

## **Acceptance of Gifts**

**3122**

The Foothill-De Anza Board of Trustees established a Foundation as the auxiliary organization responsible for coordinating and promoting fundraising. The intent is that the Foundation function as the sole recipient of private gifts to the District because:

- The Foundation is qualified as a 501(c)(3) public benefit corporation. Most donations trigger a Federal and State charitable tax deduction for the donor. College employees cannot validate gifts for tax deductibility that do not come through the Foundation and the donor may forfeit any claim for a deduction since the IRS requires written substantiation by a qualified 501(c)(3) public benefit corporation for all gifts of \$250 or more.
- The Foundation is charged with stewardship and fiduciary responsibilities to ensure that the gift is properly accounted for, that donors are appropriately thanked and provided with the tax information required for them to secure a deduction, and that the gifts are correctly channeled to the department they are to serve.
- The District and many of its departments receive gifts-in-kind (equipment, goods or services) that can be used in the instructional process. There are complicated tax requirements for the acceptance and recording of these gifts. Numerous forms, fairly narrowly defined IRS rules and regulations, and special requirements govern gifts-in-kind.
- Gifts of property, securities or “planned gifts” (those gifts invested on behalf of the donor for which the donor receives income for life as well as bequests and living trusts) have extremely complicated reporting and legal requirements.

It is vital that gifts are handled expeditiously, legally, and appropriately to ensure compliance with the complex tax laws governing gift acceptance.

### **Gifts to the Foothill-De Anza Community Colleges Foundation**

Gifts have all of the following characteristics:

- The contribution is from a private individual or non-government source;
- The donor specifies that the contribution is a charitable gift;
- The donor places reasonable conditions or stipulations on the intended use of the gift. In the absence of written conditions or stipulations, the assumption is that the gift is for the Foundation General Fund;
- The donor intends the gift to be irrevocable and, therefore, relinquishes the right to reclaim the gift or any unused remainder;

- The donor makes the donation to the Foundation without the expectation of direct economic benefit or other tangible benefit commensurate with the worth of the gift.

The term “gift” can apply to any of the following:

- Cash (currency, coin, checks, money orders, bank drafts, etc.);
- Securities (bonds, stocks, etc.);
- Non-cash gifts, also known as “gifts-in-kind” (books, equipment, art treasures, etc.);
- Real property;
- Inventions, patents and copyrights;
- Mineral rights;
- Fractional or remainder interests;
- Deferred arrangements (life income, contracts, unitrusts, etc.);
- Wills, bequests, devises.

Gifts made to the Foundation may be:

- Unrestricted — to be used as the Foundation Board, with recommendations from District administration and the Board of Trustees, deems most appropriate;
- Restricted — to be used for a specific program or project.

Funds may be:

- Current — to be used over a non-specific period of time;
- Endowed — the principal to be invested; interest to be available for income;
- Deferred — funds will be available at a later date. Generally, these gifts are the result of estate planning.

### **Donor Restrictions**

The donor may direct in writing that a gift be used for specified purposes such as scholarship, a particular department or division, a specific program or project. Once established, the donor can change such restrictions only in writing.

### **Gift Payee**

All gifts, whether restricted or unrestricted, should be made payable to THE FOOTHILL-DE ANZA COMMUNITY COLLEGES FOUNDATION.

### **Gift Acceptance**

When a gift is accepted, the Foundation assumes a legal and ethical obligation to conform to the donor’s wishes. Therefore, it is essential that donors be encouraged to state in writing those restrictions, if any, to be placed on the use of the funds provided.

Except as provided for below, the Foundation Executive Director, or his/her designee, has authority to accept gifts or related funds and instruments designated by the donor for purposes or uses congruent with the District's mission and needs.

The valuation and substantiation of charitable gifts is a matter between the donor/taxpayer and the taxing agency and the Foundation will not estimate the value of non-cash gifts. The Foundation will cooperate fully with the donor in the gift substantiation process required by the taxing agency.

### **Special Acceptance Criteria**

Gifts to establish new programs, real property gifts, or donations involving a substantial or unique obligation of the Foundation or the District, shall be submitted to the Chancellor/Board of Trustees for the approval of donation acceptability and conformance with District regulations.

### **Declination of Gifts**

Gifts may have to be declined by the Foundation, in consultation with the college presidents and chancellor, under conditions including but not limited to when:

- The gift is restricted and would require support from other resources that are unavailable, inadequate, or may be needed for other institutional purposes.
- The gift is restricted and would support a purpose or program peripheral to existing principal purposes of the institution, or create or perpetuate programs or obligations that would dissipate resources or deflect energies from other programs or purposes.
- The gift would injure the reputation or standing of the District or generate controversy that may defeat the intended educational purpose.

### **Gift Fund Accounts**

To establish a new Foundation account, a Foundation's authorized form must be completed, indicating account purpose, the types of authorized expenditures, and authorized budgeters.

Education Code Section 72205  
Title 5 Section 59016

Approved 1/7/63  
Amended 8/16/99; 12/15/03