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New Mexico State University Foundation, Inc.

Gift Acceptance Policy

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Note: All references to internal and external supporting documents, guidelines, and policies throughout this publication are current as of the date in the document footer

1.0 Purpose

The NMSU/NMSUF Policy Regarding Gift Acceptance provides guidelines for the acceptance and reporting of gifts for the benefit of NMSU and NMSUF. All gifts are recorded on a central database. For further clarification on any item(s), please contact the NMSU Office of Advancement.

2.0 Authority

This policy is written and administered under the direction and authority of the Vice President for Advancement consistent with the directive of the New Mexico State University Board of Regents that all gifts to New Mexico State University from individuals, corporations, or foundations should be made through the New Mexico State University Foundation and that all gifts will be processed in accordance with the donor's wishes through the New Mexico State University Foundation unless a donor-documented request to process directly to New Mexico State University accompanies the gifts.

3.0 General Policy

NMSUF will accept unrestricted gifts and gifts for specific programs and purposes, provided that such gifts are consistent with its stated mission and do not violate the terms of its corporate charter or this policy. By policy, gifts to NMSU and from individuals, corporations, or foundations are made to the New Mexico State University Foundation; however, there may be instances in which donors send their gifts directly to New Mexico State University. All gifts made to NMSU and NMSUF, whether in the form of an outright gift, deferred gift, or pledge, shall be accepted and reported in accordance with the gift acceptance guidelines as stated below.

The primary source for these guidelines is the standards and definitions provided by the Council for Advancement and Support of Education (CASE) in its publication *CASE Reporting Standards and Management Guidelines, 4th edition*. CASE generally is accepted as the leading source on gift acceptance and campaign counting policy, providing consistent and comparative gift reporting across the various reporting institutions. However, CASE also recognizes the need for giving donors credit for gifts that do not meet the CASE standards for counting. As the recognition of gifts is an institutional decision, recognition of donors does not always mirror gift counting. Therefore, variances may occur from one institution to another.

Though the CASE reporting standards are the leading source for gift reporting, it is recognized that in certain instances the guidelines are non-specific. It is the intent of this policy to provide guidance and counting standards in all gift areas as they apply to NMSU and NMSUF. In cases in which a gift falls outside the parameters of this policy, the gift shall be reviewed by the Vice President for Advancement.

The types of gifts that may be referred to the Vice President for Advancement include, but are not limited to, the following:

1. Gifts requiring unusual funding arrangements or other commitments
2. Gifts of intangible or unusual personal property
3. Gifts of non-publicly traded securities
4. Gifts of partnership interests and other non-traditional investments
5. Certain annuity contracts and charitable annuity trusts as defined further in this policy statement
6. Gifts with special restrictions that may be difficult or costly to administer
7. Any gifts that are exceptions to the existing guidelines or that fall outside the definition of acceptable gifts as defined by this policy statement

If a Development Officer is uncertain as to the acceptability of a gift, he or she first should consult with the appropriate AVP to determine whether a VP review is required.

All efforts for seeking private gifts must be cleared and coordinated through the Office of Advancement.

3.1 Legal Counsel

The Office of Development shall seek the advice of legal counsel in matters relating to acceptance of gifts where appropriate. Only Attorneys-at-Law licensed to practice in the State of New Mexico shall be authorized to offer legal opinions on matters related to gift solicitation, acceptance, and disposition.

3.2 Conflicts of Interest

At no time should any NMSU advancement staff member or volunteer involved in the solicitation of a gift serve as a professional legal, tax, or financial advisor to a donor or prospect in matters relating to a gift. Prospective donors are encouraged to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and/or estate-planning consequences.

3.3 Ethical Considerations

NMSUF is committed to ethical engagement. All solicitations on behalf of NMSU or any unit or program thereof shall comport with the standards in the *Donor Bill of Rights*, as developed by the Council for Advancement and Support of Education (CASE) and other national organizations. Additionally, all fundraising staff shall adhere to the *Model Standards of Practice for the Charitable Gift Planner*, as adopted by the Partnership for Philanthropic Planning, when soliciting planned gifts.

4.0 Definitions

A gift is defined as a voluntary transfer of assets from an individual or non-governmental organization made without consideration. The donor does not expect nor receive any goods or services from NMSU or NMSUF in consideration of the gift. The following criteria generally identify a gift:

- A gift is motivated by charitable intent.
- Except in the case of charitable lead trusts, a gift is an irrevocable transfer of assets.
- Except in the case of life income payments made to donors or other life income beneficiaries of charitable trusts or annuities, a gift is not subject to an exchange of consideration or other contractual duties between NMSU, NMSUF, and the donor.

5.0 Gift Purpose and Determination of Date of Gift

NMSUF will accept unrestricted gifts and gifts restricted to NMSU or programs and purposes, provided that:

1. such gifts are consistent with the stated missions of NMSU or NMSUF;
2. such gifts do not violate the terms of NMSUF's corporate charter or this policy; and
3. any restrictions or conditions imposed on the use of such gifts are approved by NMSU.

The gift date is based on various criteria, depending on the type of gift and the form of delivery as outlined below. The date used for tax purposes is the donor and/or his/her financial advisor's decision.

5.1 For Cash/Checks

If **by mail**, the gift date is the process date on which the check enters into the United States Postal Service or delivery system. Absent documented evidence (the postmarked envelope), it is the date received by Gift Accounting.

If **by website**, the gift date is the date in which the electronic funds transfer is approved by the donee's bank.

If **hand delivered**, the gift date is the date received by Gift Accounting. Gifts of cash must be delivered in person to Gift Accounting. At the time of delivery, a Gift Accounting staff member will verify the cash amount with the deliverer. A completed *NMSUF Cash Acceptance Form* will be signed by a Gift Accounting staff

member and the deliverer as verification of the amount delivered and accepted for deposit by Gift Accounting.

The use of campus or interoffice mail to transmit funds to Gift Accounting is not permitted. Acceptable means of transmission include hand delivery and courier delivery.

When a university staff member receives a check, cash, or other currency, it is the responsibility of the staff member to transmit the funds and all accompanying documentation to Gift Accounting within 24 hours. An *NMSUF Gift/Pledge Records Form* or solicitation device from an approved solicitation must be attached.

5.2 For Credit Card Transactions

The gift date is the date on which the credit card company approves the charge.

5.3 For Marketable Securities

If the stock is a **Depository Trust Company (DTC) transaction**, the gift date is the date the stock is recorded to NMSUF's account.

If the stock certificate is in NMSUF's name, the gift date is the date the certificate was issued.

If the stock certificate is **delivered by mail**, properly endorsed, and accompanied by an authorized signature guarantee, the gift date is the date the envelope is postmarked.

If the stock certificate is **hand delivered**, the gift date is the date the certificate is

received by Gift Accounting.

5.4 Gifts-In-Kind

The gift date is the date on the deed of gift, warranty deed, or other legal instrument transferring ownership.

6.0 Gift Acceptance Guidelines

There are three gift categories with specific types of gifts within each category: (6.1) Outright Gifts, (6.2) Deferred Gifts, and (6.3) Pledges.

For the guidelines on counting the gifts outlined below, please refer to the *NMSUF Campaign Gift Counting Policy*.

6.1 Outright Gifts

Outright Gifts are voluntary irrevocable transfers of items of value to NMSU or NMSUF in the form of cash, securities, or other property where no goods or services are expected, implied, or forthcoming by or to the donor. The donor may restrict the use of the gift or designate it for a particular purpose or program; however, once the gift is designated and receipted, the donor may not retain any further explicit or implicit control over the use of the gift. Outright gifts include (6.1.1) Cash, (6.1.2) Assignments of Income, (6.1.3) Closely Held Securities, (6.1.4) Marketable Securities, (6.1.5) Mutual Funds, (6.1.6) Corporate and Foundation Gifts, (6.1.7) Gifts-in-Kind, (6.1.8) Life Insurance, (6.1.9) Partnership Interests, (6.1.10) Matching Gifts, (6.1.11) Real Property, (6.1.12) Realized Bequests, and (6.1.13) Donor-Directed and Donor-Advised Funds.

6.1.1 Cash

Gifts will be accepted in the form of currency, money orders, checks, electronic fund transfer (EFT), and credit cards. All checks should be made payable to New Mexico State University Foundation. In no event shall checks be payable to an employee, agent, or volunteer for the credit of NMSUF. Cash gifts received from an entity other than the donor, such as charitable organizations, private foundations, partnerships, or corporation of the donor, will be receipted to the remitting entity. These gifts will be counted at face value on the date of receipt. Foreign currencies shall be valued at the exchange rate on the date of receipt. The date on which NMSUF processes cash, check, and credit card gifts is not necessarily the date of gift for the donor's tax purposes. It is the responsibility of the donor to maintain accurate

records of the date of the gift. Donors should not rely on NMSUF's gift receipt for such proof.

6.1.2 Assignments of Income

A donor may assign to NMSUF income that he or she would have received from a third party as payment for services. If a check already has been issued in the donor's name, he or she may endorse the check to the New Mexico State University Foundation. Alternatively, the donor may request that the income be remitted directly to the New Mexico State University Foundation and any check drafted be written in NMSUF's name. If the check is payable directly to NMSUF by the third party, documentation must accompany the check identifying the payment as a charitable contribution (*see CASE Reporting Standards and Management Guidelines, 4th edition, 1.2.1, Assignments of Income*).

6.1.3 Closely Held Securities

Securities that are not publicly traded may be accepted by NMSU or NMSUF upon the recommendation of the Vice President for Advancement and the NMSUF Executive Committee. Development Officers shall make no commitments regarding the acceptance of these gifts without written authorization from the Vice President for Advancement. When considering gifts of closely held securities, the VP shall consider any restrictions that might prevent its conversion to cash, its marketability, and its potential for undesirable consequences to NMSU or NMSUF. A detailed explanation surrounding the circumstances of the stock, the company, and the donor's reason for the gift must be documented and provided to the Vice President for Advancement.

For gifts of privately traded stock, development staff must obtain approval of the VP prior to accepting the securities. The Development Officer seeking approval should consult with NMSU's Gift Accounting Office in the event of an outright gift, or the Office of Gift Planning in the event of a planned gift, prior to seeking VP approval. Gift Planning will assist the Development Officer in preparing the materials necessary for review by the VP, including necessary appraisals and inspections.

6.1.4 Marketable Securities

Securities that are traded on an exchange or other publicly reported market may be accepted by NMSU or NMSUF and receipted and recorded in accordance with NMSUF policies. Securities will be sold immediately upon receipt. In rare cases, securities may be held if they are deemed appropriate within the overall investment strategies of NMSUF. NMSUF employees and volunteers may not represent to a prospective donor that a particular security will be held for investment.

Marketable securities will be valued at the average of the high and low quoted selling price on the date on which the donor relinquishes dominion and control of the assets in favor of the institution (*see CASE Reporting Standards and Management Guidelines, 4th edition, 1.2.7, Marketable Securities*). Sales of the securities occur without regard to expenses associated with the transaction.

In compliance with IRS regulations for receipting non-cash gifts, only the date and description of the property received, but not the value, will be included on the official receipt. The following guidance is given for determining the legal date of such gifts:

- Stock certificates that are mailed to an institution are considered to be a legal gift as of the date of postmark for the certificate or signature-guaranteed stock power (a certified signature of the owner of the stock signing the stock over to the institution), whichever is later.
- Stock certificates that are sent to an institution via a third-party provider, such as UPS or Federal Express, are considered to be a legal gift as of the date of receipt by the institution.
- Stock certificates registered in the name of the institution are considered to be a legal gift as of the date of registration in the institution's name.
- Stock shares transferred electronically are considered a legal gift as of the date the stock is credited to the account of the recipient institution. While a donor may have instructed his or her broker to initiate a transfer on some earlier date, the fact that the broker delayed that transfer or moved the shares into a temporary holding account does not alter the fact that the institution did not have control of the stock. In addition, until the stock is credited to

the institution's account, it is possible for the transfer to be reversed. Therefore, the gift valuation will be based on the date the stock came under the institution's control (*see CASE Reporting Standards and Management Guidelines, 4th edition, 1.2.7, Marketable Securities*).

6.1.5 Mutual Funds

A mutual fund is an open-ended fund operated by an investment company that raises money from shareholders and invests in a group of assets, in accordance with a stated set of objectives. Mutual funds may be held in certificate form but are more likely to be held in electronic form by a brokerage firm, financial institution, or mutual fund company.

NMSU's Gift Accounting Office will determine whether mutual fund shares can be transferred and how they are to be transferred. Note that depending on how the shares are held, the transfer can take from a week to more than three months to complete. Development staff should be mindful of this potential for delay, especially if a donor is attempting to make a year-end gift.

6.1.6 Corporate and Foundation Gifts

Corporate gifts include gifts from corporations, businesses, partnerships, and cooperatives organized for profit-making purposes, including corporations owned by individuals and families and other closely held companies. This category also includes company-sponsored foundations – that is, those created by business corporations and funded exclusively by their companies – as well as industry trade associations (*see CASE Reporting Standards and Management Guidelines, 4th edition, 2.2.1, Corporations*).

Gifts from foundations include gifts from personal and family foundations and other foundations and trusts that are private tax-exempt entities operated exclusively for charitable purposes (*see CASE Reporting Standards and Management Guidelines, 4th edition, 2.2.2, Foundations*).

6.1.7 Gifts-in-Kind

A Gift-in-Kind, also known as an “in-kind gift,” a “non-monetary gift,” and a “non-cash gift,” generally is defined as non-cash donations of materials or long-lived assets other than real or personal property (see *CASE Reporting Standards and Management Guidelines, 4th edition, 1.2.5, Gifts-in-Kind*). More commonly, these types of gifts come in the form of equipment, products, art, books, and project materials. Examples of tangible assets are (a) personal collections of art, books, coins, or movies; (b) cars, boats, and aircraft; (c) animals; (d) securities; (e) equipment; (f) printed materials; (g) food or other items used for hosting events; and (h) gas or oil wells. Examples of intangible assets are (a) patents; (b) copyrights of cultural, artistic, and literary works; and (c) computer software under development. NMSU and NMSUF may accept GIK contributions to be sold or retained and used to advance the mission of the institution.

When NMSU accepts GIK, it also accepts the risks and responsibilities of maintaining that asset. Such GIKs also can create risks for the donor. Ultimately, acceptance of a GIK rests with the Vice President for Advancement, with approval of the receiving Department Head, Dean or VP. Therefore, a Development Officer should consult with the appropriate Department Head, Dean or VP to receive approval for the GIK before presenting the GIK to the Vice President for Advancement for final approval.. After approval of the acceptance of a GIK, the Development Officer should contact the Associate Vice President for Development who will assist the Development Officer with any required agreements governing the gift and will coordinate with relevant administrative offices.

The IRS requires that donors seeking to claim a tax deduction for a charitable GIK with a fair market value in excess of \$5,000 obtain a qualified appraisal. The donor is responsible for obtaining the appraisal. To avoid any conflict of interest, NMSUF can neither pay for nor reimburse a donor for his or her appraisal costs. The qualified appraisal must be completed no earlier than 60 days prior to the date of the gift. If no appraisal is required for the donor’s purposes, NMSUF may choose to conduct its own independent appraisal of the property. In that instance, NMSUF will bear all costs of that appraisal for NMSUF purposes only, not for donor credit (see *NMSU/NMSUF Campaign Counting Guidelines, 6.1.7, Gifts-in-Kind*).

If no appraisal is required (for gifts of \$5,000 and less), refer to *NMSUF Campaign Gift Counting Guidelines* for proper documentation to support the value of the gift.

NMSUF reserves the right to liquidate, upon transfer or any time thereafter, any GIK obtained through charitable donation, unless otherwise specified in a legally binding agreement between NMSU or NMSUF and the donor(s). GIKs are transferred by a conveyance of title to the property or by a deed of transfer where such documents govern the sale or disposition of said property. When such a document is required, the gift is complete when title is transferred.

Where transfer of title is not required, the gift is complete when the property is approved and received by NMSUF. Where no title transfer is required to transfer the asset to NMSU, written documentation must be prepared to establish the date of transfer and ownership. This document must be executed by both the donor and the Vice President for Advancement.

6.1.7.1 IRS Form 8283

IRS Form 8283, *Noncash Charitable Contributions*, is required to be completed when partnerships or individuals claim a noncash charitable contribution deduction in excess of \$500 on their respective tax returns or when a corporation claims a charitable deduction for a gift of property when the deduction is in excess of \$5,000. However, *Form 8283* is only required to be submitted to the donee organization for signature when the donation is greater than \$5,000 and it consists of property other than publicly traded securities. It is the responsibility of the donor to complete all applicable sections of this form except for the Appraiser and Donee Acknowledgment sections. The form must be filed with the entity or individual's tax return for the year the property was contributed and first claimed as a deduction. Once the donor has completed the applicable sections, the form should be submitted to Gift Accounting for completion of the Donee Acknowledgement section.

6.1.7.2 IRS Form 8282

IRS Form 8282, *Donee Information Return*, is required to be completed by a donee or successor donee charitable organization that sells or disposes of GIK within three years of the receipt of the donation by the organization. This includes any donated property (other than money or publicly traded securities) if the claimed donation value exceeds \$5,000 per item or group of similar items donated by the donor to one or more donee organizations. This is the property listed in Section B on *Form 8283*.

Normally, organizations are required to file *Form 8282* with the IRS and donor within 125 days after the disposition of the property. There are two exceptions to the requirement that organizations file *Form 8282*:

- items valued at \$500 or less; the information to determine this comes from Section B, Part II of the donor's original *Form 8283*.
- items distributed or used for the organization's charitable purpose; if the organization used or distributed the item, without receiving consideration in fulfilling the organization's exempt purpose, then no reporting on *Form 8282* is required. IRS instructions give the example of a charity relief organization distributing medical supplies in assisting disaster relief victims.

6.1.7.3 Oil, Gas, Water, and Mineral Interests

Because of the inherent complexities in gifts of oil, gas, water, and mineral interests, and because the likelihood of NMSUF's acceptance of these gifts generating Unrelated Business Taxable Income (UBTI), NMSUF reserves the right to consider proposals for this type of gift on a case-by-case basis.

Three different forms of oil, gas, water, and mineral interests exist:

- Working Interest: owners participate in the mining and production of the resource; owners share costs

and profits.

- **Overriding Royalty Interest:** interest in the gross production of the resource without the reduction for production costs. These interests are carved from working interests and run concurrently with them.
- **Net Profits Interest:** also carved from and concurrent with the working interest, this is a percentage of the net profits less a proportionate percentage of the net costs. These interests are property interest and not assignments of income.

If a donor transfers a working interest but carves out and retains or gives to another either an overriding royalty interest or a net profits interest, he or she has divided the interest and has not transferred an undivided partial interest. Such a transfer is not considered a charitable gift.

However, if a donor transfers to NMSUF any of the three interests above, such a transfer is a charitable gift if and only if the donor has not carved it out of a larger interest she or he owns.

The VP shall review any proposed gifts of oil, gas, water, and mineral interests.

6.1.8 Life Insurance

Realized death benefits received as settlement of a life insurance policy are accepted. An existing or new permanent life policy may be accepted if the donor names NMSUF, NMSU or as both irrevocable owner and beneficiary of the policy.

Donors may make additional gifts to pay the premiums of permanent policies that are either not paid in full or are self-paying when the policy is accepted. Outright gifts made to NMSUF to pay the premium on these policies will be accepted. If the donor makes premium payments directly to the insurance company, a GIK can be accepted when documentation is provided to NMSUF to demonstrate that the donor is the source of the premium payments. If the donor/insured fails to make

a gift of a premium payment to NMSUF in advance of the premium due date, NMSUF, as owner, reserves the right to cash the policy or to arrange for the payment of the outstanding premium from internal funds, in close consultation with the school or unit benefiting from the policy and all Stewardship Officers for the donor involved.

A life insurance policy designating NMSUF as beneficiary will be accepted if the donor provides NMSUF with (a) a copy of the beneficiary designation or the portion of the beneficiary designation that pertains to NMSUF, or other documentation showing NMSUF's interest; and (b) the current statement of value from the insurance carrier or a statement of value signed by the donor or the donor's legal representative. When a donor names NMSUF as the beneficiary and does not transfer ownership, he or she has made a revocable gift, similar to a bequest in a will. Like a bequest, the gift is an expectancy. A donor may choose to name NMSUF as either primary or secondary beneficiary. If NMSU is secondary beneficiary, then the expectancy is contingent as it depends on the occurrence of another event.

NMSUF will not endorse any particular insurance product, company, program, agent, agency, or company, nor will it provide donor lists to any of them.

Term life policies are not accepted as they have no current cash value and seldom remain in force until the death of the insured.

Group life insurance policies are not accepted as they are owned by the employer.

6.1.9 Partnership Interests

A partnership is a type of relationship whereby two or more entities or individuals conduct business for mutual benefit. Partners in the partnership own an interest, and the transferability of their interests is governed by the partnership agreement. Rarely are partnerships traded on a public exchange.

NMSUF will not accept general partnership interests. Any proposed gifts of *limited* partnership interests must be approved by the Vice President for Advancement. Development Officers should contact the Office of Gift Planning for assistance in preparing documents for the VP's review.

6.1.10 Matching Gifts

Corporations sometimes will match contributions made by employees, retirees, board members, or spouses. Gifts made through donor-advised funds often do not qualify for matching credit. Development staff may want to consult the matching gift company to determine NMSU's eligibility. Matching gifts cannot be used to fulfill pledges. Anticipated matching gifts should be documented at the time of the donor's pledge, but not considered as part of the donor's personal pledge. Corporations will receive campaign credit for a matched gift at the time of receipt.

6.1.11 Real Property

Real property (also referred to as real estate or realty) is land, its natural resources, and any permanent buildings on it. Real property becomes a gift to the institution when a transfer of ownership has taken place. This occurs when the item(s) of property or clear title to the property has been delivered to the institution or the institution's legal agent (*see CASE Reporting Standards and Management Guidelines, 4th edition, 1.2.9, Real and Personal Property*). NMSUF has policies outlining the need for care in accepting real estate due to environmental issues. Real estate not accepted for retention and use by NMSU should be readily marketable at a price that provides NMSUF with a return in excess of the costs incurred to accept and dispose of the property. If a donor wishes to donate real property, the property must be accepted consistent with NMSUF policies. Additionally, the donor is to be notified by the Development Officer of the following real property policies:

- The IRS may require an appraisal made on property of a certain value. The donor must provide a copy of an appraisal, obtained at the donor's expense, qualified under the terms of the *Internal Revenue Code and Regulations*.
- It is the policy of NMSUF to sell all gifts of real estate (other than property the university wishes to retain) as expeditiously as possible.
- NMSUF will attempt to sell the donated real property at a reasonable price in light of current market conditions.
- NMSUF may be required to report to the IRS on *Form 8282* any

such sale of real property occurring within three years of the date of the gift that may have tax implications for donors. Donors should consult with tax advisors.

6.1.12 Realized Bequests

A bequest is a gift of cash, property, or other asset made in a donor's will or living trust. Bequests may provide for a specific dollar amount in cash, specific securities, specific articles of tangible property, or a percentage of residual of the estate. Bequests may be given as unrestricted gifts or gifts restricted to a purpose or program designated by the donor. Donors also may establish, by bequest, a testamentary charitable remainder trust or unitrust. The bequest can be arranged so as to provide a life income for a designated beneficiary or beneficiaries. If such a gift is made by will, the principal will pass to NMSUF only after the death of the life income beneficiary or beneficiaries.

6.1.13 Donor-Directed and Donor-Advised Funds

Donor-Advised Funds are IRS-approved public charities generally managed by investment companies and community foundations that serve as conduits for gifts. The donor's contribution is made to the fund. The donor reserves the right to suggest which charities should receive the annual income. To determine the correct gift source (individual or organization), the institution must discover whether the gift was made through a Donor-Directed Fund or a Donor-Advised Fund at the community foundation (*see CASE Reporting Standards and Management Guidelines, 4th edition, 2.1.4, Donor-Directed and Donor-Advised Funds*). These funds differ as follows:

- With a **Donor-Directed Fund**, the donor sends an asset to a financial institution or foundation for investment and safekeeping. The assets remain in the name – and under the control of – the donor. The donor contacts the institution and directs it to issue a check in the name of the qualified nonprofit. In this case, the donor making the direction is the legal donor, thus the gift source is an individual.
- With a **Donor-Advised Fund**, the donor sends an asset to a tax-exempt organization (often affiliated with a financial institution or community foundation) as a gift to that entity. The asset then

is in the name of and under the control of that entity. The donor then contacts the fund and advises it to make a gift to a qualified organization. In this case, the fund is the legal donor, and the gift source is reported as an organization or foundation.

6.2 Deferred (Planned) Gifts

Deferred or planned gifts by definition are gifts whose use is deferred until either the death of all named beneficiaries or for a period of years. Deferred gifts include (6.2.1) Bequests, (6.2.2) Charitable Gift Annuities, (6.2.3) Charitable Lead Trusts, (6.2.4) Charitable Remainder Trusts, (6.2.5) Retained Life Estates, (6.2.6) Transfers of an Undivided Interest in an Asset; and (6.2.7) Retirement Plan Assets.

6.2.1 Bequests

Wills and trusts are instruments by which a person may make a disposition of property to take effect after death. These may be altered or revoked at any time during life. These gifts are categorized as revocable.

Donors who list NMSU or NMSUF as a beneficiary in their will or living trust will be recognized if the following guidelines are followed:

- The commitment must have a specific amount or percentage of the estate with a credible estimate of the future value of the estate.
- The commitment must be verified by a copy of the will or living trust or the *NMSUF Planned Giving Notification Form* from the donor or his/ her attorney stating the commitment and that NMSUF will be notified of changes. The preferred method of documentation is a copy of the applicable portion of the will or trust.
- The amount of the commitment will be reported at present value. NMSUF may be either the primary or secondary beneficiary. If the latter, the designation is contingent and will not be counted.

The Office Gift Planning will carefully investigate the actual circumstances underlying the estate and be conservative in counting

such commitments toward campaign totals. A periodic verification of bequests will be conducted. If any circumstances should make it unlikely that the amount pledged by bequests actually will be realized by the organization, then the commitment may be adjusted according to specific circumstances or not reported at all. The Vice President of Advancement will review any adjustments.

6.2.2 Charitable Gift Annuities

With a Charitable Gift Annuity (CGA), the donor makes an irrevocable gift to NMSUF, and NMSUF contractually agrees to pay a fixed annuity payment to a maximum of two beneficiaries for life. The annuity may begin immediately or may be deferred. Because the transferred property has a value larger than the value of the annuity, the transaction is in part the purchase of an annuity from the institution and in part a gift to the institution (see *CASE Reporting Standards and Management Guidelines, 4th edition, 1.3.2, Charitable Gift Annuity*). In the case of a **Deferred CGA**, the periodic payments are specified in the contract to begin in a future time period. Upon the death of the donor (or, if applicable, the other named beneficiary), the balance of the principal is retained by NMSUF.

The laws of the state in which the donor resides govern gift annuity contracts. Certain states have stringent registration requirements. For gift annuities to be established in states other than New Mexico, the specific annuity regulations and requirements for that state first will be reviewed by the Director Gift Planning. NMSUF reserves the right to reject any annuity contract proposal from states where the regulations are deemed overly burdensome or when excessive compliance costs would be required. The present value is the difference between the amount received and the amount required to fund the purchased annuity. The face amount is the total amount received. The present value must be a minimum of 50 percent of the face value. If an annuity is designated to fund an endowment, the face amount must be a minimum of \$50,000. If an annuity is established as an annual or standard CGA, a minimum of \$25,000 is required.

6.2.3 Charitable Lead Trusts

Charitable Lead Trusts (CLTs) are immediate gifts in trust that pay

defined amounts of income to NMSU or NMSUF for a specified number of years. The payout is based on the value of the property held in trust for a term of years with the remainder passing back to the individual or to the children or grandchildren of the donor(s).

There are two types:

- The principle of a **Grantor CLT** reverts to the donor at the end of the term of years of the trust.
- The principle of a **Non-Grantor CLT** will be given to the donor's designated beneficiary (ies) who generally are the donor's children or grandchildren.

Whether the CLT is a Grantor or Non-Grantor trust there are two CLTs which are used.

- **Charitable Lead Unitrusts (CLUTs)** pay to the institution a fixed percentage of the market value as determined annually.
- **Charitable Lead Annuity Trusts (CLATs)** pay to the institution a fixed-dollar payment annually.

(see CASE Reporting Standards and Management Guidelines, 4th edition, 1.3.4, Charitable Lead Trust)

6.2.4 Charitable Remainder Trusts

Charitable Remainder Trusts (CRTs) are irrevocable, qualified trusts in which a donor gives cash or assets to the trust, allowing the payment of income to one or more persons for their life/lives or for a term of years. At the end of this time, the trust's assets are given to one or more charities designated by the donor.

- The donor may choose to retain the right to change the remainderman (*i.e.*, a person entitled to the assets of a trust at the end of some specified period or after some event) while the donor is still living. If this is the case, then the CRT is considered a revocable gift even though according to IRS standards it is an irrevocable gift.
- The donor may choose irrevocably to assign away their right to

change the remainderman and name NMSUF as the irrevocable remainderman. If this is the case, the CRT is now irrevocable.

- If NMSUF creates the CRT and is the trustee, then this right of changing the remainderman is not included in the CRT and the donor cannot request changes, thereby making this CRT irrevocable in all aspects.

Nonetheless, to count the assets in fundraising totals, the charitable remainder beneficiary designation must be irrevocable and verified (*see CASE Reporting Standards and Management Guidelines, 4th edition, 1.3.5, Charitable Remainder Trust*).

There are two basic types of CRTs:

- **Charitable Remainder Unitrusts (CRUTs)** provide to the donor or designee a variable income based on a fixed percentage of the annual value of the trust.
- **Charitable Remainder Annuity Trusts (CRATs)** pay to the donor or designee a fixed income based on the initial value of the trust.

CRUTs and CRATs are reported to CASE at both the face value and the discounted present value of the remainder interest allowable as a deduction by the Internal Revenue Code.

6.2.5 Retained Life Estates

A Retained Life Estate (RLE) is a gift plan defined by federal tax law that allows a donor to donate a home, vacation home, or farm while retaining the right to live in the property for the remainder of the donor's life. When the retained life ends, NMSU or NMSUF then can use the property or the proceeds from the sale of the property for the designated purpose. Expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or life beneficiary. All procedures for evaluating proposed gifts or real property, outlined elsewhere in this document, apply to proposed RLEs as well.

6.2.6 Transfers of an Undivided Interest in an Asset

A gift of an Undivided Interest in an Asset will only qualify as a

charitable gift if the donor transfers an equal part of each and every substantial interest or right he or she has in the contributed property. Thus, the transfer of an undivided interest in an asset is not a gift if only some, but not all, rights are transferred. Transfers of Undivided Interests in Assets are likely to arise with donations of GIK, notable artwork, and other collections. Because transfers of interest in assets can be extremely complex gifts, they require the prior review and approval by the Vice President for Advancement.

6.2.7 Retirement Plan Assets

IRA's, qualified pension or profit sharing plans, or other retirement plans for which donors make NMSU or NMSUF a beneficiary will be accepted if the donor provides NMSUF with a copy of the beneficiary designation (or the portion of the beneficiary designation that pertains to NMSUF) or other documentation showing NMSUF's interest or the donor's intent (i.e., *NMSUF Planned Giving Notification Form*).

Although outright gifts from retirement plans are not tax-favored under current law, in many cases naming NMSUF as a beneficiary of a retirement plan is an excellent option for donors. The manner in which NMSUF is named will depend on the type of plan and the plan administrator. Naming NMSUF as beneficiary of retirement plan proceeds is not an outright gift but an expectancy, like a bequest in a will. NMSUF may be primary or secondary beneficiary. If the latter, the designation is contingent.

6.3 Pledges

A signed pledge card or written commitment that documents the terms of the pledge is required to record the commitment. Oral pledges will not be reported in campaign totals. On the rare occasion on which special circumstances may warrant making an exception, the Development Officer should write the individual making an oral pledge to document the commitment (including any restrictions the donor has imposed), place a copy of the written commitment in the donor's file, and gain specific written approval from the Vice President for Advancement. A gift pledge should be a written commitment for a specific dollar amount that will be paid according to a fixed time schedule not to exceed the time frame of the campaign or five years. Only in unusual circumstances will a pledge payment schedule exceed five years. The Vice President for Advancement may approve pledges extending beyond five years.

In special cases, however, constituents close to New Mexico State University may make an oral promise to give a future gift to the institution. If the individual is undecided about the specific purpose of his or her future gift, it may be premature to draft a specific gift agreement. In these cases, it is sufficient for the Vice President for Advancement to draft a letter to the individual confirming the oral obligation.

7.0 Gifts with Associated Benefits

A gift with associated benefits is any gift to NMSUF in return for which the donor receives associated benefits, including, for example:

- the purchase of tickets to events;
- the purchase of goods or services at auctions;
- the purchase of a table or seat at a dinner;
- memberships in university organizations that exceed the current Internal Revenue Service token exception threshold.

In accordance with IRS regulations, NMSUF will provide the donor with a receipt for a contribution with a statement as to whether any goods or services (i.e., benefits) were given to the donor in exchange for his or her contribution. A description and good faith estimate of the value of such goods and/or services will be provided. It is the responsibility of schools, departments, or groups sponsoring events to submit to Development Accounting information on the fair market value of such benefits provided, whether or not at a cost to NMSUF or the sponsoring organization.

Low Cost Articles: Goods or services that have “insubstantial value” are considered fully deductible and need not be disclosed (*see IRS inflation adjustments for current guidelines*).

8.0 Memorial and Honorary Funds

Memorial and honorary funds are created by a gift or gifts given in memory or in honor of an individual. A memorial or honorary fund may be established as either an endowment or a current fund as determined by the family or the donor. When endowed, these memorial and endowed honorary funds must comply with established endowment minimums.

9.0 Gift Agreements

Restricted gifts of \$25,000 or greater, and endowments should be documented in a

written *NMSUF Gift Agreement* signed by the donor(s) and the Vice President for Advancement in his/her role as NMSUF President. If the pledge is for unrestricted support, a signed pledge memo will suffice as the legal document for recording the pledge.

The following are exceptions:

- **Charitable Remainder and Lead Trusts:** If NMSUF is provided with the original or legible copy of the legal instrument creating charitable remainder and lead trusts, then no additional written gift agreement is needed.
- **Charitable Annuities:** The contract creating a charitable gift annuity suffices in lieu of a written gift agreement.

10.0 Special Circumstances

Although the above guidelines will prevail in nearly all instances, the Vice President for Advancement has the authority to consider exceptions and make decisions related to recognition and reporting of gifts in special circumstances.

11.0 Revisions to the Policy Regarding the Acceptance of Gifts

These guidelines have been reviewed and approved by the New Mexico State University Foundation Board of Directors. Except as otherwise stated within these written guidelines, the Executive Committee must approve any exceptions to guideline revisions. The VP will review these guidelines and make recommendations for revisions to NMSUF Board. Any changes in these written guidelines require notification to the NMSUF Board of Directors.

Adopted on October 23, 2020 by the Board of Directors of New Mexico State University Foundation, Inc.



Philip Cook
Chair, NMSU Foundation, Inc.



Kyle Louvar
Secretary, NMSU Foundation, Inc.

Approved:

Dev, Communications and Marketing Committee

August 26, 2020

Approved:

Executive Committee

September 19, 2020

Approved:

Board of Directors

October 23, 2020