

Gift Acceptance Policy

1. PURPOSE

The purpose of the gift acceptance policy is to provide guidance for the solicitation and acceptance of gifts to the Montgomery County Public Schools Educational Foundation (hereafter the "Foundation") for purposes that will help the Foundation further and fulfill its mission and deliver any of its programs.

The policy also will provide guidance to prospective donors and their advisors when making gifts to the Foundation.

Gifts made to MCPS (Montgomery County Public Schools) are governed by the MCPS Financial Manual, Chapter 19. As the executive director of the Foundation has the responsibility for collaborating and revising Chapter 19 with MCPS, the MCPS Financial Manual and this policy are in alignment where applicable.

2. POLICY

I. Gift Acceptance Committee

The Gift Acceptance Committee is an ad hoc committee that may be convened by the chair or executive director. The Gift Acceptance Committee is charged with reviewing gifts made to the Foundation that are either outside the scope of the parameters outlined in this policy or have other implications that suggest a review and making recommendations to the Board of Directors (hereafter, "BOD").

The Gift Acceptance Committee shall consist of:

- The chair of the Foundation's BOD
- The treasurer of the Foundation
- The executive director of the Foundation
- Other members as appointed by the chair of the Foundation

When considering soliciting or accept gifts, the committee will consider the following factors:

- Values – whether the acceptance of the gift compromises any of the core values or the mission and vision of the Foundation
- Compatibility – whether there is compatibility between the intent of the donor and the Foundation's use of the gift

- Public Relationships – whether acceptance of the gift damages or could damage the reputation of the Foundation
- Primary Benefit – whether the primary benefit is to the Foundation versus the donor
- Consistency – is acceptance of the gift consistent with past practice?
- Form of Gift – is the gift offered in a form or in a condition that the Foundation can use without incurring substantial expense or difficulty?
- Effect on Future Giving – will the gift encourage or discourage future gifts?

II. Use of Legal Counsel

The Foundation shall seek legal counsel's advice in matters relating to the acceptance of gifts where appropriate. A review of counsel is recommended for:

1. Review of closely held stock transfers that are subject to restrictions or buy-sell agreements
2. Review of documents naming the Foundation as trustee
3. Review of all transactions with potential conflict of interest that may invoke IRS sanctions
4. Other instances in which the use of counsel is deemed appropriate by the Gift Acceptance Committee

III. Conflict of Interest

All prospective donors shall be strongly urged to seek the aid of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. The Foundation will follow the Model Standards of Practice for the Charitable Gift Planner issued by the National Committee on Planned Giving, shown as an appendix to this document.

The Foundation makes every effort to ensure accepted gifts are in the best interests of the organization, Montgomery County students and educators, and the donor. The Foundation works to follow the Donor Bill of Rights as adopted by the Association of Fundraising Professionals (AFP), all rights reserved, as shown as an appendix to this document and reprinted with permission from the AFP.

IV. Restriction of Gifts

The Foundation will accept unrestricted gifts and gifts for specific programs and purposes, provided they are consistent with its stated mission, purposes, and priorities. The Foundation will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the articles of incorporation, gifts that are too difficult to administer, or gifts that are for purposes outside the mission. The Foundation shall make all final decisions on the restrictive nature of a gift, and its acceptance or refusal.

V. Types of Gifts

The following gifts are acceptable:

- Bequests
- Cash
- Tangible individual property
- Securities
- Charitable remainder trusts
- Charitable lead trusts
- Retirement plan beneficiary designation
- In-kind goods and services

This list is not meant to be exhaustive and other types of gifts may be accepted based on review by the gift acceptance committee.

The following criteria govern the acceptance of each gift form:

- **Cash:** Cash is acceptable in any form. Checks shall be made payable to the “MCPS Educational Foundation” and shall be delivered to P.O. Box 1007, Rockville MD 20849-1007, or to the Foundation’s physical office.

For cash gifts greater than \$5,000, the Foundation staff will document donor intent with a gift agreement, unless the gift is to fund a single campaign or program (e.g., sponsorship for GIVE BACKpacks) or is intended to be unrestricted.

Per MCPS Financial Manual Chapter 19, gifts in excess of \$10,000 are to be made through the Foundation unless otherwise approved by MCPS Chief Operating Officer or a designee.

- **Bequests:** Donors and supporters of the Foundation shall be encouraged to make bequests to the MCPS Educational Foundation under their wills and trusts. Such bequests shall not be recorded as gifts to the Foundation until the gift is irrevocable. Where the gift is irrevocable but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
- **Tangible individual property:** All other gifts of tangible individual property shall be examined considering the following criteria:
 - Does the property fulfill the mission of Foundation?
 - Is the property marketable?
 - Are there any undue restrictions on the use, display or sale of the property?
 - Are there any carrying costs for the property?

The Foundation's Gift Acceptance Committee shall make the final determination on accepting other tangible property gifts.

- **Securities:** The Foundation can accept both publicly traded securities and closely held securities.
 - **Publicly traded securities:** Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. All marketable securities shall be sold upon receipt unless otherwise directed by the Finance Committee. In some cases, applicable securities laws may restrict marketable securities; in such instances, the gift acceptance committee of Foundation shall make the final determination on the acceptance of the restricted securities
 - **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 of the Foundation. However, gifts must be reviewed prior to acceptance to decide that:
 - There are no restrictions on the security that would prevent the Foundation from converting those assets to cash
 - The security is marketable
 - The security will not generate any undesirable tax consequences for the Foundation

If potential problems arise from the initial review of the security, further review, and recommendation by an outside professional, including legal counsel, may be obtained before making a final decision on acceptance of the gift. The gift acceptance committee of the Foundation shall make the final determination on the acceptance of the closely held securities where necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

- **Charitable remainder trusts:** The Foundation may accept designation as the remainder beneficiary of the charitable remainder trust with the approval of the gift acceptance committee of the Foundation. The Foundation will not accept appointments as trustees of a charitable remainder trust.
- **Charitable lead trusts:** The Foundation may accept a designation as income beneficiary of a charitable lead trust. The Foundation will not accept an appointment as trustee of a charitable lead trust.
- **Retirement plan beneficiary designation:** Donors and supporters of the Foundation shall be encouraged to name MCPS Educational Foundation as beneficiary of their retirement plans. Such designations shall not be recorded as gifts until the gift is

irrevocable. Where the gift is irrevocable but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

VI. Miscellaneous Provisions

- **Securing appraisals and legal fees for gifts to the Foundation:** It shall be the donor's responsibility to secure an appraisal (where needed) and independent legal counsel for all gifts made to the Foundation.
- **Valuation of gifts for development purposes:** The Foundation shall record a gift received at its valuation for gift purposes on the date of gift.
- **Responsibility for IRS filings upon sale of gift items:** The Gift Acceptance Committee of the Foundation is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt where the charitable deduction value of the item was \$5,000 or greater. The Foundation must file this form within 125 days (about 4 months) of the date of sale or disposition of the asset. Form 8282 with Filing Instructions is attached as an appendix to these policies
- Acknowledgement of all gifts made to the Foundation and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the board of the Foundation. IRS Publication 561 Determining the Value of Donated Property and IRS Publication 526 Charitable Contributions are included with this policy as an appendix.

3. COMPLIANCE

The executive director and the chair of the Finance Committee shall review these guidelines regularly to ensure the Foundation's actions follow the guidelines.

The chair of the Finance Committee shall review this policy annually to decide if revision is needed. The chair of the Finance Committee may elect to include the full Finance Committee, legal counsel, and/or the Gift Acceptance Committee to ensure the guidelines are compliant with new or revised Foundation, MCPS and other regulatory bodies' policies and regulations.

Policy History

- Adopted June 27, 2024

APPENDIX

- Model Standards of Practice for the Charitable Gift Planner
- Donor Bill of Rights
- IRS Publication 561 Determining the Value of Donated Property
- IRS Publication 526 Charitable Contribution