



## **HAYWOOD COUNTY SCHOOLS FOUNDATION GIFT ACCEPTANCE POLICY**

### **INTRODUCTION**

Haywood County Schools (HCS) Foundation (the Foundation) welcomes all gifts for its use or for its benefit and will endeavor in all instances to work with donors and their advisors to help assure that the goals of each contributor are accomplished. According to HCS Procedure #3.5.1, gifts received must be approved by the Foundation Finance Committee, Foundation Board of Directors, and Haywood County Schools superintendent.

The policy set forth herein is intended for use as a guideline. Specific gifts will be considered on their merits and final action will be taken by those authorized by the Foundation Board of Directors to do so when appropriate. This policy shall be administered and interpreted where necessary by the Finance Committee of the Foundation or a sub-committee thereof. The Foundation adheres to the Association of Fundraising Professionals (AFP) Donor Bill of Rights (available by donor request).

Although these policies fill a variety of internal needs, its purpose is to provide appropriate information related to a gift acceptance and benefits to all members of the "HCS Family"; the Board of Education of HCS, the Board of Directors of the Foundation, Vice Presidents, department chairs, faculty, alumni, staff and all donors and friends. Questions regarding any portion of this material may be directed to the Executive Director of HCSF by calling 828-456-2400.

### **I. Donor Unrestricted and Restricted Gifts**

Unrestricted gifts are the most useful and desirable for any charity. Funds may be applied to the specific area where the need is the greatest. This is especially important in light of the fact that needs are ever changing: a need of vital importance today may be of very little importance a week or a month or a year from now. In addition, unrestricted gifts allow the Foundation to take advantage of opportunities that may present themselves infrequently or, possibly, only once.

Conversely it is recognized and understood that donors often wish to restrict their gifts of hard-earned dollars to their own personal areas of interest at the Haywood County Schools. This fact is accepted by the Foundation and every effort is made to be accommodating. Gift restrictions must comply with the guidelines detailed in the policy statement and be in compliance with the law.

In general, preferences must not be unduly restrictive; a degree of flexibility must be maintained. The Foundation, in order to protect the deductible aspect of the charitable gift for the donor, must assure that the donor has indeed transferred dominion and control of the gift to the Foundation. In addition, since Haywood County Schools Foundation is expected to survive all donors and/or current employees and in recognition of the fact that endowed accounts are perpetual in nature, The Foundation is obliged to retain a degree of authority in regard to gift administration. For the aforementioned reasons, restrictions are referred to in

terms of preferences. It is the policy of the Foundation to recognize donor preference rather than to be bound by absolute restrictions.

In the vast majority of instances, donor restrictions will apply to current, outright gifts and be directed to current needs and/or programs in accordance with the donor's instructions. Donors of endowed accounts are welcome to express their preferences as well, and the Foundation will carry out the wishes of the donor to the extent that those preferences are, and continue to be, reasonable.

However, in the event a donor preference is rendered inappropriate and/or no longer applicable, enforceable or advisable, funds will be directed – at the discretion of the Board of Directors of the Foundation – to those uses most closely aligned with the original intent of the donor and in consideration of the highest and best good of the Haywood County Schools. In regard to endowments, trust is a key ingredient. Consequently, trust agreements are completed in order to document the expectations of the donor and the Foundation.

### **A. Regulations on Use and Investment of Gifts**

1. All gifts received by the Foundation will follow the Foundation's investment policy which is reviewed and approved annually by the Board of Directors.
2. Any requested restrictions on ways in which funds may be invested may only be agreed to by the Finance Committee prior to the transfer of any assets the investment of which is to be restricted.
3. Upon receipt of a gift, an organization (current or future) or individual cannot request for it to be rescinded.
4. As of July 1, 2013, an annual one and one-half percent (1.5%) administrative fee will be charged to all restricted and endowed gifts over \$5,000. The fee and any interest earned will be deposited in the Foundation's unrestricted account. If the gift is returned, the Foundation will retain any fees and interest earned.

## **II. OUTRIGHT GIFTS**

### **Cash**

Gifts of cash are the most common form of outright gift, because they are the easiest and most convenient gifts for donors to make. Cash gifts include credit card commitments, checks, check drafts and/or payroll deduction arrangements and may be put to the immediate use of the Foundation. Since the benefit is direct, donors are privileged to witness immediately the good made possible by their generosity. Cash gifts may be restricted to the area of interest of the donor(s).

### **Special Purpose Endowment Funds**

The Foundation may approve the establishment of special purpose endowment funds upon receipt of gifts or commitments that meet the approved funding levels and criteria established for the endowment.

## **Endowed Scholarships or Awards**

An endowed scholarship or award may be established with a minimum commitment to be determined by the Board. Gifts less than this amount will be put into the General Endowment Scholarship Fund. (An endowed award means that the initial funds given to establish the award are invested and distributed according to the HCS Foundation investment policy.) It is the intent of the Foundation's investment policy to use reasonable efforts to preserve the original amount of the endowment.

## **Spending Policy for Endowments**

The Foundation periodically determines the average market value of the investment fund, calculated over the immediately preceding 36 month period and expends up to four percent (4%) of this amount of the donor's intended purpose. While the payout rate is intended to be stable, it may be periodically adjusted to reflect returns in the capital markets, budgetary needs, or inflation experience.

The investment policy is applied only to endowed funds, both restricted and unrestricted. Funds given to the Foundation for operating use and not for endowment purposes do not come under the investment policy guideline.

**Scholarships or Awards** – Non-endowed scholarships or awards may be accepted at anytime. These funds may be expended immediately or at the discretion of the donor.

**Naming Opportunities:** Naming opportunities offer individuals and non-individual donors the occasion to help Haywood County Schools in a meaningful manner while establishing a tangible acknowledgment to their own success or "life" work. Naming opportunities may be used to honor living individuals or friends or family members of the donor or in memory of a loved one.

Minimum criteria for individuals to be considered as namesakes for program and/or scholarships are as follows:

- Honoree must have made a notable contribution to society and the welfare of mankind.
- Honoree should have made a significant contribution to HCS through service, leadership and/or financial support.
- Foundation reserves the right to rename.

**Others** – The Foundation will work with prospective donors on the terms and conditions of other endowment funds provided they support traditional curricular activities or functions. An endowment may be established with a minimum gift determined by the Board of Directors.

- ◆ The suggested minimum contribution to fund an Endowed Named Scholarship, a Faculty/Department Development Award or a Technology/Equipment Award will be determined by the Board.
- ◆ Endowments for libraries, laboratories, buildings, auditoria or other major projects are arranged on an individual basis and are reviewed and approved by the Board of Education Building and Grounds Committee and recommended to the Board of Education for

approval. The minimum endowment amount will be decided by the Board and dependent on the project and may be paid over a period of five (5) years.

#### **A. Cash**

1. All checks must be made payable to “Haywood County Schools Foundation.” No check made payable to an employee or volunteer for credit to the Haywood County Schools Foundation will be accepted or acknowledged.
2. All checks shall be deposited in the ordinary course of business. No employee shall be authorized to delay deposit.

#### **B. Publicly Traded Securities**

1. Securities that are traded on the New York, American Stock Exchanges or NASDAQ Market or other readily marketable securities shall be accepted by The Foundation.
2. Securities accepted by The Foundation will generally be sold as soon as practical, unless it is decided by appropriate officers of the organization to hold the securities as investments of the organization. No agreement shall be made with a donor prior to or subsequent to a gift that such securities will be held for any period of time.

#### **C. Closely Held Securities**

1. Non-publicly traded securities will be accepted only upon prior approval of the Finance Committee or a sub-committee thereof.
2. Such securities may be sold only with the prior approval of the Finance Committee.
3. In keeping with relevant rulings and court determinations, in order to assure appropriate tax benefits for contributors of non-publicly traded securities; no commitment shall be made for the repurchase of such securities prior to the completion of a gift of such securities.
4. HCSF, HCSF Board of Directors and/ or Finance Committee may seek professional tax advice as needed. Any additional fees incurred will be the responsibility of the donor.

#### **D. Real Property**

1. It is the policy of the Foundation to accept gifts of real property to the organization.
2. Gifts of real property shall be accepted only after prior approval of the Finance Committee and the Foundation Board of Directors.
3. The Finance Committee shall, prior to acceptance of real property, obtain an independent third party appraisal at the expense of the donor regarding environmental conditions, status of title, abstract preparation, deed preparation or realtor’s fees relating to the transfer and any other relevant information to be determined by the committee, e.g. liability for real property that is not immediately saleable, or donor advised gift.

4. Acceptance of real property, which is mortgaged, may be accepted following the determination by the Finance Committee on the feasibility of the Foundation's assumption of liability on the mortgage.
5. The Foundation may not enter into agreements regarding the retention of real property for a specific period of time, as to do so may have a negative impact on the appraised value and marketability of such property. (except as stated in #4 above)
6. Gifts of real estate shall be irrevocable and shall be valued at the fair market value as of the date of the gift.
7. Prior to acceptance of any gift of real estate, a written agreement shall be executed which will state that payment of expenses including, but not limited to, taxes, due diligence costs, assessments, insurance, broker's fees, finder's fees, realtor's fees, and cost of repairs or maintenance shall be borne by the donor. If the donor is married, the spouse shall also sign all agreements. Warranty deeds are required.

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

1. Jewelry, artwork, collections and other personal property will be accepted by approval of The Foundation personnel authorized by the Finance Committee to accept such property.
2. Personal property may not be accepted where the Foundation is obligated to maintain ownership of it in perpetuity. Perishable property or property which will require additional insurance, special facilities or security to properly safeguard it may not be accepted without prior approval of the Finance Committee.
3. In order to assure that donors enjoy maximum tax benefits to which they are entitled as a consequence of making a gift of property other than cash or publicly traded securities, and if there is reason to believe such property has a value of \$5,000 or more, it may only be accepted after receipt and review of an appraisal qualified under relevant Internal Revenue Code requirements.
4. The Foundation employees may not enter into agreements regarding the retention of donated personal property for a specific period of time, as to do so may have a negative impact on the appraised value and marketability of such property.

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

1. Other property such as mortgages, notes, copyrights, royalties, easements, whether real or personal, may be accepted by action of the Finance Committee or persons duly acting on its behalf. Debt encumbered property will not be accepted unless extraordinary circumstances prevail and approved by the Finance Committee and the Board of Directors.
2. Special consideration shall be given to the nature of any gift of property, whether real or personal, and whether it is in keeping with the mission of the Foundation prior to its acceptance by The Foundation.

### **III. DEFERRED GIFTS**

A charitable bequest to the Foundation is a gift of any amount or form made to the Foundation via a donor's will. Gifts may be made to the Foundation through the execution of a new will, a codicil to an existing will, a donor's will or trust, trust, or amendment to an existing trust.

Bequests may be designated as unrestricted or restricted. Restricted bequests when accepted – for endowment or current use – are used in accordance with the desires expressed by the donor and in consideration of the limitations placed on the Foundation by IRS guidelines and other factors. Unrestricted bequests are used for general purposes and directed to the area of greatest need.

#### **A. Bequests**

1. Gifts through wills and trusts shall be actively encouraged by The Foundation.
2. Where persons indicate their intention to bequeath property other than cash or cash equivalents to the Foundation, the provisions of preceding paragraphs of this policy statement shall be communicated to such persons where feasible and deemed appropriate by the Finance Committee.
3. Gifts from the estates of deceased donors shall be accepted subject to the terms of this policy statement. The legal counsel of the Foundation shall expeditiously communicate the terms of applicable policies to the legal representatives of the estate.

#### **B. Charitable Remainder Trusts (CRTs) and Charitable Lead Trust (CLTs)**

1. The Foundation encourages those interested in doing so to establish CRTs and CLTs for the benefit of the organization. It is understood that CRTs and CLTs shall be encouraged as vehicles the primary purpose of which are to make gifts to the Foundation. Such trusts shall not be marketed as tax avoidance devices or as investment vehicles, as it is understood such activity may violate federal and/or state securities regulations.
2. The Foundation will not serve as trustee of a CRT or CLT of which it is also the beneficiary. The Foundation may, if necessary, assist in the selection of an appropriate and independent trustee.
3. The fees for management of a charitable remainder trust will only be paid by the Foundation upon prior approval of the Finance Committee.
4. The Foundation will make no representations as to performance of trust assets or the manner in which charitable remainder trust assets will be managed or invested by any corporate fiduciary who may be recommended by the Foundation or its employees.

### **C. Real Estate Gifts**

1. Donors may make gifts of remainder interest(s) in real estate to the Foundation.
2. Upon notification of a donor's intention to leave the remainder interest in a parcel of real property to the Foundation, the donor shall be notified of the provisions of this policy statement.
3. Upon notification by the legal representative of the estate of a deceased life estate holder of the death of such person, the legal counsel of the Foundation shall immediately research applicable state law and expeditiously communicate the terms of this policy statement to the legal representative of the estate or such other party as may be required by applicable state law.

### **D. Gifts of Life Insurance**

Donors who wish to make a revocable gift of life insurance proceeds may do so by simply designating the Foundation as beneficiary.

1. The Foundation encourages donors to name the Foundation as the exclusive beneficiary for life insurance policies that have been purchased on their lives. However the Foundation will accept the naming of the Foundation as partial interest beneficiary of life insurance policies which donors have purchased on their lives.
2. The Foundation will not, however, as a matter of course agree to accept gifts from donors for the purpose of purchasing life insurance on the donor's life. Exceptions to this policy will be made only after researching relevant state laws to assure that the Foundation has an insurable interest under applicable state law. In the event that an exception is made, the Foundation will only consider the naming of the Foundation as the exclusive irrevocable beneficiary of insurance policy(ies) purchased on the lives of donors with gifts from donors and the same insurance policy(ies) are owned by the Foundation.

## **IV. PAYMENT OF FEES RELATED TO GIFTS**

### **A. Finders Fees or Commissions**

1. In general, the Foundation will pay no fee to any person as consideration for directing a gift to the Foundation. It is understood that such fees may or may not be legal and that in the case of irrevocable deferred gifts which involve management of assets, the payment of such fee may amount to a violation of state and federal securities laws by the Foundation and its management and Board of Directors.
2. In no event will a commission or finder's fee of any type be paid to any party in connection with the completion of a gift to the Foundation without prior written approval of the Finance Committee and subsequent written notification to the donor involved of the amount and recipients of any such fee.

## **Professional Fees**

1. The Foundation requires that professional services fees or expenses and all due diligence costs incurred in connection with the completion of a gift to the Foundation be assumed and paid by the donor.
2. Fees shall be directly related to the completion of a gift and may include
  - appraisal fees by persons who are competent and qualified to appraise the property involved and who have no conflict of interest,
  - environmental impact studies where deemed necessary by the Finance Committee,
  - legal fees for the preparation of documents and /or legal advice,
  - accounting fees incident to the transaction,
  - fees of “fee for service” financial planners, and
  - any required maintenance or repairs.

In the case of financial planners, such persons must have in writing that they are compensated only through fees for services rendered and that they are not compensated for the sale of products to clients. The distinction is vital in avoiding the payment of commissions, which could be construed as triggering securities regulation.

3. In situations where advisors retained by the Foundation prepare documents or render advice in any form to the Foundation and/or a donor to the Foundation, the professional involved is in the employ of the Foundation and is not acting on behalf of the donor. Any documents or other advice rendered in the course of the relationship between the Foundation and the donor should be reviewed by counsel for the donor prior to completion of the gift.

## **V. ADMINISTRATION OF POLICIES**

### **A. Delegation of Duties**

1. Without specific written authorization, volunteers may not sign appraisal summaries or other documents legally required for the completion of a gift to the Foundation.

### **B. Exceptions to Gift Acceptance Policy**

1. The policy outlined herein may only be waived by action of the Finance Committee or the Board of Directors of the Foundation.
2. Development personnel may accept cash and publicly traded securities subject to the terms of this policy. In the event gifts are accepted which are not in keeping with the terms of this policy statement and no exception is subsequently made, every attempt shall be made to return the donated property or amend the terms of the gift in a way which is mutually acceptable to the donor of such property and the Foundation.