the trust agreement by the AVP, Finance, General Counsel, Senior Director for Gift and Estate Planning and, when appropriate, external legal counsel. Where the trust is testamentary, that is, one that arises upon the death of the donor, the University reserves the right to disclaim any interest that would be in violation of this gift acceptance guideline.

Exceptions may be recommended by the Gift Acceptance Committee on the basis of the assets involved, size of the gift, and the potential for additional gifts or additions to the unitrust

4. Charitable Lead Trusts

Creighton University shall not accept charitable lead trusts without prior review and approval of the trust agreement by the AVP, Finance, General Counsel, the Senior Director for Gift and Estate Planning and, when appropriate, external legal counsel. Where the trust is testamentary or one that arises upon the death of the donor, the University reserves the right to disclaim any interest that would be in violation of this gift acceptance policy.

The University may serve as trustee of a charitable lead trust to which the initial contribution is at least \$500,000. A trust may be funded with a smaller amount, subject

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to prior approval of the Gift Acceptance Committee. The trust term may be at the discretion of the donor, subject to the approval of the Gift Acceptance Committee.

5. Remainder Interests in Property/Life Estates

All gifts of remainder interests in property with a value of \$100,000 or greater must be reviewed by the Gift Acceptance Committee.

6. Beneficiary Designations of Financial Instruments

In general, Creighton University will accept any proceeds that it receives as a designated beneficiary (or an contingent 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 plans without prior review and approval of the Gift Acceptance Committee. Any conditions or restrictions upon proceeds the University receives as a designated or contingent beneficiary must conform to Procedure Section A. "General Gift Acceptance Guidelines."

7. Life Insurance

Creighton University may accept gifts of life insurance policies, including whole life, variable and universal life policies, after review by the AVP, Finance and General Counsel.

H. Miscellaneous Provisions

1. Appraisals, Fees and Valuation:

a. Securing appraisals and legal fees for gifts to Creighton University: It is the donor's responsibility to secure a qualified appraisal and the advice of independent legal counsel for all gifts made to the University. Creighton shall not pay fees incurred by donors for professional services in connection with the completion of a gift to the University, such as legal, appraisal and survey fees nor shall it pay any finder's fees.

b. Indemnification by Donor. Whenever Creighton University believes there is unacceptable exposure to legal or tax risk in considering the acceptance of a particular non-cash or in-kind gift, it may require as a condition of its acceptance that the donor furnish it with appropriate risk insurance or indemnity or hold-harmless protection, or both, as the University's legal counsel may prescribe.

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### **I. Responsibilities**

All individuals to whom this policy applies are responsible for becoming familiar with and following this policy. Creighton supervisors are responsible for promoting the understanding of this policy and for taking appropriate steps to help ensure compliance with it. Senior officers are responsible for the development of appropriate practices and protocols to ensure compliance with it.

Violations of this policy may lead to disciplinary action including written warning, suspension or termination.

### **ADMINISTRATION AND INTERPRETATIONS**

The Gift Acceptance Committee and the Development and Finance Departments are responsible for administering and interpreting this policy.

### **AMENDMENTS OR TERMINATION**

University reserves the right to modify, amend or terminate this policy at any time.