



## NASHVILLE SCHOOL *of* LAW

EDUCATING TENNESSEE'S LAWYERS SINCE 1911

**Policy:** 2023-01: Gift Acceptance and Reporting Policy

**Date:** February 13, 2023

**Abstract:** This policy outlines gift acceptance, counting, and reporting at the School. It defines “gift” and describes gifts and gift restrictions that can and cannot be accepted by the School. It also provides details about gift agreement requirements, as well as information about transferring assets to the School and specific types of gift assets that the School accepts. Information is also provided regarding gifts from donor-advised funds, private foundations, employer-sponsored matching gifts, planned gifts, and gift receipts, counting, and reporting, among other topics.

**Effective:** February 13, 2023

**Review:** This policy will be reviewed annually or as required.

### **Policy:**

#### 1.01 PURPOSE OF THE POLICY

The Nashville School of Law (“School”) appreciates and depends upon the generosity of graduates and other friends to support its mission and programs. Gifts must be solicited, accepted, processed, recorded, and acknowledged in a manner that protects the interests of both the School and its donors. The purpose of this policy is to provide a set of standards by which gifts are reviewed, accepted, recorded, and receipted by the School. It applies to all gifts of private support received by the School.

#### 1.02 QUALIFICATION AND REGISTRATION

- (A) The School is a nonprofit organization as described in Section 501(c)(3) of the Internal Revenue Code. Accordingly, the School qualifies under both federal and state law as a tax-exempt public organization for which charitable contributions are deductible to the full extent of the law for income, gift, and estate tax purposes.
- (B) The School’s federal tax identification number is 62-0550981.

### 1.03 THE SCHOOL'S COMMITMENT TO ITS DONORS

The School seeks to instill in donors, confidence that their gifts are indeed furthering the School's mission and to communicate appreciation of both the gift and the giver. In accepting voluntary contributions from graduates, friends, and supporters, the School accepts the obligation to:

- acknowledge gifts appropriately in a timely manner;
- use contributed funds as directed by donors;
- recognize donors meaningfully according to their wishes, while respecting any stated wishes for anonymity or privacy; and
- report consistently and accurately on the impact of their gifts.

Those obligations create a baseline of what all donors to the School, big and small alike, can expect.

The financial support from donors is the cornerstone of the School's ability to continue to provide a quality legal education to working men and women at an affordable price. The School is committed to ensuring that our donors are appreciated, informed, fulfilled, and engaged. Anything less is unacceptable. This is a pledge that the School's Board and staff accepts willingly. It is the promise we make to ourselves and all donors to the School.

### 1.04 THE DONOR BILL OF RIGHTS

The School subscribes to the widely accepted Donor Bill of Rights adopted in 1993 by the American Association of Fundraising Counsel, the Association for Healthcare Philanthropy, the Council for the Advancement and Support of Education ("CASE"), and the Association of Fundraising Professionals.

#### A Donor Bill of Rights\*

Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support, we declare that all donors have these rights:

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\*Association of Fundraising Professionals (AFP), all rights reserved. Reprinted with permission from the Association of Fundraising Professionals. Located at [afpglobal.org/donor-bill-rights](http://afpglobal.org/donor-bill-rights).

I. To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.

II. To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.

III. To have access to the organization's most recent financial statements.

IV. To be assured their gifts will be used for the purposes for which they were given.

V. To receive appropriate acknowledgment and recognition.

VI. To be assured that information about their donation is handled with respect and with confidentiality to the extent provided by law.

VII. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.

VIII. To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.

IX. To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.

X. To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.

#### 1.05 DEFINITION OF GIFT

“Gift” is defined as a complete, voluntary transfer of assets from a person or persons or an organization to the School where no goods or services are expected, implied, or forthcoming in return to the donor. Gifts generally take the form of cash, securities, real property, or personal property. The following criteria generally identify a gift:

- Gifts are motivated by philanthropic intent.
- Gifts are transfers of assets to the School’s control. The School is not obliged to return unexpended funds.

- Gifts are not generally subject to an exchange of consideration or other contractual duties between the School and the donor, except for certain planned gifts as outlined in this policy, although objectives may be stated, and funds may be restricted to specific purposes.
- The donor may make a restricted-use gift by designating a specific purpose. The donor may also designate a gift for unrestricted use by the School.
- Generally, funds received from individuals, closely held corporations, family foundations, and donor advised funds will be classified as gifts. Funds received from foundations, corporations, or corporate foundations will also be classified as gifts unless they require performance or other considerations that may result in their being designated otherwise.

The School is guided by the standards set forth by CASE when questions arise of whether a particular transfer of assets counts as a gift.

#### 1.06 TYPES OF GIFTS

##### (A) Outright Gifts

An outright gift is a current contribution of cash, stocks, bond, mutual fund shares, real property, or personal property. The donor benefits of making an outright gift to the School include a federal tax deduction based on the current value of the gift and the avoidance of capital gain tax if the gift involves appreciated property that has been held for at least one year. A donor should always consult with his or her tax attorney or accountant for more specific information.

##### (B) Deferred or Planned Gifts

A deferred or planned gift is a commitment established by the donor during his or her lifetime, the principal benefits of which are typically not immediately or fully available to the School. Examples of planned gifts would include, gifts of life insurance, charitable remainder trusts and charitable lead trusts, retirement plan designations, retained life estates, and commitments through estate plans. Planned gifts may be given as irrevocable or revocable gifts.

- Irrevocable gifts to the School cannot be modified or withdrawn by the donor and generally provide immediate tax benefits and in some cases a lifetime income for the donor. Examples of irrevocable gifts include remainder interests in property and, in some cases charitable remainder trusts.
- Revocable gifts can be changed or withdrawn at the discretion of the donor and most often become irrevocable upon the donor's death providing estate tax benefits at that time. Examples of revocable gifts include a will provision, retirement plan designation, or other estate provision prior to death. Revocable gifts are not recorded as gifts until they become irrevocable.

(C) Matching Gifts

Many companies match current gifts of cash, stocks, or bonds made to higher education institutions by their employees and often by employees' spouses and company retirees. Matching gifts are generally allocated to the same purpose as the donor's gift unless restricted to another purpose by the company. Donors are entitled to a income tax deduction for their individual gifts only. Matching gift amounts are included in the donor's total giving for donor recognition purposes only.

(D) Unrestricted Gifts

An unrestricted gift is a gift without donor restrictions or stipulations as to its use or purpose. Unrestricted gifts are important to the School because they may be used, at the School's discretion, in areas where the resources are most needed.

(E) Restricted Gifts

A restricted gift is a gift given to support a particular use or purpose. Restricted gifts benefit specific areas of need or other purposes specified in writing by the donor. The School recognizes and respects the right of a donor to channel gifts to a favored, restricted purpose, and the restriction of any gift accepted by the School will be implemented faithfully.

For accounting purposes, a donor may restrict a gift either temporarily or permanently. The School must permanently retain a gift that a donor has permanently restricted. Temporarily restricted gifts can be expended, but only for the specific use or purpose designated by the donor.

#### 1.07 METHODS OF GIVING

##### (A) Cash Contributions

Cash Contributions are accepted as single gifts or in multiple payments and include cash, checks, Electronic Funds Transfer (EFT), payroll deduction, credit card charges and/or IRA distributions.

##### (B) Deferred or Planned Gifts

Below is an overview of common gifting strategies. If a donor proposes a different strategy, not listed here, the Board may approve on a case-by-case basis.

- *Charitable remainder trust* is a legal entity created by the donor pursuant to which the trustee of the trust invests the trust assets and makes fixed or variable payments to the named beneficiaries for life or a term of up to 20 years. The donor may designate the use of the remainder interest of the trust which will become available at the end of the term.

Trusts in which there are other remainder beneficiary (ies) in addition to the School will be evaluated on a case-by-case basis but are generally discouraged.

- *Charitable lead trust* is a legal entity created by the donor pursuant to which the trustee of the trust invests the trust assets and makes fixed or variable payments to charity for a measuring lifetime or term or up to 20 years. At the end of the term, the remaining trust assets are returned to the donor's named beneficiaries. The donor may designate the use of the charitable gifts from the lead trust. The minimum gift to establish a lead trust is \$500,000.

- *Estate gifts* refer to a variety of provisions a donor may make for the School in his or her estate plans, including will and revocable trust provisions, and designations in a life insurance policy or retirement assets.
- *Life insurance policies* may be transferred to the School with the understanding that if they are not fully paid the donor will make annual gifts in the amount of the premiums. The School may also be named as the beneficiary of a life insurance policy that the donor wishes to retain.

(C) Securities

*Publicly traded securities* are ownership rights that trade on an exchange or over-the-counter market for which public price quotations are available. Gifts of publicly traded securities such as stocks, bonds, and mutual funds may be donated to the School.

- *Closely held securities* are ownership rights for which there are no public price quotations. Gifts of stock in closely held corporations or stock options must be reviewed on a case-by-case basis by the School and approved by the President and Dean or the Assistant Dean for Administration.

(D) Gifts of Property (Gifts-in-Kind)

Different types of property may be given to the School. These types of property are listed below.

- A gift of *real property*, also known as real estate, is land together with anything that is permanently attached to it, whether natural or artificial. This includes such items as trees, buildings, fences, and swimming pools.
- A gift of *personal property* is anything that is not real property. Personal property consists of two categories: tangible personal property and intangible personal property.

- *Tangible personal property* is physical property, other than land or buildings, that may be seen or touched. Unlike real property, tangible personal property is movable. Examples of tangible personal property include furniture, artwork, jewelry, books, and vehicles such as automobiles, rare manuscripts, historical memorabilia and equipment such as computer hardware and software, and other specialized scientific instrumentation.

*Intangible personal property* (patents and other intellectual property) is personal property the value of which stems not from its physical form or characteristics but rather from its intangible nature, such as patents, copyrights, and trademarks.

#### (E) Gift Pledges and Gift Commitments

A donor's promise to give money or other property at some specific time in the future may take two forms, a legally binding pledge or a gift commitment. Only forms approved by the School may be used to record a gift pledge or gift commitment.

- A *gift pledge* is a legally binding agreement in the form of a contract, where both parties have agreed to specific described actions. Only those parties who have signed the pledge agreement may fulfill the terms of the pledge. A gift pledge payment from any other source (including a donor advised fund, family foundation, etc.) should not be used to make payments on a gift pledge because it could result in an adverse tax or financial result to the donor.
- A *gift commitment* is a statement of a donor's intention to make a defined gift over a period of time for a specified purpose. A completed gift commitment form is not a legally binding agreement but serves to document a commitment to make a gift. The form gives the donor the greatest flexibility in fulfilling their commitment because there are no legal constraints on how a gift commitment may be satisfied.



## 1.08 DETERMINING THE DONOR

- (A) Under the vast majority of cases, the person or organizations whose name appears on the face of the check shall be considered the legal donor of a gift. For gifts of securities and real property, the person or organization in whose name that property was registered is considered the donor. Exceptions are cashier's checks and money orders, which are provided by banks to their customers as a convenience. In this case, the person or organization on whose behalf the cashier's check or money order is drawn is considered the donor.
- (B) Soft credit permits the School to acknowledge the efforts of persons other than the legal donor, who were instrumental in providing the gift, while not compromising the School's legal obligation to record and receipt the gift correctly. While these important people should be thanked, care must be taken to ensure the acknowledgment clearly states the legal donor.
- (C) The donor of a gift received from a donor advised fund is the fund, not the individual advising the fund to make the gift. However, the individual advising the fund to make the gift may receive soft credit for the gift.
- (D) When several persons pool their money by giving it to one person who writes a check as a contribution, the legal donor is the person who wrote the check, not the persons who provided the money, although the persons providing the money may receive soft credit for their contribution.
- (E) When a person who gives money to an organization that collects money to be disbursed to other charities and designates that the funds be given to the School, the legal donor is the organization collecting the money, not the individual, although the individual may receive soft credit for the contribution.
- (F) When a legally enforceable pledge is made in an individual's name but the payment is made with a third-party check, the tax receipt will be issued in the name of the third-party, not the individual. A payment from a third party may not legally be applied against a personal pledge obligation, unless the third party is specifically a party to the original and accepted pledge.

1.09 VALUATION OF GIFTS

- (A) The School will record the “fair market value” of each gift. Fair market value is what a willing buyer would pay to a willing seller, both having reasonable knowledge of the asset and neither being under a compulsion to act.
- (B) For all gifts other than cash or publicly traded securities, the School must receive an appraisal of the gift asset in order to record the value of the gift. The appraisal may come from either:
  - (1) An IRS Form 8283 Appraisal Summary prepared by a qualified appraiser, or
  - (2) Other information that supports the fair market value provided by the donor and acceptable to the School.
- (C) The School will sign a donor’s IRS Form 8283 to certify the receipt of a gift only if the form includes the donor’s social security number (or the entity’s tax ID number). Only the President and Dean or the Assistant Dean for Administration may sign a Form 8283 on behalf of the School.
- (D) If the School sells or disposes of gifted property with a value exceeding \$500 within three years of the date of the gift, the School must report the transaction to the Internal Revenue Service on IRS Form 8282. The School is responsible for filing the Form 8282 upon the sale or disposition of the gift.

1.10 ACCEPTANCE OF GIFTS

- (A) Only the President and Dean, the Assistant Dean for Administration, or their designees can accept a gift to the School. Acceptance is formalized by the presentation of an official gift receipt.
- (B) Gifts will not be accepted if any of the following circumstances exist:
  - (1) The gift is in contravention of applicable federal or state laws, or School policies.

- (2) The gift would obligate the School to undertake duties, financial or otherwise, which it may not be fully capable of meeting for a period required by the terms and conditions of the gifts.
- (3) The gift constitutes a request to the School to operate a commercial endeavor for the sole benefit of the donor.
- (4) The gift cannot be properly administered within the School's normal budget or resources (for example, in the case of the requirement for matching funds or resources).
- (5) The gift presents an unreasonable or unacceptable degree of risk due to environmental or health and safety issues.

#### 1.11 DONOR PRIVACY

The School respects the privacy of the donors who financially support its mission and programs. Safeguarding donor privacy is good stewardship, and the Donor Bill of Rights states that donors are “[t]o be assured that information about their donation is handled with respect and with confidentiality to the extent provided by law.” The School will make every effort to ascertain a donor's wishes in this regard and abide by them when practicable.

It is the School's policy to hold the names of our donors in confidence unless one or more of the following conditions apply: (1) it is a common and established practice to list such gifts in a newsletter, annual report, or other similar publications; (2) the gift qualifies for a naming opportunity elected by the donor; (3) the donor gives express permission to the School to make the gift public as part of a written document, such as a gift agreement or other direct communication; or (4) the School is legally obligated to provide information regarding the gift.

It is the School's policy to ask donors at the time the gift is made about the kinds of recognition they prefer or, alternatively, if they would prefer that their names not be made public.

1.12 DONOR ANONYMITY

The School requires that the donor or donors be identified for all substantial gifts. Except when otherwise required by law, donors may request that their names and their gift not be disclosed in any public setting or included in any published honor roll of donors. Either the President and Dean or the Assistant Dean for Administration must approve these requests.

1.13 GIFT RECEIPTS AND ACKNOWLEDGMENT

- (A) The School acknowledges the receipt of all gifts in writing and in a manner that satisfies the Internal Revenue Service substantiation requirements set forth in Section 170(f) of the Internal Revenue Code for the deduction of charitable gifts by individual donors.
- (B) Tax receipts will include, at a minimum, the donor's name and address, the date of the gift, a description of the gift, and, when appropriate, the amount of the gift. This receipt is deemed to be the official acceptance of the gift and its related terms and conditions, as well as the official certification of the donation for income tax purposes. Receipts will also make a statement as to whether the School provided any goods or services and, when applicable, a good faith estimate of the value of the good and services.
- (C) The value of gifts-in-kind is recorded for accounting and donor recognition purposes only. No values of gifts-in-kind, except for publicly traded securities, appear in the School's receipts or acknowledgment letters. The required signature on IRS Form 8283 of the President and Dean or the Assistant Dean for Administration, on behalf of the School, acknowledges receipt of the property only, and is not a concurrence with the fair market value.

1.14 EXCEPTIONS TO THE POLICY

Any exceptions to these policies must be directed to the President and Dean or Assistant Dean for Administration for consideration.

1.15 PROVIDING LEGAL OR FINANCIAL ADVICE

- (A) Neither the School nor any of its employees or agents acting on behalf of the School may agree to act as the successor trustee of a living trust or the executor of any will in which the School is named without the approval of the President and Dean.

- (B) School employees or agents acting on the School's behalf shall not draft wills or living trusts naming the School as a beneficiary. This provision does not apply to employees or agents of the School drafting their own will or wills for family members, naming the School as a beneficiary.
- (C) School employees and agents may provide donors with suggested bequest language or assistance with other language pertaining to gift designation to the School.
- (D) No employee or agent of the School shall provide financial planning services for any donor. Prospective donors are encouraged to seek the assistance of their own lawyers or financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. Further, to avoid conflicts of interest or the appearance of improper influence, the School will not pay legal or other fees for the preparation of a donor's will or living trust that names the School as a beneficiary.