

## Whittier College Gift Policy

|       |   |    |
|-------|---|----|
| I.    | Introduction.....   | 1  |
| II.   | Confidential Information.....   | 1  |
| III.  | Gift Acceptance Committee .....   | 1  |
| IV.   | Methods of Giving .....   | 2  |
|       | A. Outright Gifts.....  | 2  |
|       | 1. Special Purpose and Unrestricted Endowment Funds .....                 | 2  |
|       | 2. Cash Gifts.....  | 3  |
|       | 3. Gifts of Securities .....  | 3  |
|       | 4. Non-Traditional Investments .....                                      | 4  |
|       | 5. Real Estate.....   | 5  |
|       | 6. Tangible Personal Property.....  | 6  |
|       | 7. Bargain Sales .....  | 6  |
|       | 8. Other Property.....  | 7  |
|       | B. Planned Gifts.....   | 7  |
|       | 1. Bequest in Will and Living Trust.....                                  | 7  |
|       | 2. The Gift Annuity.....  | 9  |
|       | 3. Deferred Gift Annuity.....   | 10 |
|       | 4. Charitable Remainder Unitrust. ....                                    | 10 |
|       | 5. Charitable Remainder Annuity Trust .....                               | 11 |
|       | 6. Charitable Lead Trust .....  | 12 |
|       | 7. Pooled Income Fund .....   | 13 |
|       | 8. Gifts of Life Insurance .....  | 14 |
|       | 9. Gift of a Remainder Interest in a Personal Residence or Far.....       | 14 |
| V.    | Model Standards of Practice for the Charitable Gift Planner.....          | 15 |
| VI.   | Payment of Fees Related to Gifts.....                                     | 16 |
|       | A. Finder's Fees or Commissions.....                                      | 16 |
|       | B. Professional Fees.....   | 16 |
| VII.  | Restrictions.....   | 16 |
| VIII. | Final Approval, Acceptance, Execution and Administration by Whittier..... | 17 |

## **WHITTIER COLLEGE GIFT POLICY**

### **I. Introduction**

- A. Whittier College, including the Whittier Campus and the Law School, strongly encourages the solicitation and acceptance of gifts that enable it to fulfill its purposes of teaching, research and community service. For an institution dedicated to higher education, gifts are essential. Whittier College cannot succeed without them.
- B. Private gifts and/or research grants may be sought from individuals, corporations, foundations, other entities, federal, state and local governments. The most useful gifts are those with the fewest possible restrictions. Unrestricted funds allow Whittier College to address its most pressing needs.
- C. Because the acceptance of gifts may legally commit Whittier College and its official governing board to obligations extending far into the future, the Board of Trustees must formally authorize the College's gift policies and procedures and require that such policies and procedures be implemented in the most effective and efficient way. The Board must oversee the program by virtue of its authority, providing the means whereby the program can be operated by competent personnel responsible to the Board.
- D. This policy is designed to provide guidance to the Whittier College community and the general public so as to facilitate the gift-giving process. Whittier College encourages philanthropic creativity. Therefore, this policy is to be interpreted liberally so that prospective donors may enjoy the greatest freedom possible in formulating their gifts.

### **II. Confidential Information**

All information obtained from or about donors or prospects shall be held in strictest confidence by the College. Neither the name, the amount, nor the conditions of any gift shall be published without the approval of the donor.

### **III. Gift Acceptance Committee**

- A. While many gifts received by the College, such as cash and securities, can be routinely processed by the Development staff, certain gifts such as real estate, personal property, and/or gifts involving unusual arrangements should be authorized by a Gift Acceptance Committee, which receives its authority from the Whittier College Board of Trustees, pursuant to the College's bylaws.
  - 1. The Gift Acceptance Committee shall consist of the chairperson of the Board of Trustees' Finance Committee, chairperson of the Board of Trustees' Investment Committee, chairperson of the Board of Trustees' Development Committee, the Vice President for Business and finance, who serves as chair of the Gift Acceptance Committee, the Vice President for Advancement, the Assistant Vice-President for Advancement, the Director of Gift Planning, and the Dean of the Law School, or their respective designees.
  - 2. The Committee shall meet at the call of the chairperson as necessary, or by telephone conference with the chairperson in cases where time will not allow for a meeting to be scheduled.
  - 3. The Committee shall review and accept on behalf of the Board of Trustees all real estate gifts to the college.

4. The Committee shall forward to the Board of Trustees notice of all accepted gifts of real estate for ratification or other appropriate action.
5. The Committee must approve initial acceptance of all gifts of non-publicly-traded securities. Such securities will be disposed of only with the approval of the Committee.
6. Gifts of personal property can only be accepted by the Committee or such other person or persons authorized by the Committee.
7. Other property of any description can only be accepted as a gift by action of the Committee or persons acting on its behalf.
8. Exceptions to gift policies must be approved by the Committee prior to the execution of any agreement or acceptance of any gift not in conformance with these gift policies.
9. Prior written approval must be given by the Committee before any non-ordinary fees for service can be paid.
10. No special restrictions on how any gift may be used by Whittier College will be honored without prior approval of the gift by the Committee.

#### **IV. Methods of Giving**

Many types of assets may be used to provide gifts to Whittier College. A variety of methods of giving to Whittier College allows donors to choose the most appropriate for their circumstances and interests.

##### **A. Outright Gifts**

Outright gifts are those placed at the immediate disposal of Whittier College and in which the donor retains no interest. They may be either restricted or unrestricted in purpose. Gifts which are donated to Whittier College without any express limitation placed upon them will be credited to the unrestricted fund accounts.

##### **1. Special Purpose and Unrestricted Endowment Funds**

- a) Whittier College may approve the establishment of special purpose and unrestricted endowment funds upon receipt of gifts or commitments which meet its approved financial and other criteria. Currently, the College employs an endowment income spending rate. The spending rate is set annually by the Board of Trustees. The terms and conditions of special purpose endowments must be approved by the Gift Acceptance Committee. A permanent endowment may be established with a minimum gift of \$50,000.
- b) There are several types of endowments. Typical endowment forms and the corresponding minimum acceptable amounts are as follows:
 

|                            |               |
|----------------------------|---------------|
| (1) Endowed Chair          | \$1.5 million |
| (2) Endowed Professorship  | \$750,000     |
| (3) Visiting Professorship | \$500,000     |
| (4) Fellowship             | \$250,000     |
| (5) Scholarships           | \$100,000     |
| (6) Lecture Series         | \$ 50,000     |
| (7) Other Endowment Funds  | \$ 50,000     |

- c) Whittier College is willing to work with prospective donors on the terms and conditions of other restricted or unrestricted endowment funds, provided they support traditional academic activities or functions and are large enough to yield a meaningful annual income. In all cases, the establishment of a special purpose endowment fund requires the prior approval of the Gift Acceptance Committee.
- d) Because conditions change over time, all endowment instruments should contain the following contingency clause:

*If, in the opinion of the Gift Acceptance Committee of Whittier College, all or part of the funds cannot be applied in strict conformance with the purposes previously stated, these funds may be used for other appropriate purposes as nearly aligned to the original intent of the donor as good conscience and need dictate within the authorized powers of Whittier College.*

## **2. Cash Gifts**

The post mark date is the gift date for gifts of cash mailed to Whittier College. The most frequent method used to make a gift to Whittier College is a personal check. Checks should be made payable to Whittier College and mailed or delivered to:

Office of Advancement  
Whittier College  
13406 E. Philadelphia Street  
P. O. Box 634  
Whittier, California 90608-0634

## **3. Gifts of Securities**

- a) Publicly-traded securities, shares of stock in closely-held companies, bonds, and government issues may be given to Whittier College. Gifts of securities may be made by sending the certificate and an executed stock power for each separate issue of stock or bond to:

Office of Advancement  
Whittier College  
13406 E. Philadelphia Street  
P. O. Box 634  
Whittier, California 90608-0634

- b) Publicly-Traded Securities

These are securities regularly traded on a public stock exchange. The value of the gift will be the mean of the highest and lowest selling prices quoted for the stock on the date of the gift, as defined below. It may be expected that such securities will be immediately sold by the College. In no event shall an employee or volunteer working on behalf of the College commit to a donor that a particular security will be held by the College unless authorized to do so by the Gift Acceptance Committee.

- c) Closely-Held Securities

These are shares of stock in entities which have been organized for profit-making purposes, and are rarely traded on stock exchanges. Donors may give shares of closely-

held corporate securities to Whittier College in the same manner as publicly traded securities. However, because closely-held stock is not publicly traded, these securities present special concerns. To convert them into cash, Whittier College must own the securities. Whenever donors estimate their gifts of closely-held corporate securities at \$10,000 or more, they must obtain a written appraisal by a qualified independent appraiser. Gifts of closely-held securities may only be accepted and disposed of by the Gift Acceptance Committee after review by legal counsel.

d) Methods of Delivery of Gifts of Securities

- (1) If securities are hand-delivered to Whittier College, the value of the gift will be the mean of its fair market value on the date of delivery. Donors should endorse stock certificates only upon delivery to Whittier College. For securities which are hand-delivered, the gift date is the day the securities are delivered to Whittier College.
- (2) If the securities are mailed to Whittier College, the value of the gift will be its fair market value on the date the securities were mailed. Donors should obtain a stock power from their banker or broker, signing their name exactly as it appears on the certificates, and have their signature guaranteed by their banker or broker. The stock power and a letter of instruction should be mailed to the College under separate cover from the stock certificate(s). Whittier College should be designated on the stock certificate(s), stock power, or related instruments of transfer as "Whittier College." The stock certificate(s) should be sent by registered mail, return receipt requested, to Whittier College. Unendorsed stock certificates are non-negotiable. The postmark date on the stock power will be used as the gift date when the stock certificate and stock power are mailed under separate covers.
- (3) Securities may also be transferred electronically to the College by donors with assistance from their stock broker. Send to:  
Wachovia Securities  
c/o Mr. Jack McFerran, Vice President-Investment Officer  
2400 E. Katella Ave., Suite 1000  
Anaheim, CA 92806-5945  
Tel. (714) 940-3100  
Fax (714) 456-9144  
In California (800) 300-4428  
  
D.T.C. #141  
Whittier College Account #8313-6985  
College Tax I.D. #95-1644048  
  
The date of receipt of the stock in Whittier College's account is generally considered to be the date of the gift for valuation purposes.
- (4) For each gift of securities, the donor is required to provide the College a written statement of donor intent.

**4. Non-Traditional Investments**

Whittier College may accept gifts of non-traditional investments, such as partnership interests, after a thorough review of the following factors:

- a) marketability
- b) nature of my applicable restrictions

- c) legal and other liabilities associated with the asset
- d) carrying costs such as administrative and legal fees
- e) exposure to unrelated business income tax liability

## **5. Real Estate**

- a) Whittier College may accept gifts of real estate, including houses, condominiums, commercial properties, farm, land, rental property, and undeveloped land, after a thorough review of the following factors:
  - 1) the usefulness of the property for Whittier College purposes;
  - 2) the marketability of the property;
  - 3) the existence of restrictions, reservations, easements, and/or other limitations;
  - 4) the existence of encumbrances, such as mortgages and mechanics liens;
  - 5) carrying costs, such as property owner's association dues, taxes, insurance, and other maintenance expenses; and
  - 6) fair market value in relation to the costs and limits listed above as determined by a qualified appraisal conducted in accordance with Internal Revenue Service (IRS) standards.
- b) 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 who 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; and
  - 4) a visual inspection of the property for any evidence of environmental hazards.
- c) A more intensive environmental audit conducted by a professional service also may be required. For all gifts of real estate, a development officer will consult with the Vice President for Business and Finance and College legal counsel concerning the implications of accepting the gift.
- d) No gift of real estate shall be accepted without prior approval of the Gift Acceptance Committee of Whittier College.
- e) Generally, no gift of real estate shall be accepted without first being appraised, at the expense of the donor, by a Qualified Appraiser approved by Whittier College who shall have no business or other relationship to the donor.

- f) Real estate shall not be accepted to fund a charitable gift annuity without seeking an opinion as to the permissibility of this action under the laws of the state or states involved and approval by the Gift Acceptance Committee.
- g) Special attention shall be given to the receipt of real estate encumbered by a mortgage, as the ownership of such property may give rise to unrelated business income for Whittier College and the disqualification of certain split interest gifts unless handled in a proper manner.

## **6. Tangible Personal Property**

- a) Whittier College may accept gifts of tangible personal property, including works of art, jewelry, antiques, collections, automobiles, manuscripts, and books. Such gifts may be accepted only after a thorough review indicates the property is readily marketable or may be used by the College in a manner consistent with one of the purposes for which it was granted status. An essential issue for donors to consider before contributing a gift of tangible personal property is whether they would like the College to use or display the property. Prospective donors should be advised that Whittier College reserves the right to sell or otherwise dispose of the personal property in question, if such action is financially advisable or necessary.
- b) No personal property shall be accepted that obligates the college to ownership of it in perpetuity. No perishable property or property which shall require special facilities or security to properly safeguard it will be accepted without approval of the Gift Acceptance Committee.
- c) Only the Gift Acceptance Committee, or persons authorized by the Committee to do so, may represent to a donor that the property will or will not be held by Whittier College for a requisite period of time or for purposes related to its tax-exempt status. Donors should be notified at the time of receipt of a gift that the college will, as a matter of corporate policy, cooperate fully in all matters related to IRS investigations of non-cash charitable gifts.
- d) If Whittier College intends to sell a gift immediately, rather than use it, the donor must be informed that IRS rules may limit the amount of the charitable deduction to the donor's cost basis. Whenever donors estimate their gifts of tangible personal property at \$5,000 or more, they must obtain a written appraisal by a qualified independent appraiser. The College cannot appraise or assign valuation to gifts of tangible property. Such gifts may only be accepted after receipt and review by the Gift Acceptance Committee, or those empowered to act on its behalf, of an appraisal qualified under terms of the Internal Revenue Code governing gifts of property of this type.

## **7. Bargain Sales**

A bargain sale is a sale of property to the College for less than its fair market value. The bargain sale price may be any amount mutually acceptable to the College and donor. Some donors are willing to sell their property for an amount equal to their cost basis. Then they recover their investment and receive a charitable deduction for the appreciated portion. Generally, College funds will not be invested to acquire a bargain sale gift.

## **8. Other Property**

Other property of any description including mortgages, notes, copyrights, royalties, easements, whether real or personal, shall only be accepted by action of the Gift Acceptance Committee or persons duly acting on its behalf.

### **B. Planned Gifts**

Planned gifts may be either deferred or outright. They involve the transfer of substantial assets which affect the distribution of the donor's estate. These gifts do not immediately confer institutional ownership and generally are not taken out of current earnings. The College may serve as sole trustee or co-trustee of any deferred gift which requires the appointment of a fiduciary, except as prohibited by the Gift Acceptance Committee. The College may share in the charitable interest with another charity. Upon maturation, all planned gift funds shall be placed in the endowment of the College, or otherwise as decided by the Gift Acceptance Committee.

The program supplements and enhances the overall development programs of the College by:

- Offering opportunities to make gifts during a donor's lifetime to those who desire to retain some income from their capital for themselves and their beneficiaries.
- Enabling donors to make larger gifts during their lifetime than could normally be made.
- Encouraging estate planning by offering lifetime and testamentary gift opportunities available under existing tax laws.

In order to establish a charitable trust for the benefit of the College, a written trust agreement is required. All agreements entered into by the College shall be reported to the Gift Acceptance Committee. All agreements and other documents related to planned gifts should be reviewed by the donor and their tax and legal counsel before a gift is accepted by the College. The College shall advise donors in writing to engage in such review.

Some of the acceptable methods of creating deferred gifts to Whittier College are described below.

#### **1. Bequest in Will and Living Trust**

##### **a) Description**

- (1) A bequest is a gift of any amount or form made to Whittier College in a donor's will or living trust. Bequests may provide for a specific dollar amount in cash, specific securities, specific articles of tangible personal property or a percentage of the residue of the estate.
- (2) Bequests may be given as unrestricted or restricted gifts. Unrestricted bequests are used for the general purposes and can be applied to current needs. A named unrestricted endowment fund may be established as indicated in the above section on "Outright Gifts." The Gift Acceptance Committee will designate the purpose and use of such a gift. A restricted bequest supports a certain purpose of program designated by the donor. Such a fund may be established as indicated in the section on "Outright Gifts." A gift in any amount may be accepted as a contribution to an existing fund

earmarked for a specific need of the College so long as the terms and conditions of the existing fund so permit.

- (3) If Whittier College receives an undesignated bequest gift for an amount that is \$20,000 or more, then 10% of the said bequest (not to exceed \$20,000) will be designated for budget relieving purposes and the remainder will be deposited into the college's general endowment. If the bequest gift is less than \$20,000, then it may be used entirely for budget relieving purposes.
- (4) Among donors' options are residuary and contingent bequests. A residuary bequest will give Whittier College all or a portion of the estate after all debts, taxes, expenses, and all other bequests have been paid. A contingent bequest will ensure that, despite unforeseen circumstances, specified property will pass to Whittier College rather than unintended beneficiaries.
- (5) Donors may also establish, by bequest, an annuity trust or unitrust. The bequest can be arranged so as to provide a life income for a designated beneficiary by directing that the bequest be used to establish a charitable remainder annuity trust or charitable remainder unitrust. If such a gift is made by will, the principal will pass to Whittier College only after the death of the life income beneficiary.

b) Policy

- (1) Gifts may be made to Whittier College through the execution of a new will or living trust, or addition through a codicil or otherwise, to an existing will or living trust. Donors may also add either a residual or contingent codicil to their wills
- (2) Donors are encouraged to recognize that over the many years following the establishment of an endowment, the needs, policies, and circumstances of Whittier College can change in unforeseen ways. The Whittier College administration must have the flexibility to make use of the funds in the best interest of the institution and in accord with donor interests and specification. Thus, donors are advised to describe the specific purposes of their gifts as broadly as possible and to avoid detailed limitations and restriction. Donors considering bequests for a specific purpose are encouraged to consult the Office of Development. The inclusion of a flexibility clause similar to the clause in the section on "Endowment Funds" is most desirable.
- (3) Gifts from estates of deceased donors consisting of property which is not acceptable may be rejected by action of the Gift Acceptance Committee. The legal counsel of Whittier College shall expeditiously communicate the decision of the Gift Acceptance Committee to the legal representatives of the estate. If there is any indication that the representatives of the estate or any family member of the deceased is dissatisfied with the decision of the Gift Acceptance Committee, this fact should be communicated to the Committee or the Director of Gift Planning as quickly as possible.
- (4) Bequests shall be valued at fair market value at the time the College's portion of the estate is distributed. Living trusts shall be valued at fair market value at the time the trust is funded.

## 2. The Gift Annuity

### a) Description

- (1) In return for an irrevocable gift of money, securities, or real property, Whittier College will pay the donor and/or beneficiary a guaranteed rate of annual income for life/. The annuity is secured by all of the College assets and the rate of return is determined by the age of the donor and/or beneficiary at the time of the gift. A portion of the annual payment is tax-free income to the donor, being considered return of principal. Since the gift annuity is part gift (in addition to the part regarded as purchase of the annuity) the donor is allowed a sizable income tax deduction in the year established.
- (2) When appreciated property is donated, capital gain will be taxed to the donor; however, the taxable gain may be reported in equal installments over the life expectancy of the donor
- (3) The Uniform Annuity Rates as recommended by the American Council on Gift Annuities, an association of more than six hundred institutions of charitable and philanthropic nature, are computed on the basis of approximately fifty percent (50%) of the market value of each gift being available to the College at the death of the last annuitant. Rates are prepared tri-annually by an actuarial firm.

### b) Policy

- (1) The Uniform Annuity Rates, as recommended by the American Council on Gift Annuities, will be used unless an exception is made by the Gift Acceptance Committee.
- (2) If appreciated property is offered by the donor, the Planned Giving representative must inform the donor as to what portion of the gain is taxable to him/her and recommend that the donor consult his/her tax advisor before the agreement is signed.
- (3) The minimum gift for an annuity agreement is \$5,000. The Gift Annuity shall be valued at its fair market value at the time of the gift.
- (4) Gifts may be placed in a pool of investment funds of the College which is managed by professional investment counsel, appointed and supervised by the Board of Trustees through the Investment Committee.
- (5) Agreements may provide for a maximum of two beneficiaries.
- (6) The minimum age for a beneficiary will normally be 50 years.
- (7) At the death of the last annuitant, the principal is removed from the College's investment pool and released for College purposes as designated by the donor.
- (8) The Charitable gift portion must be at least ten percent (10%) of the fair market value of the gift.

(9) Annuity agreements shall be written in conformity with the provisions of the California Insurance Code and reported to the Commissioner of Insurance.

3. Deferred Gift Annuity

a) Description

The Deferred Gift Annuity is essentially the same as the Gift Annuity with the exception that the payments to the annuitant or beneficiary would be postponed until a later date stated in the agreement. The maximum deferral period is 20 years.

b) Policy

Generally, the same policies would be effective as applicable to the Gift Annuity.

4. Charitable Remainder Unitrust

a) Description

(1) The primary feature of a charitable remainder unitrust is that it provides for period payment of income to the donor, or another person specified by the donor, for life or a specified term of years, after which the trust assets pass to Whittier College. Only assets of the trust may be used to satisfy the commitment to the donor; assets of the College are not involved.

(2) During the lifetime of the donor, he or she creates a formal trust agreement under which assets such as cash, appreciated securities, or both are irrevocably transferred to a trustee (a bank or Whittier College who then pays the donor, or a person specified by the donor, an income for life.

(3) During the donor's lifetime, the trust assets are managed and invested by the trustee as a single fund. The donor cannot borrow or otherwise deal with the trust assets. The designated beneficiary receives payments based on a fixed percentage of the net fair market value of the trust as valued annually by the Gift Acceptance Committee. The donor determines the fixed percentage, which may not be less than five percent, upon creation of the unitrust. Donors may make subsequent additions to the unitrust during their lifetime or by bequest upon their death.

b) Straight Unitrust

This basic form of unitrust provides for payment to the donor and/or beneficiary monthly, quarterly, semi-annually, or annually an amount equal to a set percentage of fair market value of the assets of the trust, valued annually. The percentage is determined at the time the trust is created, is stated in the trust, and is irrevocable. If annual income and/or capital gain does not equal the committed percentage, principal is used to make up the difference; if there is an excess, it is added to the principal.

c) Net with Make-up Unitrust

A variation of the basic unitrust may be used if agreed upon by the donor and the College. When the trust is created, and if stated in the agreement, provision may be made for payment each year of income only, if that amount does not equal the amount

represented by the determined percentage. Any excess over the determined percentage in later years will be used to make up the deficit from previous years before being added to the principal.

d) Income Only Unitrust

Another variation of the basic unitrust, if agreed to by the donor and the College, may provide that income only, up to the stated percentage of the assets will be paid to the donor each year with no make-up in subsequent years for a prior deficiency. The excess in any year is added to principal.

e) Policy

- (1) Particular care must be exercised in recommending the straight unitrust because of the danger of invasion of principal to the extent that the gift principal is drastically reduced.
- (2) Investment policy for a straight unitrust is to invest for growth in order to minimize the invasion of principal. For a net income unitrust, investment policy will be to maximize income up to the amount which may be paid to the beneficiary, as long as the safety of the principal is not jeopardized.
- (3) The holdings of each trust should be reviewed by the Investment Committee at least annually.
- (4) The minimum original gift for a Charitable Remainder Unitrust is \$50,000. The Charitable Remainder Unitrust shall be valued at its fair market value at the time of the gift.
- (5) Charitable Remainder Unitrust Agreements may provide for only two beneficiaries.
- (6) The minimum age for a life beneficiary of a Charitable Remainder Unitrust normally will be 50 years.
- (7) At the death of the last beneficiary, the assets of the trust shall be released for use as provided in the trust agreement, or as determined by the Board of Trustees if no such provision is contained in the trust agreement.

5. Charitable Remainder Annuity Trust

a) Description

- (1) The annuity trust shares many common features with the unitrust, the principal difference being the manner used to calculate the payment to the income beneficiary. Whereas the unitrust provides for a payout that varies with each annual valuation, the annuity trust provides for fixed payments based upon the fair market value on the date the trust is established. Another difference is that additional contributions cannot be made to an annuity trust.
- (2) The donor during his or her lifetime irrevocably transfers assets to a trustee, who pays the donor, or a person specified by the donor, a fixed dollar amount annually for life. This must at least equal five percent (5%) of the fair market value of the assets

placed in the trust when it is created. The investment Committee shall set the maximum allowable annuity rate on a semi-annual basis. The trust can also provide income for the donor's survivors for life; however, the trust assets become the sole property of Whittier College. Income in excess of the annual payment is added to the principal. If the income in any one year is less than the annual payment, the difference comes from the principal.

- (3) Only the assets of the trust back the commitment to the beneficiary; other assets of the college are not involved.

c) Policy

- (1) Representatives of the Development Office are authorized to solicit gifts for annuity trusts which may be invested in stocks, bonds, or other holdings as meet the interests of the donor.
- (2) The holdings of each trust are to be reviewed by the Investment Committee at least annually.
- (3) The minimum age of the beneficiary of a Charitable Remainder Annuity Trust normally will be 50 years.
- (4) Charitable Remainder Annuity Trust agreements may provide for a maximum of two beneficiaries.
- (5) The minimum gift for a Charitable Remainder Annuity Trust is \$50,000. The Charitable Remainder Annuity Trust shall be valued at its fair market value at the time of the gift.
- (6) At the death of the last beneficiary, the assets of the trust shall be released for use as provided in the trust agreement, or as determined by the Board of Trustees if no such provision is contained in the trust agreement.

6. Charitable Lead Trust

a) Description

- (1) The primary feature of a charitable lead trust is that it provides for the immediate support of Whittier College through income generated by the assets in trust for a set period of time, after which the assets pass to a non-charitable beneficiary such as the donor, the donor's children, or other persons the donor specifies. Thus, a charitable lead trust is conceptually the opposite of a charitable remainder trust. In a lead trust, the donor gives Whittier College the current economic benefit of the transferred assets and retains the right to require possession and control of the assets at a future date.
- (2) The donor during his or her lifetime creates an irrevocable trust agreement for a period of years. The agreement may take effect during the donor's lifetime or be part of the donor's will. A charitable lead trust may be advantageous for donors who have a larger income than they currently need and who desire to transfer assets to heirs.

b) Policy

Assets are transferred to a trustee, with the stipulation that the income from the assets be paid to Whittier College for the life of the trust, after which the principal of the trust reverts back to the donor or others of his or her choosing. The income interest for the charity must be in the form of an annuity or a fixed percentage of the value of the trust property determined annually. The Charitable Lead Trust shall be valued at its fair market value at the time of the gift.

7. Pooled Income Fund

a) Description

- (1) The Whittier College Pooled Income Fund currently operates under a trust agreement in which a bank, trust or investment company serves as trustee. Gifts to the Fund will be governed by that trust agreement and gift agreement between the College and the donor. Currently, Clifford Associates of Pasadena, California, is acting as Trustee for the Pooled Income Fund. The Fund is, therefore, exempt from Business Office management responsibilities.
- (2) The investment objective of the Fund is to generate the maximum current income for the benefit of the donors, while observing sound investment practice.
- (3) The Trustee may invest the assets of the Fund in any type of property wasting assets. However, it is anticipated that the Fund generally will be invested in common trust funds managed by the Trustee.
- (4) Each gift to the Fund results in the creation of two distinct interests: an income interest for designated beneficiaries and a remainder interest, the underlying assets, irrevocably dedicated to Whittier College.
- (5) On the basis of the gift, each of the designated beneficiaries will be assigned units representing proportionate shares of the Fund's net income.
- (6) All income received in the Fund during the year, not including capital gains or stock dividends, which are added to the Trust principal, must be paid out to donors during the same year on the basis of units held by each. Income is paid to new donors from date of gift. Only income is paid; there shall be no invasion of principal, and the assets of the College are not committed.

b) Policy

- (1) If a potential gift is exceedingly large relative to the total value of the Fund, a separate trust shall be recommended to the donor to avoid major disturbances of the income flow to previous donors.
- (2) All gifts to the Pooled Income Fund are irrevocable.
- (3) Net income of the Fund will be paid to beneficiaries in proportion to the number of units assigned to the gift to the Fund. Net income will be paid out quarterly to designated beneficiaries. Since the Fund uses a calendar year, these quarters end on the last day of March, June, September and December. If less than the total net

income was paid during the year, and adjusting payment will be made within 65 days after the close of each calendar year.

- (4) Tax-exempt bonds shall not be purchased by or retained in the Fund.
- (5) The trustee shall submit periodic reports of the pooled fund assets to the Investment Committee.
- (6) The minimum gift to the pool is \$5,000, with allowable subsequent gifts of \$1,000. The gift to the Pool shall be valued at its fair market value at the time of the gift.
- (7) Pooled Income Fund agreements may provide for a maximum of two beneficiaries.
- (8) The minimum age of beneficiaries of a Pooled Income Fund agreement normally will be 45 years.
- (9) At the death of the last beneficiary, the units involved shall be valued and that amount removed from the Fund to be used as provided for in the trust agreement, or as designated by the Board of Trustees if the agreement contains no such provision.

#### 8. Gifts of Life Insurance

- a) Life insurance can be a medium for giving funds to Whittier College. With it, the donor can make a substantial gift of a relatively modest annual outlay. For instance, a donor may irrevocably assign to Whittier College an existing life insurance policy that is no longer needed for family protection, making the College both the policy owner and the beneficiary. The College prefers that the donor continue to pay the premiums, which may be tax deductible, after making the gift. If the donor does not choose to continue paying the premiums, the College may elect to:
  - (1) Continue paying the premiums and receive the full face value of the policy at the donor's death;
  - (2) Convert the policy to paid-up insurance in a reduced amount with no further payments; or
  - (3) Surrender the policy for its present cash value.
- b) Before contributing gift of life insurance to Whittier College, donors should consult with the Office of Development to ensure that their gift will be consistent with the College's policies and needs.

#### 9. Gift of a Remainder Interest in a Personal Residence or Farm

##### a) Description

A donor can give a remainder interest in a personal residence, such as a home or condominium or a farm to Whittier College. The donor or other occupants may continue to occupy the residence or operate the farm without disruption for the duration of the donor's life. Thereafter, the residence or farm will either be sold or used by Whittier College for purposes specified by the donor, if any. The procedures for evaluating proposed gifts of real property, as outlined above, also apply to gifts of a remainder interest in property.

b) Policy

If a life estate is retained in the property, expenses for maintenance, insurance, real estate taxes, other expenses, and any indebtedness relating to the property are to be borne by the donor or the primary beneficiary.

**V. Model Standards of Practice for the Charitable Gift Planner <sup>1</sup>**

The following standards of practice have been adopted by Whittier College:

**Primacy of Philanthropic Motivation**

The principle basis for making a charitable gift should be a desire on the part of the donor to support the work of higher education.

**Explanation of Tax Implications**

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

**Full Disclosure**

It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be full disclosed to the donor.

**Compensation**

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payments of finders fees, commissions, or other fees by a donor organization to an independent Gift Planner as a condition for the delivery of a gift are never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

**Competence and Professionalism**

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in the areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

**Consultation and Independent Advisors**

A Gift Planner acting on behalf of a nonprofit organization shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor's choice. Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donor organization, the Gift Planner, in order to insure that the gift will accomplish the donor's objectives, should encourage them early in the gift planning process to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planner shall endeavor on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

---

<sup>1</sup> Endorsed by the National Committee on Planned Giving and the Committee on Gift Annuities, May 7, 1991

### **Explanation of Gift**

The Gift Planner shall make every effort, insofar as possible, to insure that the donor receives a full and accurate explanation of all aspects of the proposed charitable gift.

### **Full Compliance**

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and the spirit of all applicable federal and state laws and regulations.

### **Public Trust**

Gift Planners shall, in all dealings with donors, institutions, and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

## **VI. Payment of Fees Related to Gifts**

### **A. Finder's Fees or Commissions**

1. In general, Whittier College will not pay a fee to any person as consideration for directing a gift to the College.
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 Whittier College without prior written approval of the Gift Acceptance Committee, and subsequent written notification to the donor involved of the amount and recipients of any such fee.

### **B. Professional Fees**

1. Whittier College prefers that the donor be responsible for the payment of fees for services rendered in connection with the completion of a gift to the College. However, the College may pay fees that are reasonable and directly connected to the completion of the gift, provided that such fees will be paid only following discussion with and approval by the donor.
2. Fees paid by the College shall be limited to the cost of a primary title report, environmental hazards analysis, legal fees for consultation and preparation of documents, trustee fees, and accounting fees incident to the transaction.
3. In the case of legal, accounting and other professional fees, an attempt shall be made by the Gift Acceptance Committee, or designee, to ascertain the reasonableness of these fees prior to payment. An hourly breakdown of time, etc. should be requested. When fees appear excessive, the summary of fees shall be submitted to the College's corporate counsel for review and approval prior to payment.
4. In cases where the persons receiving fees were initially employed by the donor and Whittier College is asked to pay the fees involved, the donor shall be notified that the payment of such fees may result in taxable income to the donor in the amount of the fees paid.
5. In situations where advisors retained by Whittier College prepare documents or render advice in any form to the College and/or a donor to the College, it shall be disclosed to the donor that the professional involved is in the employ of Whittier College and is not acting on behalf of the donor and that any documents or other advice rendered in the course of the relationship between the College and the donor should be reviewed by counsel for the donor prior to completion of the gift.

## **VII. Restrictions**

- A. Gifts may be sought only for purposes, positions and programs which are consistent with the academic goals and mission of the College.
- B. Whittier College is unable to accept gifts which are too restrictive in purpose or inconsistent with its stated academic purposes and priorities. Gifts Whittier College receives must not inhibit it from seeking gifts from other donors, be they similar or different, foreign or domestic. Further, no gift can be received which limits, beyond a general definition of subject area, the research that a faculty member or student can perform.
- C. Whittier College values and will protect its integrity, its independence, and the academic freedom of the College community. Gifts that may expose Whittier College to adverse publicity, require expenditures beyond the College's resources, or involve the College in unexpected responsibilities because of their source, conditions, or purposes will be referred to the Gift Acceptance Committee. The Gift Acceptance Committee may withhold approval of acceptance, pending a review by faculty members or administrative personnel appointed for that purpose/. Under other circumstances, the Gift Acceptance Committee delegates the authority to receive gifts and, in appropriate cases, receive gifts directly.
- D. Whittier College cannot accept gifts which involve unlawful discrimination based upon race, religion, sex, age, national origin, color, handicap or any other basis prohibited by federal, state and local laws and regulations. Nor can Whittier College accept gifts which obligate it to violate any other applicable law or regulation or which violate the College's bylaws.

## **VIII. Final Approval, Acceptance, Execution and Administration by Whittier College**

- A. Documents effectuating the acceptance of all gifts, the creation of endowment programs, and the transfer of real or tangible personal property to Whittier College must be approved by College legal counsel and executed by the authorized College official(s). Documents shall be executed in duplicate originals which shall be sent to the donor and to the College.
- B. It is the responsibility of the Development Office to inform the Business Office of the conditions of each gift. Typically, this will occur on the date of the gift, date of approval of the Gift Acceptance Committee (if considered by that body), or within (72) hours thereafter, if the signed agreement is not available or if its terms need amplification or clarification, particularly as far as investment interests of the donor are concerned. However, it shall be the College's policy to have a signed agreement in hand when the first assets are received.
- C. Management and investment of all annuities, trusts, and life income funds, in accordance with policies established by the Investment Committee of the Board of Trustees are the responsibility of the Business Office. However, the Development Office must be kept informed of any and all information, activity or correspondence related to or conducted with donors or prospective donors.
- D. Payments
  - 1. Payments on life income obligations shall be made monthly, quarterly, semi-annually, or annually at the donor's request
  - 2. Payments shall be made and reported to the donor in the manner prescribed by Internal Revenue Service regulations.