

THE COMMUNITY FOUNDATION  
*of Shelby County*

**Gift Acceptance Policy**  
(General)

**I. Purpose**

The mission of The Community Foundation of Shelby County (“CFSC”) is to cultivate, administer, and distribute legacy gifts for the benefit of our community.

The CFSC has established a development program to further its charitable purposes and mission. Specifically, the development program seeks to help donors meet their charitable goals while benefiting the communities and organizations served by the Foundation. This requires an active effort on the part of the CFSC’s Board of Trustees and staff to promote the programs and opportunities offered by the CFSC and to respond promptly and appropriately to the needs and circumstances of donors and prospective donors to the CFSC.

**II. Implementation**

**A. Policies and Guidelines.** It is the role of the Board to consider and adopt general gift acceptance and development policies for the CFSC. Such policies may include both this statement of policy, as well as other policies and guidelines applicable to specific types of gifts and development efforts that may be adopted by the Board from time to time.

**B. Use of Professional Advisors**

**1. CFSC’s Legal Counsel.** The CFSC shall seek the advice of legal counsel when appropriate in matters pertaining to its development program. All agreements, contracts, and other legal documents relating to the development program shall be reviewed by legal counsel prior to execution or use, with the exception of standard form documents, as noted in Section C below.

**2. Experts.** At the discretion of the Executive Director, other experts may be called upon to provide information or guidance to assist in the decision to accept or decline a gift.

**C. Standard Form Documents.** The CFSC will provide standard forms of fund agreements and fund information documents to a prospective donor and the donor’s advisors upon request and encourage their use whenever practicable. The Executive Director may update the standard form documents as needed and to conform to current law.

**D. Authority to Act in Routine Matters.** The Executive Director will have the authority to handle inquiries, assemble documentation, pursue expert guidance and execute agreements he/she deems to be of a routine nature on behalf of CFSC. The Executive Director may refer any proposed gift transaction to the Executive Committee for review and advice.

**E. Confidentiality.** Agreements with donors and gift amounts shall be held in strict confidence by CFSC, subject to legally authorized and enforceable requests for information

by governing agencies and courts, and except in circumstances where a donor or their representative has authorized release of such information. The names of donors and Legacy Society members may be listed in CFSC publications and/or its online promotional media, unless the donor has requested their name be withheld. The CFSC may release the names of charitable funds and information on the fund type or purpose, except in the instance where grants are to be issued anonymously.

**E. Donor's Counsel.** The CFSC's staff will encourage prospective donors to have the terms of all proposed agreements reviewed by the donor's own legal or financial advisers. The donor should also be advised that it is the donor's responsibility to obtain any necessary appraisals, file appropriate tax returns, and defend against any challenges to claims for tax benefits.

**F. Material Restrictions.** The CFSC reserves the right to refuse any gift that it believes is not in the best interests of the CFSC. **In conformity with Treasury Department regulations governing community foundations, gifts to the CFSC may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the CFSC from freely and effectively employing the transferred assets, or the income derived there from, in furtherance of its exempt purposes.**

**G. Disclosures to Donor.** By law, gifts to the CFSC are irrevocable once they have been accepted and are subject to administrative and investment fees based upon the CFSC Fee Schedule. In return for a tax deduction, the IRS requires that community foundations have discretion over any gift. Known as Variance Power, it gives the Board of Trustees the power to modify any restriction or condition on the distribution of funds for any specified charitable purpose or to any specified organization if, in the sole judgment of the Board of Trustees, such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served. Further, the CFSC must be able to modify the restriction without obtaining the approval of any participating trustee, custodian, or agent of the community foundation. See Treas. Reg. Section 1.170A-9(e)(11)(v)(B)(1).

### **III. Gifts to the CFSC**

Gifts to the CFSC may take a variety of forms. Many are outright gifts by living donors either on a one-time or a periodic basis. Others are bequests and testamentary gifts that take effect upon the donor's death. Some are other forms of deferred or split-interest gifts.

**A. Tax Deductibility of Gifts.** Each gift to the CFSC is subject to deductibility rules determined by the Internal Revenue Service. The CFSC will not provide tax advice, but will encourage donors giving significant gifts to consult with their financial or tax advisors regarding gift types.

**B. Donor Gifts.** The CFSC may accept the following types of outright contributions to establish a fund or add to an existing fund:

**1. Cash.** The CFSC will accept an outright gift of cash of any amount.

**2. Publicly-Traded Securities.** The CFSC will accept gifts of publicly-traded stocks and bonds at fair market values as determined under Internal Revenue Service rules. As a general rule, gifts of publicly-traded securities will be sold as soon as possible. Proceeds from the sale, less any brokerage commissions or other expenses, will be credited to the charitable fund intended by the donor.

**3. Privately-held Securities.** Privately-held securities will be accepted on a case by case basis after review and approval by the Executive Committee. It shall be the intent of the CFSC to accept and sell gifts of privately-held securities within no greater than 10 business days of their receipt. In certain circumstances, a gift may be held for a longer period of time, subject to the approval of the Executive committee.

Prior to the acceptance of closely-held stock, CFSC and the donor must agree in writing on arrangements for paying expenses associated with the stock, such as commissions or potential Unrelated Business Income Tax (UBIT), and administrative fees of the affected charitable fund.

The CFSC will review any relevant documentation in consideration of the proposed gift which may include, but is not limited to: a qualified appraisal and/or appraisal summary, shareholder agreements, buy-sell agreements or other agreements, proposed transfer instruments and any proposed agreements or arrangements between CFSC and the donor that pertain to the property. Such documentation may be reviewed by CFSC's legal counsel.

*Limitation on accepting gifts of assets to donor advised funds.*

Under the Pension Protection Act of 2006 (PPA), the private foundation excess business holdings rule apply to donor-advised funds as if they were private foundations. That is, the holdings of a donor-advised fund in a business enterprise, together with the holdings of persons who are disqualified persons with respect to that fund, may not exceed any of the following:

- Twenty percent of the voting stock of an incorporated business
- Twenty percent of the profits interest of a partnership or joint venture or the beneficial interest of a trust or similar entity
- Any interest in a sole proprietorship.

Donor-advised funds receiving gifts of interests in a business enterprise have five years from the receipt of the interest to divest holdings that are above the permitted amount, with the possibility of an additional five years if approved by the Secretary of the Treasury.

It is the intent of the CFSC to sell such gifts as soon as possible and invest the proceeds in accordance with the CFSC's Statement of Investment Policy.

**4. IRA Charitable Rollover.** Eligible donors who are required to take distributions from their Individual Retirement Accounts (IRAs), may distribute directly to the CFSC to any permissible type of charitable fund without first having to recognize the distribution as income.

Under current law, the Rollover is limited to taxpayers age 70½ or older; the amount of gifts is capped at \$100,000; and donors are specifically not permitted to make charitable rollovers to donor-advised funds (including Gift Accounts), supporting organizations, and private foundations.

**5. Tangible Personal Property.** Gifts of full or fractional interests in tangible personal property may be accepted on a case by case basis. As a general rule, gifts of tangible personal property are either put toward a related use to further CFSC's charitable purpose or sold as soon as possible. If sold, the fund designated to receive the gift is then credited with the proceeds from the sale, after commissions and expenses, if any. Property interests sold within three years of receipt, per the IRS, will require the CFSC to file IRS Form 8282 ("Donee Information Return"), unless the gift was valued below \$500 or was distributed for charitable purposes.

The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations for establishing value of the gift to determine the charitable benefit to the CFSC and for federal income tax purposes, including the preparation of Form 8283 ("Noncash Charitable Contributions"). The donor is also responsible for the preparation of appropriate transfer instruments and expenses incurred during the preparation for the transfer of the personal property.

Prior to the acceptance of the property, the CFSC and the donor must agree in writing on arrangements for paying expenses associated with the property, such as commissions, taxes, insurance, and maintenance costs.

The CFSC will review any relevant documentation in consideration of the proposed gift which may include, but is not limited to: a qualified appraisal and/or appraisal summary, documentation of the interests owned, proposed transfer instruments and any proposed agreements or arrangements pertaining to the property. The donor must provide CFSC with documentation of any fractional or joint ownership interests or other agreements that impose any restrictions or limitations upon the sale or transfer of the personal property. Such documentation may be reviewed by CFSC's legal counsel.

- **Gifts of Grain.** Cash basis farmers may give gifts of grain to the CFSC that have no prior sale commitment as determined under Internal Revenue Service rules. The donor must give up "dominion and control" of the commodity. Proceeds from the sale, less any brokerage commissions or expenses, will be credited to the charitable fund intended by the donor.

**7. Life Insurance Policies.** The CFSC may be named a beneficiary or co-beneficiary of any life insurance policy. Should the donor wish to transfer ownership of a policy, the CFSC may accept gifts of whole life, universal life and variable life insurance policies on a case by case basis. Generally, term policies are not accepted. Prior to accepting a policy requiring ongoing premium payments, the CFSC and the donor must agree in writing on arrangements for the payment of such premiums. Policy available upon request.

**7. Real Property.** Proposed gifts of real estate must be reviewed and approved by the Executive Committee and must satisfy the requirements of the CFSC's Policy and Procedure for Potential Gifts of Real Estate. Policy available upon request.

**C. Gift Acknowledgments.** Gifts in excess of \$50 that are accepted by the CFSC shall be acknowledged to the donor within a period of ten days of receipt, unless a donor has requested a different time period (ie: an end-of-year acknowledgment when several gifts are to be given). Gifts of less than \$50 may be acknowledged in writing upon the donor's request. Acknowledgments shall include gift substantiation information in accordance with federal regulations to enable an appropriate tax deduction.

#### **IV. Planned Giving Arrangements**

**A. Forms of Planned Gifts.** The CFSC's planned giving program encompasses gifts whose benefits do not fully accrue to the CFSC until some future time (such as the death of the donor or other income beneficiaries or the expiration of a predetermined period of time), or whose benefits to the CFSC are then followed by the interests of noncharitable beneficiaries. Planned giving opportunities offered by the CFSC include:

**1. Gifts by Will or Trust.** The CFSC may be designated as the beneficiary of a bequest or gift by the terms of the donor's will or by a revocable or irrevocable trust. Sample bequest language for restricted and unrestricted gifts is available to donors and their attorneys to insure that the bequest is properly designated.

**2. Retirement Plans.** Subject to limitations imposed by the IRS, donors may make lifetime gifts of retirement plan assets or name the CFSC as the beneficiary of their plan. Retirement plans include, but are not limited to IRAs, 401(k), 403(b), and defined contribution plans.

**3. Charitable Gift Annuity.** Please see the CFSC Policy and Procedure for Charitable Gift Annuities.

**4. Charitable Lead Trust.** A charitable lead trust (CLT) is a gift arrangement in which the donor transfers income-producing assets, such as stocks, bonds, or property to a trust for a specified term of years or for the life or lives of individuals. During the term of the trust, the annuity amount or unitrust amount is gifted to the CFSC and, at the end of the term, the trust principal returns to the donor or the donor's heirs. This may be established during a donor's lifetime or by will. The CFSC will not administer CLTs nor act as a trustee. The CFSC will work closely with the donor and his/her professional advisor to create the trust.

**5. Charitable Remainder Trust.** A charitable remainder trust (annuity trust= CRAT or unitrust=CRUT) is a trust providing for payments to one or more individuals for a fixed or ascertainable period of the time, with the remainder passing to the CFSC. The CFSC will not administer

CRATs or CRUTs nor act as a trustee. The CFSC will work closely with the donor and his/her professional advisor to create the trust.

**6. Life Estate Agreement.** This type of gift will be evaluated on a case by case basis and must be in accordance with the Gift Acceptance Policy and Procedure for Potential Gifts of Real Estate.

## V. Additional Guidelines

- A. **Fund Acceptance.** Gifts to establish a fund must meet legal and operational standards. See the Fund Policy for the appropriate type of fund. Gifts may be added to an existing fund.
- B. **What the CFSC Will Not Do.**
  - 1. **Donor Expenses.** Except in extraordinary circumstances, CFSC's Operating fund will not pay for a donor's legal assistance, appraisals or other services.
  - 2. **Corroboration of Value.** CFSC will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.
  - 3. **Best Interest.** CFSC will not accept gifts that are not in its best interest as determined by the Executive Committee.
- C. **Review.** The Board of Trustees may revise, amend or supplement these Policies and Guidelines at any time.

Appd. 2/17/2000  
Rev. 8/21/2008  
Rev. 6/27/2013  
Rev. 8/28/2014  
Rev. 10/26/2017  
Rev. 6/27/2019