LEHIGH UNIVERSITY

Responsible Lehigh Official: Vice President, Development and Alumni Relations (DAR)
Responsible Office: DAR Operations
Origination Date: 10-11-2017
Last Amended Date: 05-23-2022

GIFT ACCEPTANCE POLICY

Policy Statement

This policy governs the acceptance and disposition of all philanthropic gifts made to Lehigh University (Lehigh or the university), whether such gifts are from an individual, estate, or organization and are outright, committed, or deferred. Gifts-in-kind are further governed by Lehigh's Gift-in-Kind Policy. This policy does not anticipate all possible gift situations and may be amended from time to time.

Reason for Policy/Purpose

- Provide standards for the acceptance of gifts by Lehigh University
- Reflect the responsibility of the Lehigh Board of Trustees (board) and the External Engagement Committee (committee) of the board for the governance of gift acceptance
- Ensure consistent application of policies and processes governing when and how gifts are accepted
- Ensure that gifts further the mission of and impose no undue burden on the university

Compliance with Law, University Policies, and Higher Education Standards

All philanthropic gifts to the university will be accepted in accordance with: (a) the Internal Revenue Code and applicable IRS regulations pertaining to charitable gifts; (b) all Lehigh University governance documents and university policies and procedures; and (c) all applicable laws and regulations governing fundraising and higher education. Lehigh is committed to following accepted standards of higher education professional organizations for gift acceptance, such as those recommended by the Council for the Advancement and Support of Education (CASE).

Who Needs to Know This Policy

- Development and Alumni Relations staff

- The university president, provost, vice presidents, deans, other senior leadership, and financial managers
- Finance and Administration staff and the Office of the General Counsel staff
- Lehigh faculty and staff involved in the discussion, solicitation, acceptance, recording, or other administration of gifts

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Policy

A. Authority and Responsibilities

The University Bylaws provide that the board has the power and responsibility "[t]o authorize officers or agents of the university to accept gifts and commitments on behalf of the university." The board has delegated authority to the vice president for Development and Alumni Relations in consultation with the Gift Acceptance and Naming Committee (GANC) to make final decisions on the acceptance or refusal of a gift and to advise on matters relating to gift acceptance.

The following positions shall constitute the GANC:

- Provost for the university
- Vice President for Development and Alumni Relations
- Vice President for Finance and Administration
- Chair of the External Engagement Committee of the board

Note: The General Counsel serves as counsel to the GANC (i.e., a non-voting role) to provide advice with respect to legal requirements, university policy, and university governance considerations regarding a gift.

Gift commitments, complex asset transfers, or gifts of $50,000 or more with a restriction or designation require a formal Gift Agreement (GA). Gifts-in-kind of tangible and intangible property may also have additional requirements for a GA as defined in the university's Gift-in-Kind Policy. The GA shall follow the format(s) approved by the GANC to properly document the understanding between the donor and the university regarding the terms of the gift and its use.

Upon presentation of a proposed GA for a gift of $1,000,000 or more, the vice president for DAR shall inform the GANC. Gifts-in-kind of tangible and intangible property may also have additional requirements for informing the GANC as defined in the university's Gift-in-Kind Policy. The GANC shall typically meet by telephone conference and conduct its work digitally to determine the appropriateness of the potential gift, resulting in the vice president for DAR approving or declining the gift in a timely manner. The vice president for DAR and the GANC may consult with any trustee, officer, administrator, faculty, or staff member of the university whom they believe appropriate when considering matters relating to gift acceptance.

B. Understanding Gifts

In general, a gift is defined as a voluntary transfer of items of value, not time or services, from a person or organization where no goods or services are expected, implied, or forthcoming for the donor.

1. Gifts with Associated Benefits

In the event that the donor does receive a benefit as the result of making a gift, the value of the charitable contribution will be reduced by the fair market value of any substantial goods or services received and stated in the gift receipt.

2. Grants

Gifts from organizations may be called grants; however, it is not a gift or a grant if it is payment for a specific project that binds the university to a specific scope or area of work per a signed, legally enforceable document. (See also Section C below.)

3. Gift Commitments or Pledges

A gift commitment or pledge is a promise from a donor to transfer a gift to the university at some specific time in the future. A gift commitment may be promised to be paid over a period of up to five years and may be fulfilled with a series of outright cash gifts or through complex asset transfers or deferred gift vehicles. Gift commitments in excess of a five-year period are considered exceptions and must be approved by the vice president for DAR.

Lehigh expects that donors shall not make or fulfill commitments with assets that are not controlled by the donor, such as his or her company's assets, anticipated matching gifts, a family foundation, or a donor-advised fund.

Once the university has accepted the gift, it becomes university property, and the donor has no direct decision-making power regarding the gift. Gifts that are received are considered irrevocable; it is up to the GANC to determine if the university will return all or any part of a gift. All donations need to be carefully considered prior to acceptance.

C. Refusing, Returning, and Modifying Gifts and Gift Commitments

Contributions should <u>not</u> be accepted and/or counted as a gift if any of the following circumstances exist:

- The contribution is in contravention of applicable federal, state, or local laws, this policy, or other applicable university policies and procedures.
- The contribution involves unlawful discrimination or any other basis prohibited by federal, state, and local laws and regulations or university policies and procedures.
- The contribution is not in agreement with the university's educational, research, and service missions and values or could damage the reputation of the university.
- The contribution could compromise the academic freedom of the university community.
- The contribution could violate the university's ethical standards.
- The contribution could jeopardize the university's tax-exempt status.
- The contribution cannot be properly administered within the intended recipient's normal budget or available university resources (for example, in the case of the requirement for matching funds or resources).

- The contribution would obligate the university to undertake duties, financial or otherwise, which it may not be fully capable of meeting for the period required by the terms and conditions of the gift.
- The contribution presents an unreasonable or unacceptable degree of risk, either financial, legal, environmental, or health/safety issues.
- The contribution constitutes a request to the university to operate a commercial endeavor for the sole benefit of the donor.
- The donor intends or insists on control or directional authority over some aspect of the program identified as a beneficiary of the proposed contribution.
- There is a question as to whether the donor has sufficient title to the assets or whether the donor is mentally competent to legally transfer the property as a contribution to the university.
- When considering a contribution from a potentially controversial source, the vice president for DAR in consultation with the GANC will exercise due diligence and scrutiny to ensure that acceptance of the contribution is in accordance with the university's interests, values, and practices.

1. Refusing and Returning Gifts and Gift Commitments

In the event the university is unable to comply with donor intent, or if the gift was directed to the university in error, the gift will be reviewed by the GANC and may be returned at its discretion.

2. Modifying Existing Gifts and Gift Commitments

a. Gift and Gift Commitment Adjustment or Reallocation by the Donor

Lehigh encourages careful consideration when accepting gifts to avoid future adjustment or reallocation; however, reasonable effort will be made to accommodate a compelling request for change made by a donor. Requests must be documented by the donor and submitted to the vice president for DAR for consideration and approval.

b. Changing Purpose or Criteria by the University

Lehigh may change the purpose and criteria for funds when the original intent is no longer able to be honored and a close alternate use approved by the GANC is determined.

D. Types of Gifts

Gifts may take the form of cash, cash equivalents, tangible property, or intangible property and may be transferred from the donor to the university immediately, over a specified period of time, or at a later date as part of the donor's estate or financial plans.

The following general standards for acceptance apply to all gifts whether outright, committed, or deferred.

1. Cash and Cash Equivalents

Gifts in the form of currency, checks, electronic fund transfers, credit, or debit card transactions may be accepted in any amount. All checks must be made payable to Lehigh University and shall in no event be made payable to an employee, agent, or volunteer of the university.

2. Gifts-in-Kind of Tangible and Intangible Property

The acceptance of gifts-in-kind of tangible and intangible property is governed by the university's Gift-in-Kind policy.

3. Life Income Gifts

A life income gift may provide an income tax deduction to the donor and income to the donor and/or beneficiaries. Donors may also establish a life income gift in their estate plans in which the principal will pass to the university after the death of the life income beneficiary(ies) and reduces estate tax by removing the asset from the donor's estate.

a. Charitable Gift Annuities

A charitable gift annuity is a written agreement between a donor and the university in which the university accepts a transfer of cash, publicly traded securities, or certain other types of property from the donor in return for guaranteed, fixed rate, periodic payments to the donor and/or one other named beneficiary for life. It is also possible for the donor to designate another individual as the annuitant. In any case, the maximum number of income beneficiaries is two.

The university may enter into charitable gift annuity contracts with a minimum gift level of $10,000 and a minimum age of 60 for life income beneficiaries.

The annuity is secured by the university's assets, and the income rate paid by the university and stated in the annuity contract is determined from tables provided by the American Council on Gift Annuities. Charitable gift annuities can have a current commencement date, or the commencement can be deferred. Upon the death of the donor (or, if applicable, the other named beneficiary), the balance of the principal is retained by the university.

Gift annuity contracts are governed by the laws of the state in which the donor resides. The university registers in states when appropriate.

b. Charitable Remainder Trusts

The university may accept designation as the remainder beneficiary of such trusts. The trust is funded with an irrevocable transfer of assets made during the life of the donor or through the donor's will. The trust must provide that a specified amount (not less than 5% as required by the IRS) of the trust's value is paid to one or more beneficiaries on an annual or more frequent basis; at least one beneficiary must be non-charitable.

The university may serve as trustee of a charitable remainder trust as long as at least 51% of the remainder is irrevocably designated to the university and the transferred assets total $100,000 or more. A charitable remainder trust may exist for the lifetime of the beneficiary(ies) or for a term of up to 20 years.

c. Charitable Lead Trusts

The university may accept designation as the income beneficiary of a charitable lead trust.

4. Other Gift Options

a. Bargain Sales

A bargain sale is a sale of property to the university for less than its fair market value (i.e., part gift and part sale). In reviewing whether to accept such a gift arrangement, the vice president for DAR, in consultation with the GANC, will consider appropriate factors for evaluating a proposed bargain sale, including but not limited to the following: the results of an independent appraisal, obtained at the donor's expense; the marketability of the property for sale within 12 months of receipt; and the carrying costs associated with the property during the holding period prior to sale.

b. Bequests

A bequest is a gift of any asset made in a donor's will or trust. Donors shall be advised to name the legal entity of Lehigh University, Tax ID 24-0795445, located in Bethlehem, PA, specifically in their wills and trusts in order to clearly indicate the recipient of their bequest. If the bequest includes a gift-in-kind, it will also be governed by the university's Gift-in-Kind Policy.

c. Pooled Income Fund

The university's pooled income funds have been established to accept such gifts of cash and securities transferred in return for life income payments for one or two individuals.

Lehigh is trustee of the pooled income fund and has a designated administrator. Reasonable expenses involved in the investment and administration of the pooled income funds are charged to the fund as specified by agreement between the trustee and the administrator.

The pooled income fund trust agreement shall be entered into with a donor for the sum of $10,000 or more. Any income beneficiary shall be age 60 or older, and the maximum number of beneficiaries for any deposit shall be two. Additions to the fund are accepted in amounts of $1,000 or more.

E. Gift Purpose

Gifts may be unrestricted, designated, or restricted to a general area of use that benefits the university or one of its components but never to benefit a specific individual or select group of individuals.

1. Unrestricted

An unrestricted gift is a gift made by a donor with no specific purpose and no subsequent permanent restriction placed by the university on how the gift is to be used.

2. Restricted

Restricted gifts are those received with a stipulation from the donor, and agreed to by the university, that the contribution will be directed to a specific area (i.e., college, school, department, etc.) or for a specific purpose.

Gifts may also be restricted to support an administrative or faculty position but never for the benefit of a specific individual member of the Lehigh community. While the funds may be for discretionary use by the identified administrative or faculty position, from the university's perspective these funds are restricted because they have a specific purpose. These gifts are administered and owned by the university, are not the property of the individual, and shall not be used for personal reasons.

3. Capital

Capital gifts are those directed to the building and maintenance of tangible property, buildings, and equipment.

4. Endowments

Lehigh’s endowment consists of four classifications: permanent endowments, funds functioning as endowments (i.e., quasi endowments), term endowments, and funds held in trust by others. Permanent endowments are funds received from donors with the requirement that the principal remain intact in perpetuity. Funds functioning as endowments (i.e., quasi endowments) are funds designated by the board to function like endowment funds but are not irrevocably committed. Term endowments are identical to permanent endowments except that the principal may be expended as directed by the donor after a stated period of time or upon the occurrence of a particular event. Funds held in trust by others are invested by an outside fiduciary, such as a bank, as stipulated by the donor and Lehigh is designated to receive the income from these funds held in perpetuity by the fiduciary.

Funds can be either restricted or unrestricted within each of these classifications. Restricted endowment funds are funds for which the donor has specified, and the university has agreed to, the beneficial purpose of how the income distributions will be used. Unrestricted endowment funds are funds for which the annual earnings are used at the discretion of university administration.

Contacts

For policy clarification, assistance with a Gift Agreement, or additional information regarding gift acceptance, please contact the senior director of Donor Relations for DAR.

Related Information

Lehigh University Gift-in-Kind Policy

Lehigh University Naming Policy

Named Gift Threshold Guidelines

History/Revision Dates

Origination Date: 10-11-2017

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