



GIFT ACCEPTANCE POLICIES

A. Purpose

This policy will guide the staff and volunteers of the Brooklyn College Foundation (BCF) when discussing current and deferred gifts with donors and their adviser(s). It is intended to establish the process for the acceptance and management of all gifts.

B. Status

The BCF is a 501(c)(3) entity whose mission is to further the educational goals of Brooklyn College through the provision of financial support for students, faculty, facilities, programmatic opportunities and administrative tasks. All contributions and bequests made to the BCF are tax-deductible to the extent allowed by law. The federal tax identification number for the BCF is 11-1904329.

C. Policy

The task of all volunteers and staff is to inform, guide, or otherwise assist the donor in fulfilling his/her philanthropic wishes, but never to pressure or unduly influence such a decision. All prospective donors are advised to consult their own attorneys and/or tax adviser(s) regarding all aspects of their proposed gifts, whether as an outright gift or by bequest, trust agreement, contract or other means. Brooklyn College/BCF staff and counsel will not act as an adviser(s) to the donor regarding the drafting of wills, trust agreements or other estate planning issues because of the potential conflict of interest.

All gifts shall be recorded and receipted according to the standards recommended by the Council for the Advancement and Support of Education (CASE) and the National Association of College and College Business Officers (NACUBO).

No agreement shall be made between the BCF and any agency, person, company or organization on any matter that would knowingly jeopardize the Brooklyn College/BCF's interests. No volunteer or staff member will execute an agreement, contract or other legal document with any donor that differs from stated Brooklyn College/BCF policies and procedures without prior approval of the Gift Acceptance Committee.

D. Approved

These policies were approved by the BCF Board of Trustees on May 16, 2002.

II. GIFT ADMINISTRATION

A. Gifts of Cash

1. **Coordination Among Offices.** The Brooklyn College/BCF recognizes that the accurate, timely processing of gifts is important to both the donor and to the Brooklyn College/BCF. All efforts are made to coordinate the communication process between all Brooklyn College/BCF entities. The BCF assumes primary responsibility to ensure the gift is recorded and acknowledged correctly.
2. **Gift Receipts.** The BCF provides a gift receipt in accordance with IRS guidelines. The donor is informed of any quid pro quo arrangements in the gift transaction or lack thereof. In the 1996 IRS regulations, substantiation requirements for charitable gifts were delineated:
 - a. Information on how much of a charitable contribution is deductible;
 - b. Instructions on how to substantiate gifts of \$250 or more;
 - c. Disclosure requirements for quid pro quo contributions over \$75.

Accordingly, the BCF relies on these regulations (or subsequent related regulations) to advise donors on their deductions (See Appendix B). For deferred gifts, the Brooklyn College/BCF provides information to the donor regarding the remainder value and how it was calculated.

B. Gifts of Publicly Traded Securities

Publicly traded securities received by the BCF are liquidated as soon as is feasible. The Gift Acceptance Committee must approve the holding of any security for more than 7 days. If the stock is transferred electronically, the BCF's broker has standing sell directions. If paper certificates are used, the unsigned certificate and a signed stock power should be sent in separate envelopes by registered mail.

C. Illiquid Gift Assets

1. **Real Estate (Minimum Fair Market Value of \$100,000).** The BCF requires a visual site inspection of all real estate offered as a gift by an approved representative. A gift of real estate will be accepted if the inspection results in a satisfactory or higher evaluation. The BCF requires a Phase 1 Environmental Audit to be conducted for all proposed gifts of non-residential real estate (and residential real estate if the visual site inspection is unsatisfactory). This is expected to be an expense of the donor. Under special circumstances, the Gift Acceptance Committee may authorize the expense of the audit provided all other conditions of acceptance are met. The BCF will obtain (at their expense) a market estimate (not an appraisal) and statement of marketability from at least two independent real estate representatives. A market estimate provides an estimate by review of comparable properties with sales within the past 3-6 months; most real estate firms generate these estimates at no cost. If the gift is completed, the donor is responsible for obtaining an appraisal for the Internal Revenue Service. The appraisal must be conducted by a qualified appraiser and meet IRS standards; the appraisal is to be made by the donor no earlier than 60 days of the gift and no later than the donor's income tax filing. The donor's

charitable deduction is based on the appraisal. The existence of any mortgage or other encumbrance (lien, home equity loan, delinquent tax) must be disclosed and satisfied by the donor before BCF will accept a gift of real estate. Carrying costs (maintenance, insurance, condo or coop fees) must also be disclosed. Results of a title search, recent tax statements and a tax map shall be provided to the BCF. The donor is responsible for all carrying costs in the case of a gift with a retained life estate. The Gift Acceptance Committee may authorize the BCF to pay carrying costs.

2. Other Non-Cash Gift Assets. Gifts of tangible assets may be acceptable to the BCF depending on the details of the offer. Such gifts include personal property, artwork, oil and gas interests, partnership interests, family limited partnerships and insurance policies. Due to the potential risk to the BCF and the financial complexity, bargain sales are not encouraged. The Gift Acceptance Committee may authorize the BCF to accept such gifts after a due diligence investigation.
3. Appraisals. Generally, if a donor intends to claim a deduction of more than \$5,000 for a non-cash gift either outright or in trust, the IRS requires the donor to obtain a qualified appraisal and report a summary of that appraisal on IRS Form 8283. Exceptions to this general rule are:
 - a. If the gift consists of publicly traded securities;
 - b. If the gift consists of closely held stock of less than \$10,000.

The BCF will acknowledge the appraisal summary on Form 8283 and retain a copy of the signed appraisal in its files. The BCF reserves the right to obtain an additional appraisal (at its own expense) if it determines that it is prudent to do so. Donors must be informed that if a non-cash gift for which the donor was required to file Form 8283 is sold within two years of the date of the gift, the BCF, as required by law, will complete and submit IRS Form 8282 to the IRS, reporting the amount for which the asset was sold. Unless special circumstances exist, the BCF will use its best efforts to sell non-cash gifts as soon as possible at the highest value available.

D. Legal and Tax Counsel

The donor should have legal and/or tax counsel representing him/her in most planned and complex outright gift transactions. If the donor requests a recommendation of counsel, the BCF will provide the donor with no less than three viable names. If the donor wishes to proceed with a gift without the benefit of professional counsel, the BCF staff will remind the donor in subsequent correspondence that the BCF does not represent his/her interests.

E. Fees

The BCF absorbs the transaction costs of liquidated gifts of securities. All fees for external management, administration, and custody of charitable gift annuities and charitable remainder trusts will be paid from the gift asset, whether the BCF acts as trustee, co-trustee or in neither role. When the BCF acts as trustee, the trustee must have the discretion to allocate fees to principal, income, or a combination of both. Although sample documents are available, the BCF does not cover the donor's expense of drafting legal documents for individual gifts. The BCF pays no finders' fees for gifts.

F. Recognizing Gifts

Liquid gifts are recognized when they are received. All other gifts are recognized when the commitment is irrevocable. Annual and campaign gifts are recognized by established Gift Club membership. Planned Gifts are recognized through the Legacy Society. Donors of deferred gifts will be recognized as having made a gift in the amount of the market value of the assets transferred. This amount may be different from the amount of the donor's charitable income tax deduction. It may also be different from the amount the BCF is required to include on its books according to FASB standards of accounting.

G. Date of Gift

The date of a charitable gift is the date the asset ceases to be in the donor's control and, instead, is within the BCF's control. The BCF adheres to the rules of gift acceptance required by the Internal Revenue Service:

1. Mail: the postmark date
2. Hand delivery: the date of physical receipt
3. Wire transfer: the date received in the brokerage account of the BCF
4. Journal Entry: the date of transfer into the BCF account

Charitable remainder trusts, charitable lead trusts and charitable gift annuities are created on the date they are funded according to the above rules. No payments may be made to an income beneficiary until that date.

III. GIFT VALUATION

A. Determining Value and Cost Basis

The donor is responsible for determining a gift's cost basis and value. The BCF will provide donors with information on valuing stock gifts and other non-cash gifts valued over \$5,000 (as proscribed by IRS guidelines). Generally, the BCF will rely on the donor's representation as to the gift value for recognition purposes.

B. Valuing Illiquid Gifts

Recognizing that the valuation of non-cash gifts (other than publicly-traded securities) is an imprecise process, the BCF advises donors to obtain a qualified appraisal. It is the responsibility of the donor to pay for this appraisal. The BCF may conduct an independent appraisal at its own expense if it desires.

C. Planned Gift Guidelines

Disclosure Statements are provided pursuant to the Philanthropy Protection Act of 1995 for charitable remainder trusts and gift annuity contracts. Before agreeing to serve as trustee for a planned gift, the BCF reserves the right to review all documents and to seek input on the charitable trust agreements from outside counsel to ensure that they conform to BCF standards. The BCF and/or its employees will not act as executor of a

donor's will or as trustee of a donor's revocable living trust without approval of the Gift Acceptance Committee. In addition, the BCF has determined the following additional guidelines:

1. Charitable Gift Annuities. The BCF is permitted by the New York State Department of Insurance to issue charitable gift annuities. The Department requires a reserve of 110% of admitted assets invested pursuant to New York's prudent investor rules, an annual report, and an audit every five years conducted by the Insurance Department at the expense of the BCF. The Philanthropy Protection Act of 1995 exempts charitable gift annuities from federal securities laws (with the exception of the anti-fraud provisions). Acceptable assets to fund a gift annuity generally must be cash or publicly traded securities; real estate cannot be accepted for charitable gift annuities under New York State Insurance regulations. The donor irrevocably transfers to the BCF a specific sum of cash or publicly traded securities held long-term that are valued at a minimum of \$10,000. In consideration of this gift, the BCF pays to the donor and/or another beneficiary (limited to two persons including the donor, all at least 60 years of age) a guaranteed fixed annual payment, paid quarterly, for the lives of the individuals named in the gift annuity agreement (or a set number of years). The payout rates are the current American Council on Gift Annuities (ACGA) rates for NY. The donor receives an income tax deduction for the present value of the gift.

2. Deferred Charitable Gift Annuities. The donor irrevocably transfers to the BCF a specific sum of cash or publicly traded securities held long-term that are valued at a minimum of \$5,000. In consideration of this gift, the BCF will pay to the donor and/or another beneficiary (limited to two persons including the donor, all at least 40 years of age with payments to begin no earlier than all at least age 60) a guaranteed fixed annual payment, paid quarterly, for the lives of the individuals named in the gift annuity agreement with payment to begin at a specific future date (at least one year and a day from date of gift). The payout rates are the current ACGA rates for NY. The donor receives an income tax deduction for the present value of the gift.

3. Charitable Remainder Annuity Trusts. Because annuity trusts must make specified payments no later than one year after the gift is made, only cash and other publicly traded (or liquid) assets are acceptable funding assets for annuity trusts. Whenever an annuity trust is funded with assets from different sources, a holding account will be established. On the last day for assets to be transferred from the various sources, all of the assets will then be transferred to the annuity trust. The donor is subject to market risk during this time. The purpose for this procedure is that an annuity trust cannot have more than one contribution. The donor (age 50 or more) irrevocably transfers cash or securities, or both, to a trustee (bank, individual or the BCF). The trustee pays the donor (and the donor's survivors if desired) at least annually for life, a term not to exceed 20 years or for a combination of life and fixed term at the fixed rate agreed upon (not less than 5%) of the initial fair market value of the assets. The donor cannot add assets to the trust. A charitable remainder annuity trust must be funded with assets of at least \$100,000 if the BCF serves as trustee. At the death of the last income beneficiary, the trust assets become the sole property of the BCF.

4. Charitable Remainder Unitrusts. The donor irrevocably transfers cash, long-term securities or real property, or any combination of the three, to a trustee (bank, individual or the BCF). The trustee pays the donor/beneficiary (age 50 or more) at

least annually for life, for a term not to exceed 20 years or for a combination of life and fixed term, a fixed percentage of the fair market value of the trust assets valued annually (not less than 5%); this is known as a straight payout unitrust. The maximum acceptable payout rate is dependent on the age of the beneficiaries and the value of the trust. If the BCF acts as trustee, charitable remainder trusts must be funded with a minimum of \$100,000. The donor can add assets to the unitrust at any time during his/her lifetime and by his/her will if the trust document so provides. The BCF does not accept illiquid assets in straight unitrusts without the approval of the Gift Acceptance Committee. Approval may be granted if the donor is willing to place an additional amount in the trust to cover the required income distribution for at least two years, in addition to any additional costs, such as taxes, costs associated with property maintenance, or any other costs the trust might incur until it is fully liquid. If the trust document allows, the beneficiaries may elect to receive payments based on a fixed percentage of the fair market value of the trust assets or the trust's net income, whichever is the lesser. This alternative is known as a net-income unitrust. When a net income unitrust is established with illiquid assets, the donor is required to agree to pay, in the form of additional gifts to the trust, any expenses incurred by the trust, including taxes, maintenance costs, or any other costs. Net income unitrusts can be written with a make-up provision, but neither donors nor beneficiaries should be encouraged to expect to receive any or all of the income represented by the calculated deficit. A make-up provision may be included. Pursuant to New York law, income must be defined to include certain capital gains. If trustee, the BCF will determine in its sole discretion when gains are realized. Inherent or pre-contribution gain will not be defined as income. Another alternative for the beneficiary is a flip trust that begins as a net-income trust, but in the tax year following the triggering event, e.g., the sale of an illiquid asset from within the trust so that liquid assets are available, the payout flips to a straight payout unitrust. Provision for the flip at a legally valid triggering event must be stated in the trust document.

6. Charitable Lead Annuity Trusts. A charitable lead annuity trust (minimum value of \$500,000) pays a fixed dollar amount to the BCF for the fixed term of the trust. When the trust terminates, the remainder will be distributed to a non-charitable remainderman, usually children or grandchildren of the donor. Unlike a remainder trust, the donor does not, normally, receive a charitable deduction when he or she establishes the trust. In such a case, the income earned by the trust is not taxable to the donor and the donor has the opportunity to transfer assets to heirs at reduced gift/estate tax costs. Charitable lead annuity trusts should be funded with liquid assets. The payout to the BCF should be selected after considering the amount of assets he or she wishes to transfer to heirs (or in the case of a grantor trust, back to himself or herself) and transfer taxes (including potential generation skipping transfer taxes).

7. Charitable Lead Unitrusts. A charitable lead unitrust pays an amount to the BCF based on the fair market value of the trust (minimum initial value of \$500,000) as established each year, and the remainder will be distributed to non-charitable remainderman, usually children or grandchildren of the donor. The tax consequences to the donor of a lead unitrust are identical to those of lead annuity trusts described above. Charitable lead unitrusts should be funded with liquid assets; there is no net-income provision in a lead trust. Closely held stock is also an

acceptable asset if the company is able to make gifts of cash or publicly traded securities to meet the unitrust payment, but the Trustee must be aware of the prohibition against excess business holdings. The payout to the BCF should be based on the amount of assets the donor wishes to transfer to heirs (or in the case of a grantor trust, back to himself or herself) and transfer taxes (including potential generation skipping transfer taxes).

8. Gifts by Will or Revocable Living Trust. By making a bequest through a will or revocable trust, the donor can make a gift of any property owned to the BCF. The donor can specify an amount in dollars or as a percentage of the estate, designate specific articles or property or leave the remainder of his/her estate after other provisions of the donor's will have been satisfied. The donor can establish a charitable remainder trust or charitable lead trust in his/her will or revocable trust, which becomes effective at the donor's death.

IV. DECISION MAKING

A. Outside Counsel

The BCF will employ outside legal counsel when appropriate to provide advice and/or assistance with complex deferred gift plans.

B. Gift Acceptance Committee

When the potential cost associated with the consideration and/or acceptance of a gift exceeds \$1,000 the Gift Acceptance Committee shall be convened. This committee will have the authority to grant exceptions to the Gift Acceptance Policy. If the proffered gift has unique aspects (and a similar gift has not been approved previously for acceptance), the Gift Acceptance Committee shall be convened even if little or no costs are associated with the consideration and/or acceptance of the gift. The committee shall consist of the President of Brooklyn College, the Vice President of Finance and Administration, the Executive Director of the BCF and the Chair of the BCF Development Committee (or their designees) will serve. The Chair of the Brooklyn College Foundation Trustees may appoint additional members.

C. Investment Guidelines

Investment and management of all funds received in exchange for a gift annuity, charitable remainders trust or a charitable lead trust is administered by the Investment Committee of the BCF Board of Trustees. Since each planned gift may have different goals and/or objectives, specific information regarding each gift must be communicated to the committee.

V. Special Gift Issues

A. Pledges

The Brooklyn College/BCF welcomes support in the form of pledges. Pledges should extend no more than five years.

B. Bequests and Living Trusts

The BCF welcomes bequest intentions. The BCF encourages donors to ensure that their family members understand the donor's estate plan or bequest intentions. The BCF reserves the right to disclaim a bequest if its terms are contrary to the needs or wishes of the BCF. Once it knows of a bequest, the BCF will make every effort to protect the BCF's interests throughout the probate and/or administration process.

C. Gift Agreements

The BCF will work with donors and/or their representatives to document donors' expectations regarding criteria for the use of restricted gifts. When unusual restrictions are requested, the BCF will negotiate alternative language in good faith. In the absence of a Gift Agreement, correspondence with the donor will carry the same weight. The Gift Acceptance Committee shall review and approve all unusual requests. Once a gift has been offered and received, its use can be changed only with the express consent of both the donor and the BCF.

D. Gifts with a Retained Life Estate

The BCF will consider accepting gifts of a farm or residence with a retained life estate after assessing all ordinary factors that are otherwise relevant to accepting gifts of real estate, the length of the life tenancy and the potential use or likely sale of the property after the asset is transferred. In all circumstances, the donor continues to be responsible for taxes, insurance and maintenance on the property. The donor must sign a separate agreement covering the annual inspection of the property and the responsible party regarding general expenses, including remodeling and other necessary improvements. If the donor wishes to sell the home or farm prior to death, or the period otherwise measuring the retained interest, the donor and the BCF will jointly negotiate the terms of the sale. The sale proceeds will be divided between the BCF and the donor in accordance with the ratio of the value of the remainder and the life estate to the fair market value of the property.

E. Life Insurance

The BCF accepts gifts of new and existing whole life insurance (no term or non-dividend policies). The donor or insured designates the BCF as the sole owner and irrevocable beneficiary. The BCF will not accept gifts of life insurance policies that have a loan against the value without the consent of the Gift Acceptance Committee. All policies will provide for waiver of premiums in case of disability. There will be no automatic loan provisions. If the donor does not respond to a premium bill by the due date, the BCF

will cash it in for the surrender value. At all times, the BCF reserves the right to cash in the policy or retain it as an investment. The policy's fair market value (approximate cash value) is available to the donor as a charitable contribution deduction.

VI. PERMANENTLY RESTRICTED FUNDS

A. Guidelines

1. Preference for Unrestricted Gifts: unrestricted gifts provide BCF the greatest flexibility to direct resources where they are most needed at any particular time. For that reason, unrestricted gifts are always preferred.
2. From time to time, a supporter will decide to restrict a gift. These guidelines will help Brooklyn College and BCF staffs in responding to requests by donors to restrict their gifts.
 - a) When a current use gift is restricted by area (not time), it should be used during that fiscal year. The department/program must use all existing gifts as of May 2002 that are restricted by area over the next five years (2002-2007) or the restriction will lapse.
 - b) When a gift is restricted by time: permanently restricted gifts to create a named fund must be in the amount of \$50,000 or more. We encourage smaller donations (amounts under \$50,000) to be directed to the BCF as a part of the annual campaign.
 - 1) The minimum amount to create a named scholarship is \$50,000.
 - 2) The minimum amount to create a named Lectureship is \$100,000.
 - 3) The minimum amount to create a named fellowship is \$500,000.
 - 4) The minimum amount to create a named professorship is \$1,000,000
 - 5) The minimum amount to create a named chair is \$1,500,000.
3. Pledges: pledges can be paid over a period not to exceed five years.

B. Gifts to Named Funds

A fund can be named after the donor, in recognition of another individual, or for a particular interest of the donor. A gift designed to fund a specific position (instructor, administrator) requires consideration of the full budgetary requirements (e.g. salary, benefits, other costs,) to fund that position. A new position may require Brooklyn College's approval. Donors may direct gifts under \$10,000 to existing named funds or create a temporary restricted fund to be dispersed over a period (not to exceed five years).

C. Gift Agreements

The BCF will work with donors and/or their representatives to document donors' expectations regarding criteria for the use of restricted gifts. When unusual restrictions are requested, the BCF will negotiate alternative language in good faith. In the absence of a Gift Agreement, correspondence with the donor will carry the same weight. The Gift Acceptance Committee shall review and approve all unusual requests. Once a gift has been offered and received, its use can be changed only with the express consent of both the donor and the BCF.

D. Gifts Outside These Parameters

When the BCF receives a gift or an offer of a gift that is less than \$10,000 or one that would require a separate fund not equal to \$10,000, the staff or volunteer who receives the gift offer should discuss the following options with the donor.

1. Increase the amount of the gift through a multi-year pledge.
2. Eliminate the designation and make an unrestricted gift.
3. Temporarily restrict the funds to be used over a pre-determined period (not to exceed five years).
4. Direct the gift to the annual fund of the BCF.

E. Processing a Contribution

1. Any representative of Brooklyn College/BCF who receives a check, stock certificate or any other marketable property that is, or may be, a Contribution shall immediately notify the BCF of this matter by e-mail, telephone or facsimile and shall then forward such check, stock certificate or other relevant documentation to the BCF.
2. The BCF shall inform all interested parties of the manner and procedure for acknowledging and receiving the gift of the donor and recognizing the donor.

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