

Policy 5105
Gift Acceptance

Date of Current Revision: May 2020
Primary Responsible Officer: Vice President for University Advancement

1. PURPOSE

This policy provides direction for the acceptance of gifts by the James Madison University Foundation, Inc. (JMUF) for the benefit of James Madison University.

2. AUTHORITY

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia § 23.1-1600; § 23.1-1301. The Board has delegated the authority to manage the university to the president.

STATE OR FEDERAL STATUTE AND /OR REGULATION

Virginia Code Section §23.1-1304.1 addresses additional processes and documentation required for gifts. Virginia Public Records Act, (Virginia Code Section §42.1-76 et seq.), requires that state agencies with public records maintain an active and continuing program for the economic and efficient management of the records of the agency. (Virginia Freedom of Information Act Virginia Code Section §2.2-3700 et seq.), provides that public records are to be made available for public inspection, except those records that are specifically excluded from public disclosure by the Act.

3. DEFINITIONS

Gift

Any donation, gift or other private philanthropic support made by a donor without expectation or receipt of an economic benefit commensurate with the money or property transferred and to which no commitment of resources or services has been made.

Gift Acceptance Committee

An advisory committee co-chaired by the Chief Executive Officer of the JMUF and the Vice President for University Advancement. The Vice President for University Advancement is the final authority regarding pledge terms (length and amount) and to ensure gifts align with university mission, vision and values. The JMUF CEO is the final authority on matters related to the fiduciary responsibility. In addition to the JMUF CEO and the Vice President for University Advancement, the committee is comprised of the following:

- The Associate Vice President for Development, or in those cases when a gift to the athletic program is being considered, the Senior Associate Athletic Director for Development.
- The Assistant Vice President for Advancement Information Services
- A university appointee from the division of Administration and Finance

- (As Needed) Subject matter experts from relevant departments

Gift Agreement

A written document executed between the donor, the University and the JMUF. The agreement identifies the donor and establishes the donor's financial commitment. The gift agreement is intended to clarify donor intent and expectations and to provide the information necessary to determine the acceptability of the gift as prescribed by this policy. The document also includes:

- Donor purpose and intent
- Any donor terms and conditions accepted by the university
- Payment schedule if one is to be created
- Provisions for future gifts
- Recognition by the University/JMUF
- Allowance for future changes
- Process for agreement modification

Gift Pledge

A written commitment for a specific dollar amount that will be paid according to a fixed time schedule.

Gift Instrument

Gifts may take many forms including but not limited to the following:

- **Business interests**
Closely held stock, and partnership interest.
- **Cash and cash equivalents**
Cash, checks, credit card, debit card, wire, ACH or other means of electronic transfer.
- **Intangible property and related revenue**
Intellectual property – patents; copyrights of cultural, artistic and literary works and related royalties; and, computer software under development.
- **Other gifts**
Bargain purchases, contributed services, compensatory services rendered, philanthropic grants, sponsorship income, tribute gifts, volunteer out-of-pocket expenses, JMU affiliate gifts.
- **Planned gifts – irrevocable**
Life income agreements - charitable gift annuities, charitable remainder unitrusts, charitable remainder annuity trusts; charitable lead trusts, life insurance, retirement account distributions, retained life estate.
- **Planned gifts - revocable**
Bequest or devise by will, life insurance beneficiary, and retirement plan beneficiary.
- **Pledges - promises to give and intentions to give**

Unconditional pledges, challenge/conditional pledges, third-party intentions (donor advised funds, matching gifts). Donor advised funds cannot be used to satisfy a personal pledge.

- **Real property and related revenue**
Personal residence, land, life estate agreements; undivided remainder interests in property, oil, gas and mineral interests and related royalties.
- **Securities – marketable**
Public equities, corporate and government bonds.
- **Tangible property**
Collections of art, books, coins or movies; cars, boats and aircraft; food or other items used for hosting dinners, etc.; hardware, software, software licenses; long-lived assets; equipment; materials; and, printed materials.
- **Third party distributions**
Donor advised funds, private foundations, qualified charitable IRA distributions and corporate matching gifts. There are potential negative tax consequences to the donor and others when a gift with quid pro quo benefits is made through these vehicles.

Gifts originating from a Private Foundation, Donor Advisory Fund or Qualified Charitable IRA Distribution will not be accepted if the gift involves Quid Pro Quo benefits unless the benefits have been declined in writing at the time the gift is made.

Outright Gifts

Voluntary irrevocable transfers of items of value to the JMUF for the benefit of the University in the form of cash, securities or other property where no goods or services are expected, implied or forthcoming for the donor. The donor may restrict the use of the gift or designate it for a particular purpose or program; however, once the gift is accepted, the donor has no direct decision-making power regarding the gift.

Planned Gifts

Gifts whose values are deferred until either the death of all named beneficiaries or for a period of years.

Quid Pro Quo Gift

Quid Pro Quo gift is a payment made to the JMUF by a donor partly as a gift (contribution) and partly for goods or services provided to the donor by the University or JMUF.

4. APPLICABILITY

This policy applies to all faculty, staff, affiliates and programs of the University.

5. POLICY

The University and the JMUF are legally obligated to adhere to the terms and conditions of each gift. Consequently, donor intent and gift terms must be evaluated to be sure they are feasible, do not unduly hamper the usefulness and desirability of the gift, and are in conformity with University and JMUF policies.

The acceptance of all gifts, irrespective of category or type, is conditioned upon consistency with the University's mission and strategic interests as well as the acceptability of donor restrictions. Donor restrictions that violate Federal or State laws, IRS regulations, or University and JMUF ethical standards, or call for inappropriate or illegal discrimination based on age, color, disability, gender identity, genetic information, national origin, parental status, political affiliation, race, religion, sex, sexual orientation or veteran status shall be deemed unacceptable. [JMU Policy [1302](#)]

It is the responsibility of development officers and/or University administrators to present gifts with unique restrictions or with Quid Pro Quo benefits to JMUF executive management for review.

Gifts of the following type are considered category III gifts that must be reviewed and recommended by the Gift Acceptance Committee prior to acceptance:

- Gifts that direct academic decision making.
- Gifts of a \$1 million or more that impose a new obligation on the university.

Once a determination is made that a proposed gift is consistent with the University's mission and strategic interests as well as the JMUF's standards, a potential gift will then be evaluated based on its immediate utility or its liquidity. While there may be occasions when a proposed gift might be held for investment or strategic purposes, generally, a gift should be either useful to the JMUF/University in the form it is offered, or easily converted by the JMUF to cash. The JMUF and the University affirmatively reserve the right to not accept gifts that have no immediate utility, from which little or no financial gain may be realized, or which may be accompanied by significant financial or other burdens prior to liquidation.

Naming opportunities are under the purview of JMU Policy [5103](#).

6. PROCEDURES

In order to administer the acceptance of a broad array of gifts and to follow established policies and procedures in an efficacious manner, gifts will be reviewed based on the type and amount of the gift.

6.1 Gift Categories

a. **Criteria I – No review necessary**

Criteria I largely incorporates cash gifts and marketable securities to established accounts. Gifts in this category are processed immediately by the Office of Advancement Gifts and Records.

b. **Criteria II – Moderate review**

Criteria II gifts include all those gifts requiring the establishment of a new gift account as well as other contributions from sources such as, but not limited to, donor advised funds, qualified charitable IRA distributions and payments from private foundations. A written gift agreement may be developed.

Gifts in this category require review by and through the Associate Vice President for Development (as applicable, the Senior Associate Athletic Director for Development), the Assistant Vice President for Advancement Information Services and related subject matter experts. The Chief Executive Officer of the JMUF has final gift approval before the Office of Advancement Gifts and Records processes it.

c. **Criteria III – Full review**

Intended for all complex major gifts and/or complex planned gifts, especially if there is considerable financial impact on the institution and/or the gift terms direct academic decision-making. All gifts of \$1,000,000 or more that impose a new obligation on the University, excluding gifts for scholarships or other financial aid, are included in this category. This review will consider a proposed gift in the context of this gift acceptance policy and will require an affirmative written recommendation by the Gift Acceptance Committee to the Chief Executive Officer of the JMUF. A written gift agreement will be developed.

6.2 Monetary Amount

a. Pledges to current gift accounts and new gifts of \$25,000 or more will be documented in a written gift agreement, signed by the donor and the authorized representatives of the University and JMUF, outlining the program to be supported, and the schedule of contributions.

b. Pledges to current gift accounts and new gifts of less than \$25,000 may also be documented through a gift written agreement signed by the donors or an acceptable form of written communication, such as a signed letter, pledge form, memorandum of understanding or email from the donor.

c. **Academic/Student Services Programs**

1. All gift agreements of \$250,000 or more in support of academic programs require the signed approval of:

- The donor or donors

- The dean or administrative director of the program
 - The university vice president who will administer the gift
 - The Vice President for University Advancement
 - The Chief Executive Officer of the JMUF
2. For gifts of less than \$250,000 in support of academic programs where a written agreement is used:
- The donor or donors
 - The Vice President for University Advancement
 - The Chief Executive Officer of the JMUF

d. Athletic Programs

1. All gift agreements of \$250,000 or more in support of athletic programs require the signed approval of:
- The donor or donors
 - The Athletic Director
 - The Vice President for Administration and Finance
 - The Vice President for University Advancement
 - The Chief Executive Officer of the JMUF
2. For gifts of less than \$250,000 in support of athletic programs where a gift agreement is used:
- The donor or donors
 - The Athletic Director
 - The Vice President for University Advancement
 - The Chief Executive Officer of the JMUF

6.3 Quid Pro Quo Benefits

A donor may take a charitable contribution deduction only to the extent that his/her contribution exceeds the fair market value of the goods or services received in return for the contribution. If the donor declines all goods or services in writing at the time the gift is made then the total amount of the gift is a charitable contribution. (IRS regulations require the JMUF to provide the donor with specialized acknowledgement language.)

Gifts originating from a Private Foundation, Donor Advisory Fund or Qualified Charitable IRA Distribution will not be accepted if the gift involves Quid Pro Quo benefits unless the benefits have been declined in writing at the time the gift is made.

7. RESPONSIBILITIES

- 7.1** The division of University Advancement, in partnership with the JMUF, holds primary responsibility for establishing policies, developing operational guidelines and managing gift acceptance to ensure university policies, values and goals are upheld as approved or authorized by the President. Responsibility for implementation of policies and procedures is shared with the University vice presidents.
- 7.2** Acceptance of a gift imposes a legal obligation to comply with the terms established by the donor. Each university division holds responsibility to review, in conjunction with University Advancement, the terms of gifts with restrictions designated to that division prior to its acceptance to ensure that it does not hamper the usefulness and desirability of the gift to the University. If the gift is appropriate, Advancement will recommend its acceptance in writing to the Gift Acceptance Committee.
- 7.3** All departments, offices and employees that generate, receive, or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#) (Records Management).

8. SANCTIONS

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

9. EXCLUSIONS

Gift pledge payment schedules typically do not exceed five (5) years. In some circumstances, and only with the authorization of the Vice President for University Advancement, a pledge payment schedule may exceed five (5) years.

The Vice President for University Advancement will review other requests for exclusion in consideration with the JMUF CEO, respective Vice President(s) and the President.

10. INTERPRETATION

Authority to interpret and apply this policy rests with the President and is generally delegated to the Vice President for University Advancement.

Previous version: New policy

Approved by the president: May 2020