St. Mary's University

Policy: Gift Acceptance

Approver(s):	Board of Trustees, Executive Council
Authorizes release:	Vice President for University Advancement
Responsible office:	Advancement Services
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Related policies:	
Additional references:	

Purpose

The St. Mary's University Gift Acceptance Policy addresses the issue of the types of gift instruments accepted and articulates funding requirements and policies for named gift opportunities.

St. Mary's University is recognized as an organization exempt from income tax under Section 501c(3) of the Internal Revenue Code. St. Mary's procedures for reporting and recognizing charitable contributions comply with all IRS guidelines and conform to standards established by the Council for Advancement and Support of Education (CASE).

The St. Mary's University Board of Trustees has the authority, under the University by-laws that govern the Board, to accept or decline gifts to the University. The Board of Trustees delegates the responsibility of receiving gifts to the President, and in turn, to the Vice President for University Advancement, who coordinates all of the operational aspects of the University's fund raising activity. The Vice President may delegate specific responsibilities at his/her discretion to others on his/her staff.

St. Mary's will not accept gifts which involve unlawful discrimination based upon race, religion, sex, age, national origin, color, handicap or any other basis prohibited by federal, state, and/or local laws and regulations.

Gifts to St. Mary's are encouraged which enable the University to fulfill its purposes of teaching, research and community service. St. Mary's will not accept gifts too restrictive in purpose or inconsistent with our mission statement. No gifts will be marketed solely as devices for tax planning.

All outright, planned, deferred and in-kind gifts to St. Mary's are received by University Advancement and processed by the office of Advancement Services following the designated intent of the donor. If the donor's intent is unclear, every effort will made to clarify those intentions directly with the donor.

These policies are subject to review and change by the Board of Trustees. The President, Vice President for University Advancement and the Advancement Committee of the Board of Trustees may recommend changes and exceptions to the Board of Trustees.

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OUTRIGHT GIFTS (CURRENT GIFTS)

I. Cash and Cash Equivalents

Cash and cash equivalents include all U.S. or foreign currency, checks, credit/debit card payments (Visa, MasterCard, American Express and Discover), wire transfers, money orders and payroll deductions. Checks must be made payable to St. Mary's University.

II. Third Party/Assignment of Gift Income

A person may assign to an institution income that the person would have received from a third party as payment for services (e.g., payment for serving on a corporate board, honoraria for speaking engagements, etc.). In such circumstances, credit for the gift will be given to the person making the assignment. This assumes that the organization making the payment will report the payment for services as income to the individual (usually on IRS Form 1099), and the individual would then take a corresponding tax deduction. The individual may choose to decline the payment and request the third party contribute the payment to the institution. In this case, the gift is from the third party and the third party does not report the payment as income to the individual. The remitter receives hard credit and the individual who waived the payment receives soft credit.

III. Employer-Sponsored Matching Gifts

A matching gift may be received from a company or a company funded foundation, matching a gift given to St. Mary's by an employee, retired employee, or a director of the company, foundation, or other organization. A donor will receive hard credit for his or her gift and soft credit for matching gifts.

Potential matching gifts cannot be entered as a part of a pledge the donor makes for future support since those are not funds the donor has control of or is irrevocably entitled to receive. In many cases, matching gift companies include language in the application stipulating the match may not be applied to an individual's pledge.

IV. Gifts from Advised Funds

A gift from a donor advised fund will be treated as a direct gift from the foundation or organization issuing the funds. In most cases the award letter includes a statement that the gift cannot be used to satisfy a pledge payment for the fund donor who made the recommendation of a gift to the receiving organization. The fund donor has already received gift/tax credit from the advised fund manager for the original gift and will receive soft credit from the University.

V. Marketable Securities

Marketable securities are stocks, bonds and other financial instruments that are regularly listed for sale on public exchanges. Unlike closely held securities, shares or units that are "marketable" have readily ascertainable values and are freely transferable to other owners, including charities.

The fair market value of the gift of stock will be determined by the average of the high and the low value of the stock as listed on the applicable stock exchange for the appropriate date of receipt of the stock. If that date should fall on a day the exchange is closed, the average will be computed between the high and low values of the stock as listed on the applicable stock exchange for both the preceding business day and the following business day from the date of receipt of the gift. In general, gifts of marketable securities will be sold as soon as practical.

VI. Closely Held Securities

Closely held securities are an asset category that includes the total value of stock in closely held corporations. Closely held corporations are those whose ownership is concentrated among a relatively small numbers of owners, and whose stock is not traded publicly. These corporations include all S corporations and some C corporations.

Closely held securities may be accepted only when an investigation reveals no significant potential liability for St. Mary's in receiving the gift, and only if any lack of liquidity is anticipated to present no major difficulties for the University.

VII. Mutual Funds

A mutual fund is an open-ended fund operated by an investment company which raises money from shareholders and invests in a group of assets, in accordance with a stated set of objectives. There are many different types of mutual funds.

Mutual funds may be held in certificate form but they are more likely held in electronic form by a brokerage firm, financial institution, or the mutual fund company itself. Since the transfers of mutual funds vary widely from firm to firm, gifts of mutual funds are dealt with on a case-by-case basis and may not be able to be transferred to or accepted by the University.

Gifts of mutual fund shares are counted at the public redemption value, which is the net asset value of the fund on the date of the gift. Net asset value is determined by valuing all securities in the fund at day's end, reducing that value by expenses, and dividing that figure by the number of shares outstanding.

VIII. Real Estate

Real estate includes land and any permanent buildings on it.

In general, it is the policy of St. Mary's not to accept contributions of property subject to any form of indebtedness or other liability in order to prevent the University from becoming responsible for the payment thereof. St. Mary's will not accept a gift involving real property that makes the University a principal in a real estate partnership, joint venture, or business activity in which the University participates fully in the risks of the operation and has more than limited liability for the conduct of the business (e.g., as a general partner, principal in a joint venture, or as an owner of a working interest).

All expenses related to the transfer of property including the required appraisal, survey and title policy are the donor's to pay.

Real estate gifts require a review process in order to measure the feasibility of acceptance by the University as a result the University President, Vice President for Administration and Finance and Vice President for University Advancement are authorized to decide if a gift can be accepted.

IX. Mineral Interests

Mineral right is the ownership of all rights to gas, oil or other minerals as they naturally occur in place, at or below the surface of a tract of land. Gifts of mineral interests may be received absent extenuating circumstances such as extended liabilities or other considerations making receipt of the gift inadvisable. In this regard, prior to the acceptance of mineral interests, all offered gifts are to be first examined by a qualified consultant for such extenuating circumstances that would argue against receipt of the gift.

X. Tangible and Intangible Personal Property

Tangible personal property is an asset that can be touched, handled, or moved by an individual, as opposed to intangible assets. Tangible personal property includes automobiles, art, furniture, jewelry, coin or stamp collections, boats, planes and similar assets. Intangible or intellectual property refers to assets produced through creativity and innovation such as inventions, patents and copyrights of literary or artistic works. Tangible and Intangible personal property can be accepted by St. Mary's University on a case by case basis. The University President, Vice President for Administration and Finance and Vice President for University Advancement are authorized to decide if a gift can be accepted.

XI. Gifts-in-Kind

Gifts-in-kind can be accepted by St. Mary's University assuming they will be useful to fulfill the University's mission. They are generally defined as non-cash donations of material or long-lived assets, other than real and tangible or intangible property (see Sections IX and X). Gifts-in-kind might include such items as equipment, software, printed materials, food or other items used for hosting dinners, etc. Gifts-in-kind usually (although not always) come from companies, corporations, or vendors in contrast to individuals, who typically give personal property.

Deferred Gifts (Planned Gifts)

I. Bequests

Definition

Bequests are provisions in a will, trust or other testamentary legal document providing a gift to charity pursuant to applicable state law. Typically, these may be revoked before the donor's death unless accompanied by a legally enforceable contract. The gift may be designated as a percentage of the donor's estate, a specific dollar amount or description of property (such as securities, real estate, or other assets), or a residual of the donor's estate. Bequests may also be made contingent upon a certain event happening.

<u>Acceptance Policy</u>

a. Employees and officers of St. Mary's do not prepare wills for donors to the University. Appropriate staff may, upon request, provide suggested gift clauses to donors for inclusion in a donor's will.
b. St. Mary's may not serve as executor of estates or as attorney-in-fact. Officers of the University may not serve as executors of estates or as attorneys-in-fact in their capacity as University officers under ordinary circumstances. In some instances employees may serve as such but only with the permission of the President for St. Mary's University.
c. If a St. Mary's representative learns that he or she has been named executor or other legal actor under a donor's estate plan, the representative shall promptly contact the Vice President for University Advancement for assistance in requesting the donor change the document.
d. St. Mary's representatives shall not sign as witnesses to wills under which they know St. Mary's has been named as a beneficiary.
e. As a general rule, St. Mary's University will not bear any cost associated with creating or amending a will or revocable trust.

II. Life Insurance

Definition

Life insurance is a policy that will pay a specified sum to beneficiaries upon the death of the insured. Donors may make an outright gift of a policy to St. Mary's by irrevocably transferring all incidents of ownership in a policy to St. Mary's.

Acceptance Policy

a. St. Mary's University will accept the following types of life insurance gifts:
   i. gift of a paid-up insurance policy;
   ii. gift of a new or existing insurance policy, for which the donor intends to continue making payments, either to St. Mary's or to the insurance company, so that the policy does not lapse;
   iii. gift where St. Mary's is named as the beneficiary.
b. In the case of i. and ii. the donor must name the University as both the owner and the beneficiary of the insurance policy with the understanding that St. Mary's may cash in the policy, at the discretion of St. Mary's.
c. St. Mary's University will make payments on a policy if the donor makes annual gifts at least equivalent to the amount of the premium. The University is under no obligation, but may continue to pay the premiums if the donor does not make an equivalent annual gift.
d. St. Mary's will not:
   - Accept ownership of term policies as they have no current cash value. Under this circumstance St. Mary's prefers to be named as the beneficiary.
   - Accept group life insurance as it is owned by the employer. Donors may opt to name St. Mary's as beneficiary of either a term or group life policy.
   - Participate in any pooled insurance program including Investor-Owned Life Insurance or Stranger-Owned Life Insurance programs.
   - Endorse any particular insurance product, company, program, agent, agency, or company.

III. Charitable Gift Annuities

Definition

A standard charitable gift annuity (CGA) is transaction where a person irrevocably transfers to an institution some property, such as cash or securities, and the institution agrees in a contract to pay the donor or other beneficiaries (maximum allowable of two beneficiaries) a guaranteed annuity for life. A deferred payment charitable gift annuity is almost identical in construct to the standard charitable gift annuity. The significant difference is that the contract stipulates some date in the future when payments to the donor or other beneficiaries will begin.

<u>Acceptance Policy</u>

a. In working with prospective gift annuity donors, care will be taken to assure that the person entering into the annuity fully understands that the annuity gift is irrevocable and understands the nature of the fixed payment which will be payable to them. All prospective donors will be urged to seek advice of their own legal and/or tax counsel. The relevant University staff member will communicate clearly to the prospective donor that he or she represents St. Mary's.
b. A University staff member will make every practical effort to meet personally with prospective gift annuity donors.
c. Gift annuities entered into with the University must predominantly benefit the University and in every instance must benefit exclusively charitable, religious or educational causes. Split beneficiaries are allowed for gift annuities with a minimum of 75% to benefit St. Mary's University.
d. For a standard and deferred CGA, the following criteria must be met:
    i. Must be economically viable for St. Mary's.
    ii. Youngest annuitant must be at least 55 years of age.
    iii. Must be funded with at least $20,000 in cash or readily marketable securities.
e. For a two life CGA, the following criteria must be met:
    i. Must be economically viable for St. Mary's.
    ii. The annuitant must be at least 55 years of age at the time of the contract.
    iii. Must be funded with at least $50,000 in cash or readily marketable securities.
f. St. Mary's maintains the right to set its own gift annuity rate, however, it is the policy of St. Mary's to adhere to the rates recommended by the American Council on Gift Annuities (ACGA).
g. Gift annuity donors in Texas will be reminded in correspondence or conversations with them and their advisors that a qualified charitable gift annuity is not insurance under the laws of the State of Texas, nor is it subject to regulation by Texas Department of Insurance, nor is it protected by a guaranty association affiliated with Texas Department of Insurance. Most specifically, this information will be in the gift annuity document in a type and format to be at least as large and as obvious as the other language in the gift annuity. All requirements in other states will be addressed with similar care as to compliance with local law.
h. The University reserves the right to reject any annuity contract proposals from states where regulations are deemed overly burdensome or when excessive compliance costs would be required. St. Mary's will not enter into gift annuity agreements with residents from the states of California, Florida, New York or any other state requiring a reserve fund. In these instances development staff will be encouraged to work with a local community foundation to help fulfill the donor's wishes.
i. All gift annuity donors shall be requested to provide the tax basis of donated assets. For purposes of tax reporting and gift annuity accounting, St. Mary's University shall rely on tax basis information provided by the donor. If no such information is provided, the University shall assume that the tax basis of the gift asset is zero dollars, and the donor shall be so advised in writing.
j. The University President's signature is required to enter into a charitable gift annuity agreement.

IV. Charitable Remainder Trust (CRT)

A charitable remainder trust (CRT) is an irrevocable trust authorized and governed by federal tax law that benefits the donor or other individuals named by the donor (known as "income beneficiaries") for a term of years or lives. Upon the termination of the trust, the remaining assets pass to one or more qualified charities (known as "remainder beneficiaries.")

The donor specifies a payout percentage which the income beneficiaries receive annually. The donor names a Trustee who manages the assets and ensures that both the specified annual payout and the remainder are distributed as per the terms of the trust and in accordance with federal and state law. The Trustee has a fiduciary duty with regard to the trust and its beneficiaries. Fiduciary duty is the highest standard of duty imposed by law.

CRTs are tax-exempt trusts. The assets within them may be bought and sold without regard to capital gains taxes. However, CRT payouts to individual beneficiaries are subject to income taxation.

There are two types of standard CRTs – charitable remainder unitrust (CRUT) and charitable remainder annuity trust (CRAT).

Charitable Remainder Unitrust (CRUT): A CRUT distributes a fixed percentage of the fair market value of the trust assets, calculated annually. A donor may make additional contributions to a CRUT after it is established. There are two forms of CRUTs accepted by St. Mary's University: Charitable remainder unitrust – standard and flip unitrusts: A standard CRUT provides income to the beneficiary as a percentage of the trusts assets and is typically funded with cash or marketable securities. The IRS has issued regulations allowing trustees of income exception CRUTs to convert (flip) them to standard CRUTs under certain circumstances. This generates a charitable remainder unitrust – combination, also called a "flip-CRUT" or "flip unitrust." Flip provisions are often attractive when the funding asset is an illiquid or difficult-to-sell asset and the trust flips after the sale. For life income deferred gifts St. Mary's University will only accept gifts of tangible property in Flip CRUTs (Example Real Estate, Vehicles, Collections, Farms, Ranches and others). A standard CRUT and Flip CRUT can be issued for one or two lives.

Charitable Remainder Annuity Trust (CRAT): A CRAT is similar to a unitrust except that the designated income beneficiary(ies)/donor and second beneficiary (if one is named) receive a fixed income from the gift for the rest of their life, a term of years, or as long as the trust has assets. Distributions are determined by the original value of the trust's assets. The donor cannot make future contributions to this type of trust. Only marketable (liquid) assets (Cash and Marketable Securities) will be accepted to fund a CRAT.

All CRTs must be approved by a committee of the University President, Vice President for Administration and Finance, and the Vice President for University Advancement.

If the donor wishes to extend the beneficiary designation to more than two lives the aforementioned committee reserves the ability to decline the designations and gift.

St. Mary's University will accept CRTs that name other charities as beneficiaries. However, the minimal beneficiary interest cannot be lower than 75% to St. Mary's.

St. Mary's University will only accept CRTs that have a minimum of $100,000 in initial funding.

The University President's signature is required to enter into a charitable remainder trust agreement.

V. Charitable Lead Trust (CLT)

A charitable lead trust (CLT) allows for one or more charitable organizations to receive income payments from the trust for a specified number of years or one or more lifetimes. At the end of that term, the assets of the trust return to the donor (grantor CLT) or designee (non-grantor CLT). This allows a donor to transfer assets to children or grandchildren while potentially reducing transfer taxes. There are two commons forms of CLT:

- A charitable lead annuity trust (CLAT) makes a fixed-dollar payment annually to charity. The annual payout for a CLAT will not vary.
- A charitable lead unitrust (CLUT) pays to the charity a fixed percentage of the market value as determined annually. The annual payout for a CLUT will vary.

Unlike charitable remainder trusts, CLTs do not have a minimum or maximum payout rate by law, and their term can be for any number of years, or for the life of one or more living individuals. Also unlike CRTs, CLTs are not exempt from income taxation. Whether a donor opts for a CLUT or a CLAT, how he or she designates the remainder significantly impacts the tax treatment of the trust.

All charitable lead trusts entered into with the University must benefit the University and in every instance must benefit exclusively charitable, religious or educational causes with values and objectives not inconsistent with those of St. Mary's.

All charitable lead trusts shall be approved by a committee of the University President, Vice President for Administration and Finance, and the Vice President for University Advancement.

The minimum initial gift to fund a Charitable Lead Trust (either a lead unitrust or a lead annuity trust) shall be cash, publicly traded securities or readily marketable real estate with a value of at least $500,000. Subsequent additions to the lead unitrust may be made at any time subject to the approval of the Vice President for Administration and Finance for the University. No additions are permitted to a lead annuity trust.

The percentage to be paid annually by the lead trust to the charitable designee shall be approved by a committee of the University President, Vice President for Administration and Finance, and the Vice President for University Advancement.

St. Mary's University may accept lead trusts of any length or term, whether it be measured by lives or by a term of years.

The University President's signature is required to enter into a charitable lead trust agreement.

VI. Retained Life Estate

A retained life estate is a gift plan defined by federal tax law allowing the donation of a personal residence or farm with the donor retaining the right to life enjoyment. A life estate may be retained for one or more lives or it may be retained for a term of years. All routine expenses – maintenance fees, property taxes, repairs, etc. – are the responsibility of the donor. The donor receives an income tax deduction for a significant portion of the value of the contributed property (the property is irrevocably deeded to the charity) and estate tax benefits. St. Mary's interest in the property is known as a remainder interest.

A personal residence is any home used by the donor as a residence, as opposed to investment property. This may include primary residences as well as vacation homes. A farm is defined as land and the improvements thereon used by the donor and or the donor's tenant to produce crops, fruits, or other agricultural products.

When a donor makes an irrevocable gift of personal residential property subject to a retained life estate, he/she has granted St. Mary's a remainder interest in that property. For public reporting purposes, such gifts are counted at the fair market value of St. Mary's remainder interest in the property and at their discounted present value.

The University President's signature is required to enter into a retained life estate agreement.

VII. Payable-On-Death/Transfer-On-Death

Payable-On-Death (POD) or Transfer-On-Death (TOD) is a beneficiary designation that allows individuals to direct that the assets in a particular account be transferred to another individual or to a charity upon death without having to go through probate.

Naming St. Mary's as beneficiary through a POD or TOD designation is not an outright gift but a revocable expectancy, like a bequest in a will.

Naming Opportunities

Named Restricted Scholarships	$5,000 (annually)
Named Endowed Funds (scholarships and programs)	$50,000
Professorship	$1,000,000
Chair	$2,000,000
New Building	½ construction cost
Classroom	$50,000
Meeting Room	$100,000
Laboratory	$250,000
Lecture Hall (75 or more students)	$500,000
School	$25,000,000

New Endowed Programs, Departments or Named Centers
It is the preference of the Board of Trustees (BOT) for named endowed programs, departments or centers funds to cover the operating budget for the supported program (Salaries, benefits, supplies, travel, research). The BOT allows exceptions to be made by a committee of the University President, Provost, Vice President for Administration and Finance, and Vice President for Advancement.

Existing Endowed Programs, Departments or Named Centers
It is the preference of the Board of Trustees (BOT) for named endowed programs, departments or centers funds to cover at least ½ of the operating budget for the supported program (Salaries, benefits, supplies, travel, research). The BOT allows exceptions to be made by a committee of the University President, Provost, Vice President for Administration and Finance, and Vice President for Advancement.

Development Officers or other University staff members may appeal to a committee of the University President, Provost, Vice President for Administration and Finance, and Vice President for Advancement to request an exception to the policy. For spaces not named above Development Officers or other University staff must request guidance from the aforementioned committee prior to extending a naming opportunity to a donor. If a donor proposes a naming opportunity the Development Officer or other University staff member must appeal to the committee.

Amendments to Gift Acceptance Policy

Exceptions other than those specifically stated in this policy require approval by the Board of Trustees.

The policy and procedures will be subject to review and change periodically and may be amended by a recommendation of the University Advancement Committee, in concurrence with other board committees when necessary, to the full Board.