

Building donor relationships



**FORMS**

Gift Acceptance Policy Template

PGB2-0601

**Viken Mikaelian, CEO, PlannedGiving.Com**

**Brian Sagrestano, JD, CFRE**

**Meredith Sossman, Esq, CFRE**

*Editorial Revisions by*

**Camilyn Leone, JD**

**Patrick O’Donnell**

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1288 Valley Forge Road, Unit 82, Phoenixville, PA 19460

🕿 800-490-7090 🖂 Success@PlannedGiving.Com

WEEK 6

Gift Acceptance Policy

|  |  |
| --- | --- |
| **BACKGROUND** | Gift Acceptance Policies Prevent Problems |
|  | What You Can Accept |
|  | What You Can’t Accept |
|  | How to Evaluate Gifts Offered |
| **PROJECTS** | Drafting Your Gift Acceptance Policy |
| **DOCUMENTS** | PGB2-0601 – Gift Acceptance Policy Template |

**Time required:** 1 hour

**What it covers:** Policy for accepting all gifts, including planned gifts, to ensure consistency in reporting and compliance with national standards.

**Why:** This policyprovides program discipline around gift acceptance to ensure acceptable assets and gift forms are defined prior to being offered a questionable asset or structured gift.

BACKGROUND

Most charities happily ignore their gift acceptance policies for years. Then a donor appears with a parcel of real estate allegedly worth $10,000,000 and the charity jumps through hoops to accept it, only discovering later that it was previously an apple orchard and contaminated with arsenic which will require $12 million to clean up.

If this does not sound familiar, don’t worry, it will happen to your charity eventually. The problem with the real estate might be different, for example it could be land-locked with no access, a former gas station, under water (literally or subject to more debt than it is worth) and the list goes on. Unfortunately, as long as there are unscrupulous people out there, your charity will be offered seemingly valuable gifts that actually will cost you more to dispose of than they are worth.

The worst time to be evaluating your gift acceptance policy is when you are confronted with a big gift that your charity could really use. By drafting a gift acceptance policy now, you’ll know exactly:

* What you can take,
* What you cannot take,
* What steps you need to take to evaluate gifts when they are offered.

With a good policy in place, you are much less likely to accept a bad asset, or a gift structured in such a way that it hurts, rather than helps your charity long-term.

With this in mind, let’s get right to drafting your policy.

PROJECTS

**Project 9: Drafting Your Gift Acceptance Policy**

The template includes all of the different sections you should include in your gift acceptance policy. Each section has a clearly defined purpose. If it does not apply to your charity now, consider whether it might apply in the future before you eliminate it.

Take the following steps to complete your policy:

* Create a gift acceptance policy (GAP) committee consisting of:
  + You, and these others below, to the extent they are not also you!
  + CEO
  + Chief Development Officer
  + Finance Staff Member
  + Legal Advisor
  + Board Oversight Committee Chairperson
* Review the policy template with the GAP committee
* Customize the policy to meet your organizational goals and objectives
* Share the draft with your volunteer committee for their feedback
* Present the draft for approval by your Board
* Add the final policy to the documents you share on Board member visits
* Review the policy every other year to ensure it remains current

*Many charities already have a gift acceptance policy in place. It has been our experience that it is easier to simply replace the existing policy than to try and take elements from this policy and insert them into the existing policy. You need to make your own decision on how to handle this issue, but we strongly encourage you to consider replacing your existing policy rather than trying to adjust it.*

DOCUMENT PGB2-0601

Gift Acceptance Policy Template

**GIFT ACCEPTANCE POLICY**

**[YOUR CHARITY]**

**[YOUR CHARITY]** (the “Charity”), a not-for-profit organization organized in the State of **[STATE NAME]**, encourages the solicitation and acceptance of gifts to further and fulfill its mission of **[INSERT YOUR MISSION STATEMENT HERE]**.

1. **Purpose of Policies**

This statement articulates the policies of the Board of Directors (the “Board”) of the Charity concerning the acceptance of charitable gifts and provides guidance to prospective donors and their advisors when making gifts to the Charity. The Advancement Committee of the Board will adopt appropriate procedures to implement these policies.

1. **Responsibility to Donors**
2. *Commitment to a Donor-Centered, Philanthropic Approach:* The Charity, its staff and volunteer representatives shall endeavor to assist donors in accomplishing their philanthropic objectives in a donor-centered way. In many circumstances, this may involve the donor’s professional advisors, as charitable support is often integrated with a donor’s overall tax, estate and financial planning.
3. *Confidentiality:* Information concerning all transactions between a donor and the Charity shall be held by the Charity in confidence, and may be disclosed only with the permission of the donor or the donor’s designee.
4. *Anonymity:* The Charity shall respect the wishes of any donor offering anonymous support and will implement reasonable procedures to safeguard such donor’s identity.
5. *Ethical Standards:* The charity is committed to the highest ethical standards. The Charity, its staff and volunteer representatives shall adhere to both the [*Model Standards of Practice for the Charitable Gift Planner*](http://www.pppnet.org/ethics/model_standards.html), as adopted by the Partnership for Philanthropic Planning (“PPP”), and the [*Code of Ethical Principles and Standards*](http://www.afpnet.org/files/ContentDocuments/CodeOfEthicsLong.pdf) as adopted by the Association of Fundraising Professionals (“AFP”). The Charity will not participate in gift discussions if there is a question as to the title/ownership of the asset or the donor’s competency to transfer an asset.
6. **Legal Considerations**
7. *Compliance:* The Charity shall comply with all local, state and federal laws and regulations concerning all charitable gifts it encourages, solicits or accepts. All required disclosures, registrations and procedures shall be made and/or followed in a thorough and timely manner.
8. *Endorsement of Providers:* The Charity shall not endorse legal, tax or financial advisors to prospective donors.
9. *Finder’s Fees and Commissions:*The Charity shall not pay fees to any person as consideration for directing a gift by a donor to the Charity.
10. *Legal, Tax and Financial Advice:* The Charity shall inform prospective donors that it does not provide, legal, tax or financial advice, and shall encourage prospective donors to discuss all charitable gift planning decisions with their own advisors before entering into any commitments to make gifts to the Charity.
11. *Preparation of Legal Documents:* The Charity shall not prepare legal documents for execution by donors, except forms to create charitable gift annuities. The Charity may provide model language, such as sample bequest language, gift agreements or charitable remainder trusts, but shall strongly encourage prospective donors to have this language reviewed by their own counsel.
12. *Payment of Fees:*It will be the responsibility of the donor to secure an appraisal (where required) and to pay for the advice of independent legal, financial or other professional advisers as needed for all gifts made to the Charity.
13. *Service as Executor or Living Trust Trustee:*Unless approved in advance by the Vice President of Finance, the Charity will not agree to serve as executor of a decedent’s estate or as trustee of a living trust or other trust intended to serve as a person’s primary estate planning document.
14. *Trusteeship:*The Charity may serve as trustee of trusts to maintain its gift annuity reserve accounts, as required by relevant state insurance law, in connection with the Charity’s gift annuity program. The Charity may serve as trustee of charitable remainder trusts, provided that 100% of the remainder interest in the trust is irrevocably dedicated to the Charity, and the charitable remainder trust meets the minimum standards set forth in the Gift Acceptance Procedures. The Charity may serve as a trustee of trusts only in circumstances in which its investment authority as trustee is unrestricted. The Charity will not serve as co-trustee of a charitable trust.
15. *Use of Counsel:*The Charity shall seek the advice of legal counsel in matters relating to the acceptance of gifts when appropriate. Review by counsel is recommended for gifts involving: closely held stock transfers that are subject to restrictions; gifts involving contracts, such as bargain sales; reformation of charitable trusts; and transactions involving potential conflicts of interest.
16. **Gift Acceptance**
17. *Implementation:* Gift acceptance, as outlined in these policies, is delegated by the Board to the Vice President of Advancement (the “Vice President”). The Vice President is authorized to accept all gifts permitted by this policy.
18. *Approval of Exceptions:* Acceptance of gifts outside the scope of this policy requires the unanimous, written approval of the Gift Acceptance Committee (the “GAC”). The Vice President shall report all gifts accepted as exceptions to the policy to the Advancement Committee of the Board at its next regular meeting.
19. *Gift Acceptance Committee:* The GAC shall be made up of the Chair of the Advancement Committee of the Board, the Vice President and the Vice President of Finance.
20. *Gift Acceptance Procedures:* The Board delegates to the GAC the responsibility of approving Gift Acceptance Procedures to implement these policies.
21. *Gift Acceptance Alternatives:* In the event the GAC rejects a gift, the Charity will attempt to assist the donor in finding a suitable third-party charity to accept the gift and share the proceeds, less costs, with the Charity.
22. *Gift Agreements:* The Charity generally uses non-binding statements of intent to document gift commitments. The GAC shall create and maintain samples for use by staff and volunteer leadership. All statements of intent shall include a short profile of the donor, the donor’s commitment and timeframe for payments, the Charity’s commitment (including restrictions), how the completed gift will be managed, alternative use and saving language, stewardship, and donor recognition.
    1. *Unrestricted Commitments Within a Fiscal Year:* The Charity does not require statements of intent for unrestricted gift commitments within the current fiscal year.
    2. *Unrestricted Commitments Covering More Than One Fiscal Year:* If the unrestricted commitment shall cover more than one fiscal year, a simple letter or card documenting the gift amount and payment schedule may be substituted for a formal statement of intent.
    3. *Commitments Subject to Restrictions:*  The Charity requires an executed statement of intent for all commitments subject to restrictions, including restricted endowment gifts.
    4. *Commitments Over $1,000,000:* The Charity requires an executed, binding gift agreement (pledge) for all commitments over $1,000,000, unless waived in writing by the Vice President.
23. **Gift Restrictions**
24. *Unrestricted Gifts:* To provide the Charity with maximum flexibility in the pursuit of its mission, donors shall always be encouraged to consider unrestricted gifts or gifts restricted to budgeted priorities of the Charity.
25. *Budgeted Programs or Facilities:* The Charity may accept gifts restricted to specific budgeted programs and purposes.
26. *Other Restrictions on Gifts:* The Charity may accept gifts restricted to non-budgeted programs and purposes only upon the prior, written approval of the Vice President. The Charity reserves the right to decline gifts which are too restrictive in purpose, too difficult to administer, or for purposes outside of its mission.
27. *Unrestricted Future Gifts:* As donors making large future gifts generally intend for these gifts to benefit the long-term future of the Charity, all future gifts (bequests, retirement plan and life insurance designations, etc.) with a value over $25,000 shall be added to the Board Designated Unrestricted Endowment.

1. **Types of Property**

These assets may be considered for acceptance by the Charity, subject to the following criteria:

1. *Cash:* Acceptable in any negotiable form, including currency, check and credit card gifts.
2. *Securities:*
   1. *Publicly Traded Securities:*  Stocks, bonds and mutual funds traded on an exchange or other publicly reported market are acceptable.
   2. *Closely Held Securities and Business Interests:* Debt and equity positions in non-publicly traded businesses, hedge funds, REITs, interests in limited liability companies and partnerships may only be accepted upon prior written approval of the GAC after review in accordance with the Gift Acceptance Procedures.
   3. *Options and Other Rights in Securities:* Warrants, stock options and stock appreciation rights may only be accepted upon prior written approval of the GAC.
3. *Life Insurance:* The Charity will accept a gift of life insurance provided that the policy has a positive cash surrender value and the Charity has been named both beneficiary and irrevocable owner of the policy.
4. *Real Property:* Personal and commercial real property, real estate interests/derivatives, and remainder interests in property (gifts subject to a retained life estate) may only be accepted upon prior written approval of the GAC after review in accordance with the Gift Acceptance Procedures, including appropriate environmental screenings. The Charity does not accept debt-encumbered real property, real property subject to a mortgage or lien or time share interests. For gifts subject to a retained life estate, the donor or primary life beneficiary shall be responsible for all expenses other than capital expenditures during the life tenancy, including but not limited to maintenance, real estate taxes, assessments and insurance.
5. *Tangible Personal Property:* Jewelry, books, works of art, collections, equipment and other property which may be touched, may only be accepted after review in accordance with the Gift Acceptance Procedures.
6. *Other Property:* Property not otherwise described in this section, whether real or personal, of any description (including but not limited to mortgages, notes, contract rights, copyrights, patents, trademarks, mineral rights, oil and gas interests and royalties) may be only be accepted upon prior written approval of the GAC.
7. **Structured Current Gifts**
8. *Bargain Sales:* Transactions wherein the Charity pays less than full value for an asset and issues a gift receipt for the difference may only be accepted upon prior written approval of the GAC after review in accordance with the Gift Acceptance Procedures.
9. *Charitable Lead Trusts:* The Charity may accept a designation as income beneficiary of a charitable lead trust. The Charity will not serve as trustee of a charitable lead trust.
10. *IRA Charitable Rollover:* The Charity may accept all gifts directly transferred from an IRA, as permitted under the Pension Protection Act of 2006 and subsequent extensions.
11. *Matching Gifts:* The Charity will accept all matching gifts, subject to the terms and conditions of Section VI.
12. *Other Structured Current Gifts:* The Charity may only accept other structured current gifts with prior written approval of the GAC after review in accordance with the Gift Acceptance Procedures.
13. **Future Gifts**
14. *Future Gifts Subject to a* *Payment Interest*
    1. *Charitable Gift Annuities:* The Charity offers immediate payment, deferred payment, commuted payment and flexible payment charitable gift annuities, provided:
       * 1. Minimum funding amount: $10,000
         2. Maximum funding amount: 25% of total gift annuity pool if pool is unrestricted; 10% of total gift annuity pool if pool is restricted
         3. Minimum age(s): None (All proposals for donors with an average age under 60 shall include an option with a hedge against inflation)
         4. Maximum number of lives: Two
         5. Ultimate beneficiary: The Charity for 100%, irrevocably
         6. Payout rate: American Council on Gift Annuities recommended rates (All proposals shall include offer of 100%, 90% and 80% of the ACGA recommended rate)
         7. Payment schedule: Monthly, quarterly, semi-annual or annual
         8. Funding assets: Prior written approval of the GAC is required for assets other than cash or publicly traded securities
    2. *Charitable Remainder Trusts When the Charity Serves as Trustee:* The Charity will serve as trustee of charitable remainder trusts, provided:
       * 1. Minimum funding amount: $100,000
         2. Maximum funding amount: None
         3. Minimum age(s): None
         4. Maximum number of lives: None
         5. Ultimate beneficiary: The Charity for 100%, irrevocably
         6. Payout rate: Per gift acceptance procedures (generally 5% - 7%)
         7. Minimum charitable remainder: 25% of the funding amount (using the income tax charitable deduction methodology)
         8. Payment schedule: Monthly, quarterly, semi-annual or annual
         9. Funding assets: Prior written approval of the GAC is required for assets other than cash or publicly traded securities, although a broader array of assets will be approved for a charitable remainder trust than a charitable gift annuity
         10. Costs charged to the trust: Investment management, administration, legal counsel and tax return preparation
    3. *Charitable Remainder Trusts When the Charity Does Not Serve as Trustee:* The Charity will accept designation as charitable beneficiary of charitable remainder trusts that do not name the Charity as trustee. Donors who create externally managed and trusteed trusts will be asked to provide the Charity with a copy of the trust document and annual investment reports for record-keeping purposes.
    4. *Pooled Income Funds:* The Charity offers a pooled income fund provided
       * 1. Minimum funding amount: $10,000
         2. Maximum funding amount: None
         3. Minimum age(s): None
         4. Maximum number of lives: Two
         5. Ultimate beneficiary: The Charity for 100%, irrevocably
         6. Payout: Net income (capital gains treated as income)
         7. Payment schedule: Quarterly
         8. Funding assets: Prior written approval of the GAC is required for assets other than cash or publicly traded securities.
         9. Costs charged to the pool: Investment management, administration, legal counsel and tax return preparation
15. *Future Gifts Not Subject to a* *Payment Interest*
    1. *Gifts by Will or Living Trust:* Donors and supporters of the Charity will be encouraged to designate the Charity as a beneficiary of their wills or living trusts.
    2. *Retirement Plan, Life Insurance and Other Beneficiary Designations:* Donors and supporters of the Charity will be encouraged to designate the Charity as beneficiary or contingent beneficiary of their retirement plans, life insurance policies and other accounts on which they can name a beneficiary.
16. **Donor Recognition**
17. *General:* The Board, upon recommendation of the GAC and the Advancement Committee, establish criteria for the recognition, honoring and stewarding of donors.
18. *Buildings:* Except in the case of naming opportunities that appear on a schedule approved by the Board, the advancement staff of the Charity shall make no commitments to donors concerning the naming of buildings or facilities without the approval of the Board upon recommendation of the GAC.
19. **Reporting and Valuation Standards**
20. *Gift Reporting and Counting:* For outright gifts, the Charity shall follow the Council for Advancement and Support of Education (“CASE”) *Reporting Standards and Management Guidelines for Educational Institutions*, Fourth Edition, 2009. For future gifts, the Charity shall follow the [*PPP Guidelines for Reporting and Counting Charitable Gifts*](http://www.pppnet.org/pdf/PPP_counting_guidelines_(2009).pdf), Second Edition, 2009. All exceptions to these standards shall be made by the GAC.
21. *Gift Valuation:* The Charity shall follow the [*PPP Valuation Standards for Charitable Planned Gifts*](http://www.pppnet.org/pdf/2009_valuation_standards.pdf). All exceptions to these standards shall be made by the GAC.

1. **Periodic Review**
2. *Regular Review:* The GAC shall review these policies in even numbered years to ensure that they continue to accurately describe the policies of the Charity with respect to acceptance of charitable gifts, and shall propose to the full Board for ratification those revisions that the GAC shall determine to be necessary or appropriate.
3. *Special Review:*The GAC shall initiate a supplemental review of these policies upon the enactment or promulgation of legislation or regulatory rules affecting fundraising and gift acceptance by the Charity, or prior to the start of a formal fundraising campaign. All proposed changes shall be shared with the full Board for ratification.