

# **New York State Dental Foundation Gift Acceptance Policies and Guidelines**

The mission of the Foundation is to foster a statewide approach to the advancement of the art and science of dentistry and dental education as well as to improve the quality of dental care by: assisting dentists and their staffs to increase and advance their skills and knowledge; encouraging the establishment and assisting in the development of student aid programs; making grants to appropriate agencies for purposes of research; making grants to dental schools or other organizations involved in the education of dentists; and increasing the public's understanding of and access to dental services.

In order to protect the interests of the New York State Dental Foundation and the persons and other entities who support its programs, these policies are designed to assure that all gifts to, or for the use of, the New York State Dental Foundation, hereafter referred to as the Foundation, are structured to provide maximum benefits to both parties

The New York State Dental Foundation, a not for profit organization organized under the laws of the State of New York, encourages the solicitation and acceptance of gifts to the New York State Dental Foundation (hereafter referred to as the Foundation) for purposes that will help the Foundation to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to the Foundation or for the benefit of any of its programs.

It is understood that except where stated otherwise, these policies are intended as guidelines, and that flexibility must be maintained because some gift situations can be complex, and decisions will only be made after careful consideration of a number of interrelated factors. Therefore, these policies will, in some instances, require that the merits of a particular gift be considered by the gift acceptance committee and a final decision be made only by the Foundation's Board of Trustees.

## ***I. Purpose of Policies and Guidelines***

The Board of Trustees of the New York State Dental Foundation and its staff solicit current and deferred gifts from individuals, corporations and foundations to secure the future growth and missions of the Foundation. These policies and guidelines govern the acceptance of gifts by the Foundation and provide guidance to prospective donors and their advisors when making gifts to the Foundation. The provisions of these policies shall apply to all gifts received the Foundation for any of its programs or services.

## ***II. Use of Legal Counsel***

The New York State Dental Foundation shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- a. Closely held stock transfers that are subject to restrictions or buy-sell agreements;

- b. Documents naming the Foundation as Trustee;
- c. Gifts involving contracts, such as bargain sales or other documents requiring the Foundation to assume an obligation;
- d. Transactions with potential conflict of interest that may invoke IRS sanctions;
- e. Other instances in which use of counsel is deemed appropriate by the Board of Trustees of the Foundation.

### ***III. Conflict of Interest***

The New York State Dental Foundation will urge all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences.

### ***IV. Restrictions on Gifts***

The New York State Dental Foundation will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent 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 its charter, gifts that are too difficult to administer, or gifts that are for purposes outside the mission of the Foundation. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Board of Trustees of the Foundation.

All prospective donors will be informed that in making a gift to the Foundation, they give up all right, title, and interest to the assets contributed; that the Foundation Board has variance power; and that the gift may contain no material restriction that would prevent the fund from being considered as a component fund of The Foundation under the Internal Revenue Code and regulations thereto.

The Foundation reserves the right to decline any gift that it believes is not in the best interest of The Foundation. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Board of Trustees of the Foundation.

### ***V. Types of Gifts***

#### **A. Cash**

1. Gifts in the form of cash and checks shall be accepted regardless of amount unless, as in the case of all gifts, there is a question as to whether the donor has sufficient title to the assets or is mentally competent to legally transfer the funds as a gift to the Foundation.
2. All checks shall be made payable to the New York State Dental Foundation and shall in no event be made payable to an employee, agent, or volunteer for the credit of the Foundation.

#### **B. Publicly Traded Securities/Commodities**

1. Securities that are traded on the New York, NASDAQ, Chicago Board of Trade or American Stock Exchanges, or other readily marketable securities, shall be accepted by the Foundation. In most cases such securities will be immediately sold by the Foundation. In no event shall an employee or volunteer working on behalf of the Foundation commit to a donor that a particular security will be held by the Foundation unless authorized to do so by the Secretary/Treasurer of the Foundation.
2. If an individual or his/her broker indicates a willingness to donate stock or securities, that person should be informed that such transfers are handled by the Foundation's broker of record. The broker of record shall then be instructed to communicate with the donor or donor's broker.
3. The Foundation does not wish to open accounts with a variety of brokers, due to the cost and inconvenience of that process. However, the Secretary-Treasurer is authorized to open such accounts in an emergency or when a donor has inadvertently not followed the Foundation's policies. Such accounts will be closed as quickly as possible and the stock or proceeds will be immediately transferred to the Foundation's broker of record.

**C. Closely-Held Securities**

1. Nonpublicly traded securities or commodities shall only be accepted after approval of the gift acceptance committee. It is a policy of the Foundation not to accept as pledge payment any closely held securities or commodities that are not regularly and easily traded.
2. Such securities will be subsequently disposed of, with the approval of the gift acceptance committee, and the net proceeds credited to any pledge. No commitments shall be made for the repurchase of such securities by the Foundation prior to completion of a gift of securities, nor shall the Foundation repurchase closely held securities.

**D. Real Property**

1. Gifts of real estate require prior approval of the Board of Trustees of the Foundation.
2. A donor shall furnish the Foundation with an independent appraisal of the real estate property, with the cost of appraisal to be borne by the donor.
3. In general, the Foundation accepts donations of real property when such is appraised at the value of \$50,000 or greater and such title is unencumbered by any mortgage, liens or other claims.
4. Real estate shall not be accepted to fund a charitable gift annuity, or other life income gift, without seeking an opinion as to the permissibility of this action under the laws of the state or states involved and only with the special approval by the gift acceptance committee.
5. The Board of the Foundation shall require that an environmental audit, inspection or impact study be made of any real estate being considered as a

gift to the Foundation. The committee will not accept any gift that would expose the Foundation to expense of cleanup, litigation, etc. that may result from the acceptance of such property. Cost of the audit or such study will be borne by the donor, and the party conducting the inspection or study is to be selected by the Foundation.

6. The Board of the Foundation may recommend a waiver of any of the above conditions if other factors warrant consideration of accepting valuable real estate.

#### **E. Tangible Personal Property**

All other gifts of tangible personal property shall be examined in light of the following criteria:

- Does the property fulfill the mission of the 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 final determination on the acceptance of other tangible property gifts shall be made by the Board of Trustees of the Foundation.

No personal property shall be accepted by the Foundation unless there is reason to believe the property can be quickly sold. No personal property shall be accepted that obligates the Foundation to ownership of it in perpetuity. No perishable property or property that will require special facilities or security to properly safeguard will be accepted without prior approval of the gift acceptance committee.

Only the gift acceptance committee or persons authorized by the gift acceptance committee to do so may represent to a donor that property may be held by the Foundation for a specific period of time or for purposes related to its tax-exempt status. Donors shall be notified at the time of receipt of a gift that the Foundation will, as a matter of corporate policy, cooperate fully in all matters related to IRS investigations of noncash charitable gifts.

#### **F. Other Property**

1. Other property of any description including mortgages notes, copyrights, royalties, easements, whether real or personal, shall only be accepted by action of the gift acceptance committee.

2. Appropriate inquiry shall be made and special consideration shall be given to the nature of any gift property and whether it is in keeping with the mission of the Foundation prior to the acceptance of any property by the Foundation.

### **VI. *Deferred Gifts***

**A. Bequests**

1. Gifts through wills and trusts (bequests) shall be actively encouraged by the Foundation.
2. In the event of inquiry regarding a bequest, representations as to the future acceptability of property proposed to be left to the Foundation in a will or through any other deferred gift arrangement shall only be made in accordance with the terms and provisions of Section I paragraphs A-F of these policies.
3. Gifts from the estates of deceased donors consisting of property which is not acceptable shall be rejected only by action of the Board of the Foundation. The legal counsel of the Foundation shall expeditiously communicate the decision of the Board to the legal representatives of the estate. If there is any indication that the representatives of the estate or any family member of the deceased is dissatisfied with the decision of the Board, this fact shall be communicated to the Board or to the Foundation staff as quickly as possible for an appeal to the Board, whose decision in such matters is final.
4. Attempts shall be made to discover bequest expectancies wherever possible in order to reveal situations which might lead to unpleasant donor relations in the future. Intended planned deferred gifts should be brought to the attention of the Board and every attempt shall be made to encourage the donor involved to conform his or her plans to the Foundation's policy.

**B. Charitable Remainder Trusts**

1. The Board reserves the right to refuse to act as trustee and/or to appoint a trustee.
2. Donors shall be encouraged to select their own trustees; however, upon request of the donor, and where it is appropriate to do so, the AAOF may recommend a corporate fiduciary in which it has confidence.
3. The fees for management of a charitable remainder trust shall be charged to trust expense and will not be paid by the Foundation.
4. The gift acceptance committee and other employees and volunteers acting on behalf of the Foundation should become familiar with the types of property generally accepted by a corporate fiduciary as suitable contributions to charitable remainder trusts, and employees or others acting on behalf of the Foundation shall not encourage donors to make gifts of any property to charitable remainder trusts that are not in keeping with such guidelines.
5. No representations shall be made by any employee or other persons acting on behalf of the Foundation as to the manner in which charitable remainder trust assets will be managed or invested by a corporate fiduciary who may be recommended by the Foundation without the prior approval of such representation by the fiduciary.
6. Charitable remainder trusts and all other deferred gifts shall be encouraged as a method of making gifts to the Foundation while retaining income which may be needed by the donor or other persons chosen by the

donor for any number of personal purposes. Such trusts shall not be marketed as tax avoidance devices or as investment vehicles, as it is understood such activity may violate federal and/or state securities regulations.

**C. Pooled Income Funds**

1. The Foundation may establish a pooled income fund, a giving device established by Congress under the terms of Section 642 of the Internal Revenue Code and regulations promulgated thereunder.
2. No income beneficiary in the fund may be less than 50 years of age without prior approval of the gift acceptance committee.
3. There shall be no more than two income beneficiaries allowed in connection with each contribution to the fund.
4. The minimum initial contribution to the fund shall be \$5,000.
5. The minimum additional contribution by a participant in the fund shall be \$1,000.
6. The corporate fiduciary chosen to manage the fund shall furnish guidelines governing the acceptance of property other than cash as contributions to the Foundation's Pooled Income Fund. Such guidelines shall be adopted by the gift acceptance committee and shall be incorporated by reference in these gift acceptance policies.
7. No representation of the fund shall be made that could be construed as marketing the fund as an investment or security of any type. All disclosures required by state and federal regulatory agencies shall be made in a thorough and timely manner.

**D. Charitable Gift Annuities**

1. The Foundation may establish a program to encourage and accept Charitable Gift Annuity contracts from motivated donors who wish to give while receiving annual payments for life.
2. No Gift Annuity shall be accepted which names an income beneficiary under 55 years of age without prior approval of the gift acceptance committee.
3. There shall not be more than two income beneficiaries for each Gift Annuity.
4. The minimum initial contribution for Gift Annuity shall be \$5,000.
5. The minimum contribution for an additional Gift Annuity by an individual who has previously entered into a Gift Annuity agreement shall be \$1,000.

**E. Life Estate Gifts**

1. Donors are discouraged from making gifts of real property to the Foundation under which they maintain a life interest in the property.
2. Such gifts may be accepted by approval of the gift acceptance committee in situations where the asset involved appears to be a minor portion of the donor's wealth, and the committee is satisfied that there has been full

disclosure to the donor of the possible future ramifications of the transaction.

**F. Gifts of Life Insurance**

1. The Foundation shall encourage donors to name the Foundation to receive all or a portion of the benefits of life insurance policies which they have purchased on their lives.
2. The Foundation will not, however, as a matter of course agree to accept new gifts from donors for the purpose of purchasing life insurance on the donor's life. Exceptions to this policy will be made only after researching relevant state laws to assure that the Foundation has an insurable interest under applicable state law.
3. No insurance products, companies or agents may be endorsed for use in funding gifts to the Foundation without Board approval.
4. In no event shall lists of the Foundation donors be furnished to anyone for the purpose of marketing life insurance for the benefit of donors and/or the Foundation.

***VII. Payment of Fees related to Gifts to the Foundation***

- A. Finder's Fees or Commissions - The Foundation will pay no fee to any person as consideration for directing a gift to the Foundation.
- B. Professional Fees and Referrals – (1) The Foundation will pay reasonable fees for professional services rendered in connection with the completion of a gift to the Foundation. Such fees will be paid only with prior written approval of the gift acceptance committee and only following discussion with and approval by the donor. (2) Fees shall be reasonable and directly related to the completion of a gift. They shall generally be limited to appraisal fees by persons who are competent and qualified to appraise the property involved and who have no conflict of interest; environmental inspection fees; legal fees for the preparation of documents; accounting fees incident to the transaction; fees involved in the sale of real estate and fees of "fee for service" financial planners. In the case of financial planners, such persons must aver in writing that they are compensated only through fees for services rendered and that they are not compensated for the sale of products to clients. If the Foundation is to compensate a financial advisor, fees are paid only for services rendered for the Foundation; no commission-based sale of services or products to a donor may be made by the advisor. (3) In the case of legal, accounting and other professional fees, an attempt shall be made by the gift acceptance committee to ascertain the reasonableness of these fees prior to payment. An hourly breakdown of time shall be required. In cases which appear excessive, the summary of fees shall be submitted to the Foundation's legal counsel for review and approval prior to payment. (4) In cases where the persons receiving fees were initially employed by the donor and the Foundation agrees to pay the fees involved, the donor shall be notified that the payment of such fees may result in taxable income to the donor in the amount of the fees paid. (5) In situations where advisors retained by the Foundation prepare documents or render advice in any form to the Foundation or a donor to the Foundation, it shall be disclosed to the donor that the

professional involved is representing the interests of the Foundation and is not acting on behalf of the donor and that any documents or other advice rendered in the course of the relationship between the Foundation and the donor should be reviewed by counsel for the donor prior to completion of the gift. (6) To avoid the appearance of impropriety or undue influence, the Foundation will not directly refer any potential donor to a specific attorney, accountant, or other professional.

***VII. Restrictions***

- A. Restrictions on Use and Investment of Gifts - No restrictions on how gifts may be used by the Foundation will be honored without prior approval of the gift acceptance committee in the case of current gifts or subsequent approval by the gift acceptance committee in the case of gifts received by will or other gift which is effective at death which has not been previously approved by the gift acceptance committee.

***VIII. Interpretation***

These policies and guidelines have been reviewed and accepted by the Board of Trustees of the New York State Dental Foundation.

The above policies may be modified from time to time by the Board of Trustees of the New York State Dental Foundation.

The Board of Trustees of the New York State Dental Foundation reserves the right to accept or reject any gift in its sole discretion without recourse by any donor.

Approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2006

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Member, Board of Trustees, New York State Dental Foundation