



# **GIFT ACCEPTANCE POLICY**

## GIFT ACCEPTANCE POLICY

### I. Purpose

- A. **Introduction.** Manhattan School of Music (“MSM”) welcomes gifts of cash, securities, and other forms of property to defray MSM’s general operating costs, to provide scholarships for students in need, to support capital improvements, to help build MSM’s endowment, and to otherwise support and advance MSM’s purposes as a nonprofit institution of higher education. The purpose of this Gift Acceptance Policy (this “Policy”) is to set forth MSM’s policies and procedures for accepting such charitable gifts. The ideal gift to MSM is one that is consistent with both MSM’s purposes and the donor’s intent and financial plans, without imposing undue financial or other burdens upon MSM. Thus, the intent of this Policy is to help foster more gifts to MSM while at the same time providing discipline and guidance, both legal and financial, in the acceptance and administration of gifts.

All solicitations on behalf of MSM will be in accordance with the standards in the *Donor Bill of Rights*, as developed by the Council for Advancement and Support of Education (CASE) and other national organizations. A copy of the *Donor Bill of Rights* will be made available on MSM’s website.

- B. **What is a Gift?** A gift is defined as a voluntary and complete transfer of assets from a person or an organization to MSM where no goods or services are expected, implied, or forthcoming in return to the donor. Gifts usually take the form of cash, securities, real property, or personal property. The following criteria generally define a gift:

- Gifts are motivated by philanthropic intent.
- Gifts are transfers of assets to MSM’s control. MSM is not obligated to return unexpended funds.
- Gifts are not generally subject to an exchange of consideration or other contractual duties between MSM and the donor, except for certain planned gifts as outlined in this Policy, although objectives may be stated and funds may be restricted as to specific purposes.
- The donor may make a restricted-use gift by designating a specific purpose that is both approved by and appropriate to MSM. The donor may also make a gift unrestricted, or may designate a gift for unrestricted use by a particular department or unit.

MSM is guided by standards set forth by CASE when questions of whether or not a particular transfer of assets constitutes a gift.

C. **Gift Acceptance.** MSM will make every effort to accommodate and accept all gifts from donors. However, all gifts, whether or not addressed in this Policy, shall adhere to the following principles of gift acceptance:

- **Support of Mission:** All gifts should advance MSM's mission and be consistent with its not-for-profit, tax exempt purposes and status.
- **Reputation:** MSM will not accept any gift which may damage or compromise MSM's reputation or core values.
- **Academic Integrity:** No gift may in any way interfere with or impinge upon MSM's capacity to fully control the management, operation, and direction of its affairs, including admissions procedures, academic programs, and financial aid, nor may any gift vitiate MSM's academic integrity and commitment to academic freedom.
- **Burden:** No gift may impose unreasonable financial or administrative burden on MSM, its staff, employees, or students, or any of its other resources.
- **Donor Intent:** All donors should be motivated by a philanthropic desire to support MSM and further its mission.
- **Gift Application:** MSM must have sole authority over the application of gift proceeds in accordance with a donor's stated wishes and any restrictions appropriate to and approved by MSM.
- **Gift Administration:** MSM must retain sole control over the administration and financial management of all gifts.

If a proposed gift conflicts with one of the foregoing principles, the Philanthropy staff member working with the donor will consult with Vice President for Philanthropy, who will make a final decision regarding gift acceptance, in consultation with the President, as necessary. MSM shall in all cases reserve the right to decline any proposed gift deemed not to be in the interests of MSM or not to be consistent with the foregoing principles.

MSM will not accept gifts that involve discrimination based on race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, marital status, citizenship or veteran status, disability, or any other basis prohibited by federal, state, or local laws and regulations, or that is in contravention of MSM's values and traditions, as determined by MSM's Board of Trustees in its sole discretion. MSM will adhere to federal law, including the Internal Revenue Code of 1986 (the "Code"), as amended, and regulations promulgated thereunder, and New York State law relating to charitable organizations and not-for-profit education corporations, particularly the New York Prudent Management of Institutional Funds Act.

- D. **Policy Approval and Scope.** This Policy has been approved by MSM’s Board of Trustees effective as of 9/27/2018, and supersedes any existing policy or policies. This Policy shall not create any contract rights and is subject to change at any time, with appropriate review and approval as determined by the Board. MSM has a separate, Board-approved policy for the approval of gift agreements, “Policy for Contract Approval” by Board of Trustees dated 9/15/17.

This Policy does not anticipate all possible gift situations. Fundraisers should discuss any potential gift not described in this document with appropriate MSM officers, including the Vice President for Philanthropy.

- E. **Qualification and Registration.** MSM is a nonprofit organization which has been recognized by the Internal Revenue Service as exempt from federal income taxation under Code Section 501(c)(3), contributions to which are deductible under Code Section 170. MSM’s federal tax identification number is 13-1656667.

## II. Responsibility to Donors

- A. **General.** MSM, its Philanthropy staff, and representatives will endeavor to assist donors in accomplishing their philanthropic objectives in a manner consistent with MSM’s commitment to maintaining the highest ethical standards. Philanthropy staff will adhere to all MSM policies related to ethics and conflicts of interest, including the *Donor Bill of Rights*.
- B. **Confidentiality.** Information concerning all transactions between a donor and MSM will be held by MSM in strict confidence and will not be publicly disclosed without the permission of the donor.
- C. **Anonymity.** MSM will respect the wishes of donors wishing to support MSM anonymously and will take reasonable steps to safeguard those donors’ identity (except as required by law).

## III. General Administrative Matters

### A. **Delegation / Responsible Offices**

1. The Roles of the Board of Trustees and the President. MSM’s Board of Trustees has full and final authority over all policies and procedures for solicitation activities and acceptance of all gifts to MSM. The Board of Trustees has delegated the authority to carry out these policies and procedures to the President of MSM, with certain exceptions provided for herein.
2. Vice President for Philanthropy. The Vice President for Philanthropy reports to the President of MSM and is responsible for developing policies for President and Board of Trustees approval, and for the subsequent implementation through the Philanthropy Office of such policies.

All fundraising efforts must be conducted by the Philanthropy Office or the Office of the President.

3. Philanthropy Staff. Philanthropy staff reports to the Vice President for Philanthropy and is responsible for the following functions:
  - i. Carrying out the solicitation, receipt, acknowledgment, documentation, and stewardship of all gifts to MSM;
  - ii. Transmitting and documenting cash, pledges, and non-cash gifts for timely deposit, recording and/or other processing, as applicable;
  - iii. Acknowledging all gifts in accordance with IRS and other legal requirements and maintaining records of gift acknowledgments;
  - iv. Sending pledge payment reminders and collecting pledge payments; and
  - v. Implementing gift policies and procedures as adopted by MSM.

The procedures set forth in this Policy shall be applied by the Philanthropy staff, and, in certain cases with respect to item i. above, Office of the President staff. Questions from Philanthropy staff and the Office of the President staff regarding interpretation of this Policy should be directed to the Vice President for Philanthropy. Each member of the Philanthropy staff of MSM and applicable Office of the President and Senior Vice President and Chief Financial Officer's staff members shall be given a copy of this Policy.

4. Acceptance of Gifts. Only the President of MSM and the Vice President for Philanthropy, and, with respect to gifts involving cash or publicly traded securities offered without restrictions, employees specifically designated by either of the foregoing in writing, are authorized to accept gifts to MSM.
5. Interpretation. The President of MSM has authority to interpret this Policy as it applies to specific gifts, subject to ultimate authority of the Board of Trustees as set forth above. The President or the Board of Trustees, as deemed appropriate, on a case by case basis, may also consult with the Senior Vice President and Chief Financial Officer and the Vice President for Philanthropy, as well as representatives from individual departments or programs.
6. Waivers. As many policies and procedures contained in this Policy are specifically intended to ensure MSM's compliance with tax and other laws, and all policies and procedures herein have been adopted after careful consideration in light of the purposes and goals of this Policy, requests for waivers or exceptions shall generally only be granted in unusual or extraordinary circumstances.

Any request for a waiver or exception shall initially be directed to the President, who may grant such request only after careful consideration of the legal requirements, purposes, and goals of the specific policy or procedure at

issue. Notwithstanding the foregoing, in the case of any waiver or exception requested in connection with a gift of \$5,000 or more, such request may only be granted with the approval of the Board and, in the discretion of the Board or the President, upon consultation with legal counsel. Furthermore, any request for waiver or exception to any policy or procedure relating to the provision of benefits, rights, or consideration by MSM to a donor, or which results in MSM assuming any obligation, regardless of the amount or value of the gift, shall only be made with the approval of the Board and, in the discretion of the Board or the President, upon consultation with legal counsel.

The President, in the President's discretion, may appoint an ad hoc Gift Committee to assist in determining whether to allow exceptions or waivers. Members may include representatives from the Philanthropy Office, Business Office, Office of the Provost and Executive Vice President, and the Development Committee and Finance and Facilities Committee of the Board of Trustees.

Any exception or waiver which is approved hereunder shall be documented in writing, including a description of the process by which the decision was made, and maintained in MSM's files with any other documents related to the gift.

7. Gifts Related to Property Acquired with Tax Exempt Financing. Gifts related to facilities or projects financed with tax-exempt debt shall be reviewed by the Vice President for Philanthropy and Senior Vice President and Chief Financial Officer in consultation with MSM's legal counsel, as needed, to ensure that they do not adversely affect the tax-exempt nature of such financing.
8. Financial Records and Statements. MSM's financial records and statements are produced in accordance with Generally Accepted Accounting Principles (GAAP) and Financial Accounting Standard Board (FASB) pronouncements. For financial statement purposes, the Business Office is responsible for accounting for gifts to MSM in accordance with these guidelines. More information about MSM's accounting practices and records may be obtained from the Business Office.
9. Use of Outside Legal Counsel. MSM may engage legal counsel to advise MSM with respect to certain aspects of a proposed or existing gift. These circumstances include:
  - i. Review of gifts of closely-held or restricted securities, real estate, or other assets that are not readily marketable;
  - ii. Review of transactions imposing contractual obligations or restrictions on MSM or its use of the gifted assets;
  - iii. Review of transactions with potential conflicts of interest; and

- iv. Other circumstances where the Board of Trustees, President, Vice President for Philanthropy, or Senior Vice President and Chief Financial Officer feel appropriate.

- 10. Gift Acknowledgement and Substantiation. All donors shall be furnished with gift acknowledgement letters as soon as possible after the receipt of a gift but no later than 14 days after receipt of the gift with the goal that all acknowledgement letters will be sent within 2 business days after the receipt of a gift. A record shall be kept of all gift acknowledgment letters. Oversight and responsibility for assuring compliance with the Internal Revenue Service (“IRS”) requirements and this Policy’s guidelines regarding gift acknowledgement and substantiation is delegated to the Vice President for Philanthropy.

**B. Periodic Review**

- 1. General. The President and/or Vice President for Philanthropy will periodically (but no less frequently than every five years) review this Policy to ensure that it continues to accurately describe the policies of MSM with respect to acceptance of charitable gifts, and will propose that the Board of Trustees adopt any revisions that are deemed to be necessary or appropriate in order for this Policy to accurately reflect the policies of MSM.
- 2. Specified Review. This Policy will be reviewed upon the enactment or promulgation of legislation or regulatory rules affecting fundraising and gift acceptance by MSM, to assure continued compliance by MSM with relevant legislation and rules.

**C. Donor Expenses**

- 1. General. As a general rule, expenses associated with a donor’s gift should be borne by the donor. Typical expenses include appraisal fees to substantiate the value of the donor’s gift for tax purposes and the donor’s legal fees.
- 2. Payment by MSM. MSM may, with the prior approval of the Senior Vice President and Chief Financial Officer and the Vice President for Philanthropy, agree to pay some or all of the expenses associated with a gift following a determination by the Vice President for Philanthropy that doing so is necessary to facilitate the gift and appropriate in light of the benefit provided to MSM by such gift.

**D. Written Agreements**

- 1. General. All gift arrangements, other than outright unrestricted gifts of cash or publicly traded securities, shall be memorialized in a written document, or gift agreement. The gift agreement shall describe the dollar amount of the gift, any recognition to be provided by MSM, any restrictions imposed on the gift by the donor, any obligations undertaken by MSM with respect to the

gift, and any other matters agreed to by the donor and MSM. All gift agreements must be reviewed and approved by the Vice President for Philanthropy and the Senior Vice President and Chief Financial Officer prior to being sent to the donor for review and signature. Gift agreements shall be retained as part of MSM's permanent records.

With respect to gifts of less than \$25,000, a signed letter of intent or MSM pledge form is generally sufficient documentation. MSM will provide donors with a letter of intent template or gift/pledge form, as appropriate, in those cases. When adding to an existing fund, no specifications on how the money will be spent can be made, and all procedures specified in the gift agreement or resolution of the Board of Trustees establishing such fund must be followed.

A letter of intent must be used, regardless of the dollar amount, when a future gift is to be made using a donor advised fund. This is to prevent the donor, or the donor advised fund, from potentially violating certain provisions against self-dealing under federal tax laws.

2. Legal Counsel. Gift agreements involving gifts of assets other than cash or publicly traded securities (such as gifts of real property or interests in closely held businesses) will be reviewed and approved by the Vice President for Philanthropy, the Senior Vice President and Chief Financial Officer, and, at the discretion of the Vice President for Philanthropy, MSM's legal counsel.
3. Variance Power/Alternative Use. MSM should, whenever possible, reserve the right to expand or alter any restrictions as to the use of gifted property in a way that is consistent with donor intent should it be determined in the future that the original restricted purpose of the gift no longer meets the needs or serves the mission of MSM. Accordingly, unless strongly objectionable to the donor, all gift agreements will have an alternative use/contingency clause as part of the agreement. The clause shall contain language substantially similar to the following, with the term "Fund" pertaining to the gift:

"MSM is entitled to protect the Fund from obsolescence and impracticability. Should the purpose for which the Fund was created become, in the judgment of the Board of Trustees, obsolete, impracticable, incapable of fulfillment, or wasteful, the Fund may be applied to support such other purpose or purposes as are determined by the Board of Trustees to be consistent with Donor's original intent. MSM may exercise this variance power without the prior approval of any court, the New York State Attorney General, or other state agency."

4. Donor Control. A donor may not retain any explicit or implicit control over the use of a gift after acceptance by MSM. Donors can be involved in the implementation of a gift; however, they cannot have majority control over



the use of funds. If on a selection committee, donors must have less than 50% of voting rights in any voting process.

## IV. Forms of Giving

### A. **Classification**

Gifts to MSM may be classified as Unrestricted, Temporarily Restricted, or Permanently Restricted. These classifications are defined as follows:

1. Unrestricted. A donor makes a gift to MSM and places no restrictions on its use.
2. Temporarily Restricted. A donor imposes a restriction that permits MSM to expend the donated assets for a designated purpose or after a specific passage of time, the lapsing of a restriction, or upon a certain event. These gifts usually support a specific program, project or other specific initiative.
3. Permanently Restricted. A donor imposes a restriction that stipulates that donated assets be maintained permanently but permits the organization to expend part or all of the income earnings (or other economic benefits) derived from the donated assets. Examples include endowed funds, which may be further defined as follows:
  - i. Endowment, Unrestricted Income: Gifts restricted by donors for endowment but not bearing any restriction from the donor as to the use of the income the endowment produces.
  - ii. Endowment, Restricted Income: Gifts restricted by donors for endowment with their income restricted to a specific use, such as student scholarships, faculty support, facility maintenance, program support, or other purposes.

Permanently restricted gifts are added to the endowment assets of MSM and are invested and administered in accordance with MSM's Investment Policy. The assets contained within each endowment fund may be commingled with the assets of other endowment funds for investment and administration purposes; provided that each fund shall be separately accounted for. The amount distributable from an endowment fund in a particular year is referred to as the endowment "spending rate." MSM's annual endowment spending rate is established by the Board of Trustees in its Investment Policy in compliance with New York State law and is applied to all endowment funds.

### B. **Outright Gifts**

Outright gifts are gifts that are placed at the immediate disposal of MSM and in which the donor retains no interest (such as certain gifts made in trust). Outright gifts may be either restricted or unrestricted in purpose.

## C. Pledges

1. A pledge is a written commitment by a donor to complete a gift in the future. Written commitments may be accepted in the form of electronic submissions (email, fax, or pdf). While a potential donor may express an intention to make a gift to MSM, the intent alone does not constitute a pledge. In order to be considered a pledge and recorded by MSM as a financial asset, the donor must commit to and sign a written agreement that includes:
  - i. Specific words such as “promise,” “pledge,” or “agree”;
  - ii. The total amount of the pledge;
  - iii. The time period over which the pledge will be fulfilled, with a specific schedule indicating amounts and due dates of each payment; and
  - iv. The purpose of the pledge (whether restricted by a donor or not).
2. An unconditional pledge is a promise to give in any event. A conditional pledge is a promise to give only if and when a specific future event occurs. It will be recorded only when the future condition is met.
3. MSM’s financial records only reflect pledges that are documented in writing. For financial statement purposes, an unconditional pledge will be recorded at the present value of the pledge using the appropriate discount rate and timeline of the pledge payments.
4. A major gift pledge may be paid over time, generally not to exceed five years. A pledge in excess of \$250,000 that is of longer duration must be reviewed and approved by the Vice President for Philanthropy and the Senior Vice President and Chief Financial Officer.
5. All pledge documentation will be maintained electronically by the Philanthropy Office.
6. Modifications to Pledges. Pledges may only be modified in writing, with the approval of the Vice President for Philanthropy and the Senior Vice President and Chief Financial Officer, and only after consultation with legal counsel. Acceptable written documentation to modify a pledge or a pledge payment schedule is limited to a new gift agreement or amendment signed by both MSM and the donor.
7. Open Pledges. Open pledges (those that have one or more outstanding payments due) will be reviewed periodically by MSM. Reminder notices will be sent to donors. Pledges that are past due and are deemed uncollectable may be written off without written documentation to or from the donor.

8. Legal Authority to Make Pledges. Donors who make binding commitments to MSM must have legal authority to commit funds. Where this authority exists, legal credit and donor recognition credit will be made to the donor. Approved text for binding commitments is available from the Philanthropy Office.

Pledges from individual donors that are likely to be paid in full or part through either a donor advised fund or private family foundation must be written in the form of a non-binding statement of intention in order to prevent the donor, foundation, or donor advised fund from potentially violating certain provisions against self-dealing under the federal tax laws. Legal and donor recognition credit will be assigned to these entities. Approved text for these circumstances is available from the Philanthropy Office.

Corporate matching gifts, and gifts from Charitable Remainder Trusts or Charitable Lead Trusts, cannot be applied as pledge payments to an individual's personal pledge commitment.

9. Pledge Underpayment/Overpayment. Pledge payments using marketable securities are considered fulfilled if the valuation of securities falls within 5% of the total pledge amount. Pledge payments received over the amount of a given pledge total amount will be applied to the original pledge. If a multi-purpose pledge, the overage will be proportionally distributed to all pledge purposes.

## V. Types of Property Gifted

### A. **Cash and Cash Equivalents**

Cash and cash equivalents are accepted in any amount. MSM will accept gifts of U.S. or foreign currency, checks drawn on U.S. or foreign banks, and credit card payments (via VISA, MasterCard, Discover, and American Express), as well as gifts delivered via Electronic Funds Transfer (EFT) or wire transfer. MSM may accept gifts of digital currencies, such as cryptocurrency, if deemed advisable and practicable. Cash gifts may be delivered in person, by mail, EFT, wire, or via the Internet through MSM's online-giving site. Notwithstanding the foregoing, gifts in the form of currency (including cryptocurrency) in excess of \$500 shall not be accepted without prior approval of the President and the Senior Vice President and Chief Financial Officer.

### B. **Matching Gifts**

Many businesses have programs in place to promote civic engagement by matching charitable gifts their employees make to qualifying organizations. Donors employed by, or, in some cases, retired from, such companies are encouraged to take full advantage of corporate matching gift programs.

Matching gift pledges are conditional and not booked until the condition, or match, is received. When the matching gift is received by MSM, the donor's employer will receive legal (tax) credit for the gift, and the individual will receive donor recognition (soft) credit, which will be counted toward qualification for inclusion in honor rolls or other events. The general policy of MSM is to direct matching gifts to support the same area(s) or program(s) as the original gift unless the donor's employer stipulates otherwise. Matching gifts cannot be used to fulfill personal pledges, as the individual does not have legal control over these funds.

**C. Marketable Securities**

MSM will accept gifts of marketable securities, including publicly traded stocks, bonds and mutual funds, in any amount. In accordance with federal tax regulations, they will be valued at the mean of the high and low quoted selling prices on the date of gift, i.e. the date when the donor relinquishes dominion and control in favor of MSM, regardless of the actual date that MSM sells the security.

When dominion and control has been relinquished by a donor depends upon the method of delivery of the securities. For example, stock transferred electronically is valued as of the date the securities are received into an account owned by MSM. Stock mailed to MSM is valued as of the latest postmark date of either the envelope containing the stock certificate(s) or the envelope containing any required valid stock power(s). Stock directed by the donor to be registered in the name of MSM will be valued as of the date the stock is so registered. Stock that is personally delivered to MSM in negotiable form is valued on the date received by MSM.

In general, MSM's policy is to dispose of all gifts of securities as expeditiously as possible.

**D. Closely Held Stock**

All gifts of interests in non-publicly traded stocks, bonds, partnerships, and limited liability companies are subject to review by the Vice President for Philanthropy, the Senior Vice President and Chief Financial Officer, and MSM's legal counsel, as appropriate. This review is required because (a) such assets are not traded on exchanges and are difficult to value, (b) such assets may be subject to shareholder or other agreements that may limit the ability to convert them into cash and expose their owners to liabilities, and (c) there may be federal regulations and laws to which MSM must adhere. Such assets must be accompanied by a qualified appraisal paid for by the donor for all contributions greater than \$10,000.

**E. Other Tangible and Intangible Personal Property**

MSM may accept gifts of other tangible and intangible personal property. Examples of tangible personal property include, but are not limited to, musical instruments, works of art, manuscripts, vehicles, boats, computer hardware, developed software, equipment, and livestock. Examples of intangible personal property include, but are not limited to, software under development, patents, copyrights, royalties, goodwill,

trade names and trademarks, partnership interests, and intellectual property. MSM may choose not to accept a gift of property if it is impracticable or imposes an undue administrative burden on MSM.

Title(s) to personal property should be clear and unencumbered and properly documented, and must be immediately transferred to MSM at the time of the gift. Careful consideration will be given to the marketability, storage, transportation, and insurance and disposal and other costs associated with all gifts of personal property. Any costs incurred by MSM that are associated with the conveyance, delivery, and maintenance of the gift will be charged to the donor or to the MSM department, program, or unit that will benefit from the gift.

Gifts Valued Between \$500 and \$5,000. Determination of value of gifts for tax purposes is a matter between the donor and the IRS. If the value of the tangible or intangible gift(s) is estimated to be between \$500 and \$5,000, the donor may provide a signed statement of the donor's good faith estimate of fair market value of the items for gift documentation purposes. While the donor's written estimate of value may be used for internal gift and financial accounting purposes, a written, signed statement of value obtained from a member of the faculty, staff, or other person with proven expertise may also be used, but must not be shared with the donor. Gift receipts to the donor for a tangible or intangible gift will not state the value placed on the gift.

Gifts Valued in Excess of \$5,000; IRS Form 8283. The IRS requires donors to file Form 8283 to claim deductions for non-cash gifts in excess of \$500, but the charity does not sign Form 8283 unless the value of the gift exceeds \$5,000. For gifts of any item or group of similar items exceeding \$5,000, the IRS requires a current qualified independent professional appraisal and an executed Form 8283 from the donor, which must also be signed by MSM. Only the President, Vice President for Philanthropy, Associate Vice President of Philanthropy, or Senior Vice President and Chief Financial Officer may execute a Form 8283 on behalf of MSM.

If the donor either does not wish to claim a tax deduction, or does not provide a copy of his or her appraisal, it is the responsibility of the department receiving the gift to obtain an appraisal – absorbing the cost involved. In these instances, internal valuations may be used for the purpose of recording gifts up to \$50,000, but there must be written documentation from the donor that they either are not taking a tax deduction or will not provide a copy of the appraisal. No IRS Form 8283 will be executed under these circumstances.

Disposal of Gifts of Personal Property. It is the policy of MSM to sell or otherwise dispose of all gifts of personal property, except for property that is to be retained by MSM for use in advancing its mission, as discussed below. The sale or disposition of the donated property will be carried out in consultation with the Vice President for Philanthropy and the Senior Vice President and Chief Financial Officer. If MSM disposes of the donated property having a value of at least \$500 within three years of

the date of the gift, MSM must file an information return on IRS Form 8282 and provide a copy to the donor.

**F. Gifts in Kind**

Gifts in kind are gifts of tangible or intangible personal property that will be retained and used by MSM in furtherance of its mission. Any restrictions placed on the use of such property by the donor must be consistent with the institutional needs of MSM. The need for and potential use of the gift property should be approved by the appropriate MSM staff (including the department head or other appropriate staff from the department that is anticipated to make use of such property upon receipt) before the gift is accepted.

**G. Gifts of Services**

Gifts of services provide valuable support to MSM. However, pursuant to IRS regulations, a person's or organization's time or service is not considered a charitable contribution upon which a tax deduction can be claimed. The value of that time or service, however valuable to MSM, will not be counted or credited as a contribution, regardless of whether the individual assists MSM as a volunteer or as a professional providing a specialized service, e.g. accounting, legal work, consulting, or printing.

**H. Real Property**

MSM will accept gifts of real property (improved and unimproved), including detached single-family residences, condominiums, cooperative units, apartment buildings, rental property, commercial property, farms, and acreage. These gifts may include real property that is subject to a retained life estate or other planned gift vehicle. MSM will *not* accept gifts of time-share properties. MSM shall consider utilizing a single-member limited liability company to accept any gift of real property to shield MSM from potential liabilities related to the real property. Gifts of real property must generally be valued at a minimum of \$500,000 to be considered for acceptance.

General Assessment. All gifts of real property are subject to a thorough review by the President and, as the President deems appropriate, MSM's legal counsel, who will consider the following factors:

1. The usefulness of the property for MSM's purposes;
2. The marketability of the property;
3. The existence of restrictions, reservations, easements, zoning, and/or other limitations;
4. The existence of encumbrances, such as mortgages, deeds of trust, and mechanics' liens;
5. The existence of clear and properly documented title to the property;
6. Carrying costs, such as property owner's association dues, real estate taxes, insurance, utility services, transfer fees and other maintenance expenses; and

7. Fair market value in relation to the costs and limits listed above as determined by a qualified appraisal conducted in accordance with IRS standards.

Limitations and encumbrances will be carefully reviewed before the acceptance of any real property, including any and all mortgages, deeds of trust, restrictions, reservations, easements, mechanic's or other liens and other limitation of record. Generally speaking, no gift of real estate will be accepted until all mortgages, deeds of trust, liens and other encumbrances have been discharged. Exceptions may be made when the value of MSM's interest in the property net of all encumbrances is deemed to be substantial, or when a separate agreement to pay any encumbrances that might be charged to MSM has been executed by a financially responsible party.

Environmental Risk Assessment. Prior to the acceptance of any parcel of real property, an assessment of the potential environmental risks will be conducted. This assessment shall include the following:

1. An inquiry of the present owner regarding his, her, or its knowledge of the history of the property;
2. A title search to determine whom the prior owners might have been;
3. A consultation with federal, state and local environmental agencies to find out whether the property has any history of hazardous waste contamination;
4. A visual inspection of the property for any evidence of environmental hazards; and
5. An environmental audit conducted by a professional service in the form of a Phase I Environmental Site Assessment also may be required.

MSM may require inspection by a properly licensed or certified professional for all gifts of real estate, including an interest in mining or oil and gas properties, as may be required to demonstrate due diligence and care in accepting the property as free from contamination. Any such inspection shall be properly documented.

In accordance with MSM's general policy, all expenses associated with a donor's gift of real property, including appraisals, surveys and environmental risk assessments, should be borne by the donor. In general, MSM's policy is to dispose of all gifts of real estate as expeditiously as possible. This policy will be communicated to the donor when MSM receives notification of the donor's desire to make the gift.

## **I. Bargain Sales**

Bargain sales are a way to make charitable gifts using property – tangible, intangible, or real. If a donor sells property to MSM for less than fair market value with the intent of making a gift, the transaction is partly a sale and partly a gift. Bargain sales can also arise when a donor transfers property to MSM in exchange for like-kind property of lesser value, or when a donor transfers property that is subject to indebtedness, thereby being relieved of the obligation.

Bargain sale transactions may be accepted by MSM with the prior written approval of the Vice President for Philanthropy and the Senior Vice President and Chief Financial Officer, whose approval will be based on consultation with MSM's legal and accounting counsel, with all concurring that the bargain sale is appropriate for MSM. Since bargain sale transactions require the outlay of funds by MSM, these transactions should be approved only in very limited circumstances. One such circumstance involves property that MSM intends to keep for use in its programs that may be acquired on beneficial terms in a bargain sale transaction. In limited circumstances, MSM may consider bargain sale transactions to acquire property that would not be retained for use in MSM's programs, if it is determined in the approval process that the property can be sold for cash in a timely manner.

## **VI. Acceptance and Valuation of Gifts**

- A. MSM will value gifts for gift and campaign credit purposes in accordance with its internal procedures reflecting, in general, the reporting standards suggested by CASE. Such valuation and credit will be independent of the valuation and date of the gift as reported by the donor to the IRS, or the value placed on the gift by that donor for income tax purposes. Such valuation may also differ from valuation for financial statement purposes as required by the FASB, a discussion of which is beyond the scope of this Policy.
- B. Checks and cash gifts will be valued for gift and campaign credit purposes at face value, and recorded for purposes of gift acknowledgment on the date that they are received by MSM. Checks received by mail will generally be deemed received as of the date of mailing. Credit card gifts will generally be deemed received on the date processed and approved by the relevant financial institutions.
- C. Gifts of real property will be valued for gift and campaign credit purposes at fair market value, as ordinarily substantiated by a qualified independent appraiser retained by the donor. Gifts of tangible personal property will also be valued for gift and campaign credit purposes at fair market value, as ordinarily substantiated by an appraisal supplied by the donor if the value is in excess of \$5,000. If there is no market for the asset, the gift will be credited with a value of one dollar (\$1.00). Please refer also to the discussion in Section V.E. and H. regarding appraisals and gift acknowledgment.
- D. Neither gains nor losses realized by MSM's sale of a non-cash gift will affect the value for gift and campaign credit purposes.
- E. Notwithstanding the foregoing provisions, the valuation of a gift shall be subject to reduction on account of amounts payable to or retained by a non-charitable beneficiary in connection with a planned gift or on account of deferral of MSM's access to such gift, as provided elsewhere in the Policy.



## **VII. Planned Giving**

The concept of “planned giving” encompasses a broad array of gift arrangements or vehicles, including but not limited to those described below. Planned gifts may be either irrevocable (cannot be changed by the donor once the gift is made) or revocable (can be changed by the donor at any time or for some specified period of time).

Except in limited circumstances approved by the President in consultation with legal counsel, MSM shall not agree to serve as executor of a decedent’s estate or as trustee of a living trust or other trust. Waiver of this policy will be considered on a case by case basis upon careful considerations of the risks and benefits to MSM.

### **A. Bequests**

A bequest is a gift to be made upon the death of a donor, or the death of a donor and other designated individual(s), to MSM as documented in a donor’s Last Will and Testament or other legally binding testamentary document. Gifts made via a bequest may be outright, contingent, unrestricted or restricted, and can be made pursuant to a legally binding pledge agreement. Bequests may involve cash, securities, articles of tangible personal property, or all or a portion of the residue of the estate.

If a donor designates a bequest for a restricted use for which the donor did not execute an agreement with MSM during his/her lifetime, the Vice President for Philanthropy, in consultation with the Senior Vice President and Chief Financial Officer, will oversee the preparation of a memorandum of understanding regarding the use of the bequest.

If the Vice President for Philanthropy determines that a bequest will place unreasonable constraints and/or conditions upon MSM, or that any restrictions regarding MSM’s use of a bequest are unreasonable or legally impermissible, the Philanthropy officer will contact the fiduciary of the estate or trust to request that such restrictions be altered or eliminated. Legal counsel will be consulted to determine whether it is necessary to petition an appropriate court for permission to alter or eliminate a restriction. Alternatively, the bequest may be refused or disclaimed.

Once the bequest has been approved for acceptance, the designated staff member will cooperate with the executor of the donor’s estate to complete whatever action is required to effect legal transfer of the gift from the estate to MSM.

### **B. Charitable Gift Annuities**

MSM does not currently have a charitable gift annuity program.

**C. Charitable Remainder Trusts**

A charitable remainder trust is a planning vehicle whereby a donor transfers assets to a trust, retaining the right for the donor and/or other beneficiary(ies) to receive distributions, either for life or for a term of years. At the death of the last surviving named beneficiary or the end of the term, the trust terminates and the remainder is distributed to MSM.

Charitable remainder trusts can be funded with a wide variety of assets, and can involve annuity distributions (commonly referred to as "CRAT"s) or unitrust distributions (commonly referred to as "CRUT"s). They can be established during the donor's lifetime or through his or her estate.

MSM will accept gifts of any amount through charitable remainder trusts.

**D. Charitable Lead Trusts**

Charitable lead trusts are planning vehicles which are similar to charitable remainder trusts. A donor transfers property to the trust, which distributes either a fixed amount or a percentage of the value of the trust assets to MSM, usually for a term of years. At the end of the trust term, the trust terminates and all of the trust assets pass to the donor's designated beneficiaries.

MSM will accept income from charitable lead trusts funded at any level.

**E. Life Insurance**

MSM will accept gifts of life insurance policies where it has been named both the owner and the beneficiary which have a face value of at least \$5,000. To accept a policy, a gift of insurance must meet the following criteria:

1. MSM is designated as both the beneficiary and the owner of the policy.
2. The policy is a cash value life insurance policy which either:
  - a) Is paid-up as of the date of the gift, or
  - b) Is not paid up as of the date of the gift, but has a payment schedule of not more than 5 years.

If a policy is not paid up, the donor must pledge to donate to MSM an amount which is at least equal to any premiums, including unscheduled premiums, which may become due in order to maintain the policy. MSM shall use such pledged gifts to pay life insurance premiums on a timely basis (provided the donor has not paid the premium directly). If a premium notice is received by MSM before the donor makes the gift to cover payment, MSM will pay the premium in order to keep the policy active and will notify the Philanthropy Office, which will send a reminder to the donor.

Non-payment of a premium by a donor may result in a decision by MSM to have MSM absorb the cost of the premium, let the policy lapse, cash in the policy, or pursue a viatical settlement arrangement.

The gift will be valued for gift and campaign credit purposes and for purposes of acknowledgement at cash surrender value. For policies with remaining payments required, premium payments supplied by the donor are credited as a gift in the year received. The gift will be valued at the cash settlement amount for realized death benefits provided not previously credited.

The gift will be completed upon the execution and delivery of the life insurance policy to MSM, or upon assignment of the policy if the donor is not the original owner of the policy.

If the donor designates the gift to establish an endowed or restricted fund, the gift agreement will include the provision that the gift must reach the minimum amount that is required when the gift is realized to establish such a fund.

#### **F. Remainder Interest in a Personal Residence/Life Estates**

Donors can receive an income tax charitable deduction by making a gift to MSM of their personal residence or farm while retaining full use and rights to the property during their lifetime. Thereafter, the property will either be sold or used by MSM for purposes specified by the donor, if any, and as approved by MSM, namely, the Vice President for Philanthropy and the Senior Vice President and Chief Financial Officer. The donor irrevocably transfers legal ownership of the property to MSM but retains a “life estate” for the lifetime of the donor and/or his/her designee; and MSM receives the “remainder interest” in the property.

Retained life estate gifts are subject to all of the policies and procedures for gifts of real estate. In addition, the donor must sign a “Life Estate Agreement” with MSM, prepared by MSM’s legal counsel, to articulate his/her responsibility for maintenance of the property, taxes, insurance, and other expenses.

#### **G. Retirement Assets**

MSM will accept funds it receives as the designated beneficiary of tax deferred retirement assets (for example, an IRA, a 401(k) plan, a 403(b) plan, or a defined contribution plan). The Philanthropy Office should attempt to obtain a copy of the executed designation form that the donor has submitted to the asset’s or plan’s administrator to name MSM as the beneficiary.

#### **H. Donor Advised Funds**

MSM will accept funds it receives as a beneficiary of a distribution from a donor advised fund.

## **VIII. Naming Opportunities**

- A. MSM may approve the establishment of named, endowed funds. Generally, the minimum threshold amount required for naming endowed funds shall be \$100,000 for the College and \$50,000 for the Precollege.
- B. MSM may further establish set levels of named, endowed funds with differing minimum threshold amounts. These minimum threshold amounts will generally be set at approximately twenty times the required income value. If, after five years, the gifts received for a fund are not sufficient to establish the fund as intended by the donor, Philanthropy Office staff will contact the donor to discuss alternatives. If the donor is deceased, the donor's personal representative (executor or trustee) will be contacted. If the donor is not available, the President, in consultation with the Board of Trustees as appropriate, will determine how the funds will be managed in accordance with legal requirements. Solicitation materials and discussions should be clear that gifts to a specific fund are subject to this contingency and also to a change in use if the stated purpose becomes obsolete, impracticable, incapable of fulfillment, or wasteful, as determined by the Board of Trustees, in accordance with this Policy.
- C. Naming opportunities may also be made available for scholarships, faculty positions, buildings, rooms, facilities, or other capital projects, or otherwise approved for donor recognition, memorial, or other purposes, at levels established by the President from time to time. The President shall have final approval over all major naming opportunities for buildings and components of buildings and/or other large projects, or in cases that involve a large financial impact, might affect the public image of MSM, or that add or change a major program. The Vice President for Philanthropy is authorized to develop and revise, with the approval of the President, lists of gift opportunities, with an indication of the amounts required for naming. Irrevocable Planned Gifts are eligible for designated naming opportunities only if the actuarial present value of the charitable interest in the planned giving arrangement equals or exceeds the minimum amount required to name a gift.

## **IX. Providing Legal or Financial Advice**

- A. MSM does not provide personal legal, financial, tax compliance or other professional advice to donors. While Philanthropy officers may provide donors with suggested bequest language or assistance with other language pertaining to gift designation, gift illustrations, including calculations, and draft documents prepared or approved by MSM's legal counsel, prospective donors should be encouraged to seek the assistance of their own legal counsel or other professional advisors in matters relating to the legal, tax and estate planning consequences of the proposed gift to MSM. The donor is responsible for supplying and signing all legal documents necessary or advisable in connection with the transfer of any property to MSM.