

**UNIVERSITY OF CALIFORNIA, BERKELEY**  
**Gift Acceptance Policy**



**University of California, Berkeley**

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## **Gift Acceptance Policy**

Responsible Executive: Vice Chancellor, University Development and Alumni Relations

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**1. Introduction**

- a. This policy governs the solicitation and acceptance of philanthropic gifts benefitting the Berkeley campus of The Regents of the University of California (the Campus), including those gifted to the University of California, Berkeley Foundation (the Foundation).
  - i. This policy supersedes all previous gift acceptance policies issued by the Campus or the Foundation.
  - ii. In this document “Berkeley” is used to refer to the Campus and the Foundation in the collective.
- b. This policy exists to protect the Campus and the Foundation from reputational, legal, and financial risks that may be associated with the improper acceptance and/or use of gifts. Adherence to this policy also ensures that donor’ intentions can be followed, thereby leading to positive donor relations.

**2. Applicable Laws and Standards**

- a. Berkeley follows relevant United States federal and California state laws and published guidance, as well as pertinent laws of other countries as they may change from time-to-time when determining whether or not to accept a gift. Among the most relevant are:
  - i. Federal laws regarding anti-terrorism and illegal financial activities, including money laundering;
  - ii. Internal Revenue Code (IRC) and Department of Treasury Regulations (Treasury) promulgated thereunder;
  - iii. The Uniform Prudent Management of Institutional Funds Act (UPMIFA), as adopted by the State of California on January 1, 2009;
  - iv. State of California laws applicable to charitable gifts and charitable trusts;
  - v. The State of California’s 1996 Proposition 209; and
  - vi. The United States’ Civil Rights Act of 1964 that prohibits discrimination on the basis of race, gender, national origin, and other individual characteristics.

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- b. Berkeley follows relevant accounting standards as they may change from time-to-time when determining whether or not to accept a gift. Among the most relevant are:
  - i. Government Accounting Standards Board Statement No. 33 *Accounting and Financial Reporting for Non-Exchange Transactions*.
- c. Berkeley follows relevant policies and guidelines of the University of California (the University), including the *Classification of Gifts and Sponsored Awards* policy<sup>1</sup> and the *Development Reference Guide*, as they may change from time-to-time when determining whether or not to accept a gift.
- d. Berkeley follows relevant professional guidelines, including the *Reporting Standards & Management Guidelines for Educational Fundraising* issued by the Council for Advancement and Support of Education (CASE), as they may change from time to time when determining whether or not to accept a gift.

**3. Authority to Solicit and Accept Gifts and Authority for Internal Controls for Gift Processing<sup>2</sup>**

- a. The authority to solicit and accept gifts benefitting Berkeley derives from the President of the University under Standing Order 100.4(dd) and DA2631 – *Delegation of Authority – To Solicit and Accept Gifts*.
  - i. The delegation flows from The Board of Regents to the President, to the Chancellor, to the Vice Chancellor – University Development and Alumni Relations (UDAR), to UDAR’s Fund Management (UDAR – FM) and, for certain types of gifts, UDAR’s Office of Gift Planning<sup>3</sup> (UDAR – OGP).
- b. Under this delegation, UDAR accepts gifts of up to and including a value of \$1 million. The Chancellor accepts gifts of up to and including a value of \$10 million. Gifts valued at more than \$10 million are accepted by the President.
  - i. The means by which acceptance is signified on gift agreements is documented

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<sup>1</sup> This policy is forthcoming from the UC Office of the President as of June 2021 and will supersede the *Review of Gifts and Grants for Research* policy.

<sup>2</sup> This refers to gifts accepted on behalf of Berkeley. Personal gifts received by certain employees are subject to reporting requirements of the California Fair Political Practices Commission

<sup>3</sup> To simplify this document, further references to UDAR’s Fund Management incorporate, where relevant, UDAR’s Office of Gift Planning.

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in Sections 9.b.iv and 9.b.v of this policy.

- ii. Under Regents' Policy 8103: *Policy on Capital Project Matters*, The Board of Regents retains authority to accept certain gifts, including those that support the construction of facilities not previously approved and certain gifts of real estate.
- c. Berkeley makes a distinction between gift acceptance and those internal controls that are necessary to process gifts in a manner that supports gift acceptance and ensures that gifts are properly recorded according to donor intent.
  - i. The Vice Chancellor – UDAR has delegated the authority for internal controls for gift processing to UDAR's – Gift Services (UDAR-GS).

**4. Definition of a Philanthropic Gift and Quid Pro Quo**

- a. A philanthropic gift, otherwise known as a charitable contribution, is defined as a voluntary transfer of assets where any privileges or benefits expected, implied, or forthcoming in return to the donor are insubstantial.
  - i. Gifts are motivated by philanthropic intent, i.e., the donor intends to make the donation;
  - ii. Gifts irrevocably transfer assets, and Berkeley is not required to return unexpended funds; and
  - iii. Gifts are generally not subject to an exchange of consideration or other contractual duties, although broad objectives may be stated and funds may be restricted as to purpose.
  - iv. And, if any goods or services are provided, the donor must intend to make and actually make a contribution in excess of that value.
- b. UDAR is the primary office charged with making a determination of what constitutes a philanthropic gift to Berkeley.
- c. Sponsored awards, which include grants and contracts, are not gifts.
  - i. These types of funding usually stipulate a scope of work and/or detailed financial reporting and may involve the expectation of tangible benefits in exchange for funding, including rights to intellectual property.

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- ii. Grants from private sources, while not gifts, are included in reports of private support.
- d. A *quid pro quo* contribution is a payment that a donor makes partly as a gift and partly for goods and services. This is generally the case with fundraising events where a meal is provided, but may also relate to the provision of merchandise or other goods and services.
  - i. Only the gift portion is accepted and recorded as a gift and the value of goods or services received in connection with the gift is stated on the charitable gift receipt.
  - ii. Intellectual property rights are of paramount importance to the University and, if provided in exchange for a contribution usually transform a transaction from a gift to a sponsored award (e.g., a grant or contract).

**5. Gift Acceptance**

- a. Berkeley makes every effort to accommodate and accept all charitable contributions from donors. It will not, however, accept a gift whose terms:
  - i. Knowingly violate this policy or the policies of the University;
  - ii. Knowingly violate United States federal, California state, or other relevant laws;
  - iii. Knowingly conflict with Berkeley's *Principles of Community*;
  - iv. Interfere with, or otherwise restrict, Berkeley's institutional autonomy and academic freedom relating to its teaching, research, and public service objectives;
  - v. Do not further Berkeley's tax-exempt purposes as stated in its mission of teaching, research, and public service construed as broadly as is reasonable under the gift circumstances;
  - vi. Are so restrictive as to make it impossible or impractical to utilize;
  - vii. Impose overly burdensome administrative or other costs, or other financial risks, including market risk;
  - viii. Provide the donor with broad indemnification that is not commensurate with

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- damages caused by Berkeley;
- ix. Necessitate a use that is illegal or could otherwise damage Berkeley's reputation;
  - x. Could jeopardize Berkeley's tax-exempt status;
  - xi. Could interfere with Berkeley's independent decision-making, including allowing the donor to earmark a gift to or for the use of a specific individual;  
or
  - xii. Provide a donor with goods or services of more than insubstantial financial value in exchange for the donor's gift, unless the gift is acknowledged as a *quid pro quo* contribution such that the value of goods or services is fully disclosed in the time and manner required by federal and state law and reduces the recorded value of the gift as applicable.
- b. Exceptions to (a) may be made by the Vice Chancellor – UDAR, who serves as President of the Foundation, in consultation with Foundation Gift Counsel, UC Legal, and the Chancellor, as appropriate.
  - c. Berkeley employs industry standards promulgated by the Association of Professional Researchers for Advancement to conduct research on prospective donors to assess their suitability as philanthropic partners.
    - i. Due diligence research is conducted prior to the acceptance of all principal gift level gifts, currently defined by Berkeley as gifts of \$5,000,000 or more. This includes, but is not limited to, gifts that are recognized by namings of programs or spaces, such as centers, institutes, departments, schools, colleges, and buildings. Such research reports are attached to the gift agreement as part of the permanent record of the gift.
    - ii. Berkeley does not knowingly accept gifts where the donor or source is antithetical to Berkeley's *Principles of Community*.
  - d. University employees may make charitable contributions to support their own activities so long as the use is consistent with legitimate business activities. This includes faculty making gifts to support their own research. Such gifts are permissible, however, only when procedures are put in place to ensure that

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- expenditures comply with law and University policies, including those of the Internal Revenue Service (IRS) that provide that a donor cannot earmark a gift to or for the use of by a specific individual and that a donor cannot receive direct benefit from a charitable contribution.
- e. Corporate sponsorships that support activities, events, and projects, and that offer public recognition in return, can be accepted and recorded as gifts in most cases. Treasury Regulations governing “qualified sponsorship payments” allow forms of recognition including listing the sponsor, along with contact information, on the website or in the program, a value-neutral description of the sponsor’s goods or services, and the inclusion of the sponsor’s brand/trade name on materials.
  - f. Membership contributions that do not provide tangible or non-publicly available benefits and those that provide benefits disregarded for purposes of the income tax charitable deduction can be accepted as gifts. Contributions for higher membership tiers that include some tangible benefits in addition to the disregarded benefits may be accepted as *quid pro quo* gifts.
  - g. Berkeley does not accept as a gift funding that, by virtue of the documentation that accompanies it, is deemed to be a sponsored award (e.g., a grant or contract).
  - h. Government funds are, by their nature, not philanthropic and, therefore, are generally not accepted and recorded as gifts. There may be instances where municipalities, counties, quasi-governmental agencies, and foreign governments provide funding that meets the criteria for acceptance as a gift. There are extraordinarily limited scenarios under which Berkeley would record gift monies from the State of California or the United States government.
  - i. Gifts are accepted with the expectation that they will be expended here at Berkeley. Gifts cannot be re-gifted.
    - i. On an exception basis, the Foundation may accept a gift whose purpose allows the Foundation, in furtherance of its tax-exempt, charitable purposes, to make subsequent grants to other charitable organizations other than through its Donor Advised Fund (DAF) or when specific charitable recipients have been defined in the initial gift agreement.

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**6. Gift Fiduciary**

- a. The Campus benefits from gifts given to both the Foundation and to the Regents of the University of California (the Regents).
- b. Donors should be directed to make all gifts to the Foundation with the following exceptions:
  - i. Gifts to existing Regental endowments should be made to the Regents;
  - ii. Gifts of tangible personal property, other than gifts of cryptocurrency<sup>4</sup>, are always directed to the Regents; and
  - iii. Gift of real property to be used by the University are always directed to the Regents.

**7. Identity of the Donor and Anonymity**

- a. Berkeley does not accept gifts from individuals or entities included on various lists of restricted persons or entities, including, but not limited to, the U.S. Treasury Specially Designated Nationals List and the U.S. State Department's Terrorist Exclusion List.
- b. Berkeley understands and respects the preference of donors who wish to remain anonymous. Berkeley does not, however, accept gifts that are completely anonymous.
  - i. United States federal law requires that Berkeley know from whom it is accepting money.
  - ii. Gifts directed anonymously through legal intermediaries, including DAFs, are credited as gifts from the intermediary or sponsoring organization. In such cases, Berkeley relies on those entities to comply with United States federal laws.
- c. Berkeley employs three approaches to address situations where donors seek anonymity. The approach used is determined by UDAR – GS on a case-by-case basis.
  - i. The most commonly used approach is to code the gift transaction

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<sup>4</sup> Cryptocurrency is considered personal property for tax purposes, however, the Regents do not accept gifts of cryptocurrency.



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appropriately on the donor's record, which enables the provision of charitable gift receipts. A wide range of donor motivations for anonymity can be accommodated this way.

- ii. On an exception basis for gifts of \$1,000,000 or more, Berkeley may create a new anonymous donor record tied to a known-donor. For example, this may be done to address concerns about identity and/or personal safety in situations where a donor is the parent of an enrolled student or where a member of the Berkeley faculty is making a substantial commitment of support to be paid from their estate.
- iii. When the identity of the donor of a low-valued gift, such as a gift of cash collected from several people, is not known and cannot be ascertained without extensive effort, the gift is recorded to the Anonymous entity record (#33729).

**8. Solicitation of the Gift**

- a. Faculty and staff are expected to work with professional fundraising staff when soliciting gifts.
  - i. Deans, department chairs, vice chancellors, and center and institute directors will help connect faculty to the appropriate fundraising staff as opportunities arise.
  - ii. Certain jurisdictions (e.g., states and countries) require registration in order to solicit or accept gifts from their residents.
- b. Solicitations must be documented and are considered part of the gift instrument. Acceptable forms of documentation include proposals, emails, and contact reports.
- c. Solicitations made through funders' online portals must be completed in accordance with this policy.
- d. Solicitations should encourage unrestricted or loosely restricted giving. The solicitation of highly restricted gifts should be reserved for individualized major and principal gift level fundraising.
  - i. Berkeley's crowdfunding program, which is managed by UDAR, can be used by units and student groups to solicit gifts for narrowly defined projects and

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needs.

- e. All direct response marketing remittance devices must be approved by UDAR – GS before use in order to ensure accuracy and suitability of gift funds and efficiency in gift processing.
  - i. They must also be reviewed and approved by UDAR’s direct response marketing team to ensure that the solicitation strategy and messaging are consistent with campuswide efforts.
- f. *Quid pro quo*, when relevant, must be stated in solicitation materials.

**9. Gift Purpose, Donor Intent, Gift Funds, and Use of Gift Funds**

- a. Berkeley documents gift purpose and donor intent in gift agreements.
  - i. A gift agreement is required when a gift establishes a new fund, or when a donor makes a pledge or documented intention (see Section 11) of \$25,000 or more to an existing fund. They are also required for all corporate sponsorships.
  - ii. Pledges of less than \$25,000 may be documented via an email exchange using prescribed language or by the donor through Berkeley’s online giving site <https://give.berkeley.edu/>.
  - iii. UDAR – FM drafts all gift agreements, and collaborates with UDAR – OGP, as needed, on complex gift agreements.
  - iv. UDAR – FM approves all gift agreements, and changes requested by donors, before they are executed.
- b. Gifts that require gift agreements cannot be recorded until gift agreements are fully executed.
  - i. Gift agreements are signed by the donor or, in the case of documented intentions, the donor advisor.
  - ii. The relevant dean or dean equivalent signs the agreement to affirm that the gift will be expended according to donor intent and in compliance with all relevant policies.
  - iii. The relevant division finance lead receives a copy of the agreement and is

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responsible, in partnership with the dean or dean equivalent, for ensuring that the gift is expended according to donor intent and in compliance with all relevant policies.

- iv. The Foundation (for gifts made to the Foundation) or UDAR (for gifts made to the Regents) representative signs the agreement to affirm that the gift will be administered according to donor intent and in compliance with all relevant policies, and to signify gift acceptance for gifts of \$1,000,000 or less.
  - v. Gift agreements that document gifts exceeding \$1,000,000 are countersigned by the Chancellor to signify gift acceptance. When the gift exceeds \$10,000,000 the Chancellor's signature represents a recommendation to the President to accept the gift.
  - vi. Gift agreements that document faculty endowments are countersigned by the Executive Vice Chancellor and Provost to signify that Berkeley will administer the gift in accordance with University's *Policy on Endowed Chairs and Professorships (APM-191)*.
- c. Any gift agreement that establishes a new fund must contain a contingency in the event that it ever becomes impractical, impossible, unlawful, inadvisable, or wasteful to carry out the originally intended purpose of the fund.
- i. Berkeley may redirect the fund to another purpose consistent with the donor's general charitable intentions, as allowed by law and University policy.
- d. Corporate and institutional funders may submit their own award letters for Berkeley's acceptance. Berkeley reserves the right to work with professional fundraisers to negotiate these agreements so that they adhere to this policy.
- i. The original proposal must be submitted with all such agreements.
- e. A fully executed gift agreement is required to establish a new gift fund.
- i. At calendar and fiscal year-end UDAR – FM may establish new gift funds before all Berkeley signers have signed in order to facilitate the recording of gifts and pledge payments received from donors.
- f. If a gift is given for a short-lived purpose, such as a specific research project, event sponsorship, facility improvement, equipment purpose, or art acquisition, once that

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gift's restricted purpose is fulfilled, any funds remaining from the donor's gift may be used for a similar purpose unless otherwise stated in the gift agreement.

- g. UDAR is the lead authority responsible for monitoring campus-wide efforts to comply with the terms outlined in each gift agreement.

**10. Gifts to Endowments**

- a. An endowment, or true endowment, is created with a gift in which the donor's intent is for Berkeley to preserve the principal in perpetuity and spend income. A term endowment is created with a gift in which the donor's intent is for Berkeley to spend the principal and income over a specified period of time, generally five to 20 years.
- b. Berkeley has a policy – *Policy on Philanthropic Gift Fund Minima* – that establishes minimum gift amounts for donors to establish true and term endowments.
- c. Additions to an existing endowment take on the terms of that fund. Donors wishing to give to pre-existing endowments must be made aware of this; solicitations must provide information about the purpose of the endowment.
  - i. Donors should not generally be solicited to add to pre-existing endowments established by other donors because the comingling of gifts from multiple donors can create legal issues should the fund need to be repurposed.
  - ii. Additions to term endowments are further restricted as stated in the term endowment program description.
- d. Donors may not establish funds functioning as endowments (FFEs). These are funds that are invested as if they are true endowments, but which Berkeley may withdraw from in-part, or fully, over time. FFEs may only be established by Berkeley.

**11. Pledges and Documented Intentions**

- a. A pledge is a commitment to make a gift or gifts in the future.
  - i. Only an entity with legal control over the assets to be given can make a pledge. Therefore, an individual cannot make a pledge that includes anticipated employer matching contributions or that commits funds from a DAF or a private foundation.

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- ii. Pledges must contain three elements – a dollar amount, a payment schedule, and a fund(s) to which payments will be credited.
  - iii. Pledges must be documented in U.S. dollars. Payments may be made in U.S. dollars or foreign currency.
  - iv. Berkeley accepts pledges to be paid over five years. The first payment on any pledge should be received no later than one year from the date the pledge is executed. On an exception basis, and to advance a specific donor relations strategy, pledges of longer duration will be accepted.
  - v. In order to comply with University policy, pledges that fund faculty full-time-equivalent (FTE) lines or capital projects must be explicitly legally binding.
  - vi. Pledges may include contingencies. Contingencies do impact how the pledge is accounted for, but do not impact fundraising totals. Contingencies are reviewed annually to determine if they still impact the accounting for the receivable.
- b. A documented intention is a commitment to make future grant<sup>5</sup> recommendations from a DAF.
- i. Subsections 11.a.ii and 11.a.iii apply to documented intentions.
  - ii. Documented intentions are not ever considered legally binding.
- c. Pledges and documented intentions may be written-off when there is relative certainty that no further payments/grants will be received. UDAR – GS performs an annual review of pledges to determine which to write-off and consults with UC Legal, as necessary.

**12. Gifted Assets and Gift Types**

- a. The following can fund outright gifts and pledge payments:
  - i. Cash (currency, check, wire transfer).
  - ii. Credit or debit card. The specific cards that Berkeley accepts may change from time to time.

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<sup>5</sup> The word “grant” has a specific meaning in the context of donor advised funds. Grants from donor advised funds can be accepted as gifts if they otherwise display the attributes of gifts.

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- iii. Publicly traded securities and mutual funds. Positions are liquidated upon acceptance. Berkeley may decide to decline a gift of publicly traded securities that comes with trading restrictions. On an exception basis, and to advance a specific donor relations strategy, the Foundation will hold a gift of publicly traded securities in its investment portfolio.
  - iv. Cryptocurrency. A cost-effective, immediate mechanism must exist for liquidation of the specific cryptocurrency, and the identity of the donor must be known. On an exception basis, and to advance a specific donor relations strategy, the Foundation will hold a gift of cryptocurrency in its investment portfolio.
  - v. Tangible personal property (aka gifts-in-kind). Berkeley accepts gifts-in-kind that can be used to fulfill its mission as determined by the unit benefitting from the gift. These include, but are not limited to, works of art, books, ephemera, equipment, software, and vehicles.
  - vi. Bequests, charitable bargain sales, charitable gift annuities, charitable lead trusts, charitable remainder unitrusts, deferred charitable gift annuities, DAF beneficiary designations, IRA charitable rollovers (also known as qualified charitable distributions), lifetime gifts of insurance policies, privately held securities, real estate, retained life estates, and retirement plans. UDAR – OGP must be involved in the solicitation and acceptance of any such gifts pursuant to its internal guidelines for accepting said gifts.
- b. Berkeley encourages donors to avail themselves of employer matching gift programs.
    - i. Matching programs vary greatly as to match ratio and timing, and procedures. It is increasingly common for companies to use third-party intermediaries, each of which has its own idiosyncrasies, to manage their programs.
    - ii. Unless otherwise specified by the matching program, the employer match follows the designation of the underlying donor’s gift.
  - c. Grants from DAFs may not be used to make gifts that include a *quid pro quo* component<sup>6</sup>. Specifically, a donor advisor of the DAF may not bifurcate a grant from

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<sup>6</sup> See e.g., IRS Notice 2017-73

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a DAF and use DAF funds to make the charitable contribution while using other sources to fund a *quid pro quo* portion.

**13. Date of Gift and Valuation**

- a. The date of the outright gift or pledge payment is determined by the asset type and the method of delivery. Some of the more common are:
  - i. The “mailbox rule” applies to all cash gifts sent through the U.S. Mail. This means that the postmark on the envelope, not the date of receipt, determines the date of gift. There may be rare instances at the end of the calendar year when the postmark on the envelope is not an accurate gift date.
  - ii. For cash gifts sent by Fed Ex or similar delivery services, the date of receipt determines the date of gift.
  - iii. An important exception to (i) and (ii) relates to IRA rollover gifts, known as qualified charitable distributions. For these gifts the date of gift when facilitated by the financial institution is the date of receipt by Berkeley. In cases where the donor has check writing privileges, the date of gift is the date the funds leave the donor’s account.
  - iv. For gifts made by credit or debit card, the date of gift is the date that the card is charged.
  - v. For gifts of publicly traded securities and mutual funds the date of gift is the date that the shares are received in Berkeley’s account. When a donor sends stock certificates to Berkeley, the date of gift rule follows (i) and (ii).
  - vi. For gifts of cryptocurrency for which there is a market, the date of gift is the date the cryptocurrency is received in Berkeley’s account.
- b. The valuation of the gift for purposes of gift credit at Berkeley is determined by the asset type<sup>7</sup>.
  - i. Gifts of publicly traded securities are valued at the average of the high and low market prices observed on the date of the gift. Gifts of publicly traded

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<sup>7</sup> See e.g., IRS Publication 526 *Charitable Contributions* and Publication 561 *Determining the Value of Donated Property*

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mutual funds are valued based on the closing market price on the date of the gift.

- ii. Gifts of cryptocurrency are valued at the average of the high and low market prices observed on the date of the gift. When held in the Foundation's investment portfolio, the gift is valued at \$1 given the speculative nature of the investment.
  - iii. Gifts of tangible personal property other than cryptocurrency are valued based on qualified appraisals provided by the donor, which are required for the donor's tax purposes for gifts valued at \$5,000 or more<sup>8</sup>.
  - iv. Gifts of real estate are valued based on the net proceeds received from the sale of the property<sup>9</sup>.
- c. While rare, because Berkeley liquidates gifts of publicly traded securities upon acceptance, dividends associated with gifted shares are not recorded as gifts. When significant they follow the gift; otherwise they are credited to the Cal Fund.

**14. Gift Processing and Charitable Gift Receipts**

- a. All gifts, with the exception of those listed in Section 12.a.vi, must be processed through UDAR – GS to ensure proper recording, receipting, and reporting.
  - i. To this end, the preferred approach is to have donors send their contributions directly to UDAR – GS.
  - ii. When donors send contributions directly to benefitting offices, staff in those offices must deliver them timely to UDAR – GS. Such staff are responsible for following the University's *Policy for Cash and Cash Equivalents Received (BUS-49)*.
- b. All gift documents must be signed by an authorized individual with the appropriate delegation of authority to accept gifts.

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<sup>8</sup> IRS Forms 8283 (*Noncash Charitable Contributions*) and 8282 (*Donee Information: Return, Sale, Exchange or Other Disposition of Donated Property*) stipulate certain reporting and appraisal requirements associated with certain gifts-in-kind, including those valued at more than \$5,000. These are relevant to gifts of cryptocurrency irrespective of the different determination of valuation for purposes of gift credit.

<sup>9</sup> The donor must obtain a qualified appraisal for the donor's tax purposes related to the gift.



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- i. No person may sign a gift agreement without this authority, even if they have other delegations of authority to transact business on behalf of Berkeley.
- c. Only UDAR – GS may register or otherwise create accounts for Berkeley on third-party giving sites, including those used to facilitate employer matching gifts.
  - i. Some corporate and institutional funders use online portals to manage all aspects of their philanthropic relationships with Berkeley, including gift acceptance and stewardship reporting. In these cases, professional fundraisers may create accounts and work with UDAR – FM on the particular mechanics regarding gift agreements.
- d. When processing gifts received in response to direct response marketing solicitations, UDAR – GS will do a limited amount of research in situations where the gift is less than \$1,000 and the donor is not specific as to which fund it wishes to support. Gifts whose purpose cannot be easily identified will be recorded to the appropriate unrestricted fund.
- e. UDAR – GS is responsible for providing donors with charitable gift receipts for all gifts except those listed in Section 12.a.vi, and is the only campus office that should do so.
  - i. Gift acknowledgements<sup>10</sup> prepared by units benefitting from philanthropic gifts should be devoid of any tax-related language.
- f. Charitable gift receipts are only provided to legal donors, for example, the donor whose name appears on a check. The legal donor is generally the last entity that has legal control of the gift being given.
  - i. The receipt, not any subsequent acknowledgement, serves as the official IRS documentation.
- g. In order to comply with State of California law, principal investigators must complete a *Statements of Economic Interest* Form 700-U for each gift of \$500 or more received from each donor where gifts directly support research.
- h. Berkeley has a policy – *Assessment and Distribution of the Campus Philanthropic*

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<sup>10</sup> ‘Gift acknowledgement’ is a tax term of art that refers to what Berkeley calls a charitable tax receipt. At Berkeley, gift acknowledgements are letters and notes of thanks that express gratitude to donors.

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*Allocation and Research Administrative Fee* – that establishes allowable fees – the philanthropic allocation and the research administration fee – charged against gifts by Berkeley.

- i. Donors must be notified of these during solicitation. They are incorporated into all Berkeley-generated gift agreements, and are disclosed on Berkeley’s online giving site and on all UDAR-generated charitable gift receipts.
- i. Gifts are also subject to fees imposed by financial institutions and other financial intermediaries, including credit card fees, wire transfer fees, and the fees associated with liquidating gifts of securities, mutual funds, and cryptocurrency.
  - i. Credit card fees do not impact the recorded value of the gift but are charged against the gift fund.
  - ii. Other fees may impact both the value of the gift and the amount transferred to the gift fund. Under certain circumstances, donors are recognized for the full value of the contribution.

**15. Gifts of Goods and Services, and Honoraria**

- a. Donors may provide goods or services to Berkeley that do not qualify as charitable contributions and are therefore not accepted and recorded as gifts to Berkeley. These are sometimes received in conjunction with auctions/events and examples include use of property or facilities, merchandise, and professional services.
- b. Berkeley benefits from the engagement of volunteers who often incur travel expenses in order to fulfill their volunteer obligations. While Berkeley benefits from these expenditures, which may be allowable as tax deductions, Berkeley does not accept and record these as gifts-in-kind.
- c. The above notwithstanding, Berkeley generally accepts gifts that support travel of faculty, staff, and students for purposes of university business. These gifts are handled as gifts-in-kind.
  - i. The valuation of commercial airfare is limited to the class of travel allowed under the University’s travel policy.
  - ii. The valuation of charter services is based on prevailing market rates.

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- d. Berkeley benefits from honoraria paid to its faculty and staff who provide service to their professions as speakers and volunteers. Honoraria should be paid directly to Berkeley as gifts from the institution or organization. Individuals directing honoraria to Berkeley should be advised to consult with their tax advisors regarding the tax treatment of such gifts.
  - i. Berkeley offers honoraria to speakers who may wish to donate these funds back to Berkeley. In order for a speaker to do so, Berkeley must pay the speaker and they must then make a gift from their personal funds. If the speaker simply declines the honorarium, there is no gift.

**16. Gifts that Name University Properties, Facilities, and Academic and Non-Academic Programs**

- a. Berkeley follows the University's *Policy on Naming University Properties, Academic and Non-Academic Programs, and Facilities* and its own *Philanthropic Naming Guidelines*.
- b. Berkeley typically looks to secure a gift valued at 50% of construction costs in order to consider naming an entire building for a donor or in honor of a person of the donor's choosing. Exceptions to this expectation may be made at the discretion of the Chancellor.

**17. Future Events and Authority to Return Gifts**

- a. Where future actions of a donor or new facts related to a donor's past potentially trigger exclusions described in Section 5.a of this policy, UDAR will lead a review to determine what course of action to take.
  - i. Whether or not the gift has been fully expended and whether or not the donor was publicly recognized for the gift in a tangible way will factor into the determination.
  - ii. Actions may include returning gifts, removing names from programs, endowments, spaces, or buildings, or repurposing gifts, as allowed by law.
- b. The authority to return gifts benefitting Berkeley derives from the President of the University under DA2579 – *Authority to Return Gifts*.

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- i. The delegation flows from the President, to the Chancellor, to the Vice Chancellor – UDAR, who serves as President of the Foundation.
- ii. Berkeley distinguishes between returning gifts in situations where donor intent cannot be fulfilled, in which case the delegation of authority is invoked, and returning gifts (“refunds”) in order to correct mistakes. Mistakes include overpayment of a pledge, and the use by the donor of the wrong account or credit card.
- iii. In exceptional cases, such as when stipulated in a gift agreement, a gift may be transferred to another qualifying charity rather than being returned to the donor.

## **Exceptions to this Policy**

Exceptions are noted in the body of the policy, as appropriate.

## **Scope of Policy**

This policy affects:

- Fundraisers
- Administrative leaders
- Faculty
- Academic leaders
- Staff responsible for supporting processing gifts and managing gift funds

## **Why We Have This Policy**

This policy exists to protect the Campus, the University of California, and the Foundation from reputational, legal, and financial risks that may be associated with improperly accepted gifts. Adherence to this policy also insures that donor’ intentions can be followed, thereby leading to positive donor relations.

## **Procedures**

Procedures that control the creation of gift agreements and the administration of philanthropic gifts can be found on Eureka, the campus’s advancement intranet (<http://eureka.berkeley.edu>).

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## **Responsibilities**

### **University Development and Alumni Relations:**

- Determine what constitutes a philanthropic gift to Berkeley
- Create and approve gift agreements
- Accept philanthropic gifts according to delegation of authority
- Monitor campus wide efforts to comply with the terms outlined gift agreements

### **The Chancellor of UC Berkeley and the President of the University of California:**

- Accept philanthropic gifts according to delegations of authority

### **Deans and Dean Equivalents and their Respective Division Finance Leaders:**

- Ensure that philanthropic gift funds are expended according to donor intent and relevant policies.

## **Website Address for This Policy**

[https://campuspol.berkeley.edu/Policies/Gift\\_Acceptance\\_Policy\\_2-15-2020.pdf](https://campuspol.berkeley.edu/Policies/Gift_Acceptance_Policy_2-15-2020.pdf)

## **Glossary**

Terms are defined in the body of the policy, as necessary.

## **Related Documents**

### **University of California:**

*Authority to Return Gifts:* [https://policy.ucop.edu/\\_files/da/deleted-delegations/da0225.html](https://policy.ucop.edu/_files/da/deleted-delegations/da0225.html)

*Classification of Gifts and Sponsored Awards:* <https://www.ucop.edu/research-policy-analysis-coordination/resources-tools/contract-and-grant-manual/chapter9/chapter-9-500.html>

*Development Reference Guide:* <https://www.ucop.edu/search/?q=development+reference+guide>

*Delegation of Authority to Solicit and Accept Gifts:* [https://policy.ucop.edu/\\_files/da/da2631.pdf](https://policy.ucop.edu/_files/da/da2631.pdf)

*Policy for Cash and Cash Equivalents Received:* <https://policy.ucop.edu/doc/3420337/BFB-BUS-49>

*Policy on Capital Project Matters:*  
<https://regents.universityofcalifornia.edu/governance/policies/8103.html>

*Policy on Endowed Chairs and Professorships:* [https://www.ucop.edu/academic-personnel-programs/\\_files/apm/apm-191.pdf](https://www.ucop.edu/academic-personnel-programs/_files/apm/apm-191.pdf)

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*Policy on Naming University Properties, Academic and Non-Academic Programs, and Facilities:* [https://policy.ucop.edu/\\_files/da/da2002.pdf](https://policy.ucop.edu/_files/da/da2002.pdf)

**University of California, Berkeley:**

*Assessment and Distribution of the Campus Philanthropic Allocation and Research Administration Fee:* <https://campuspol.berkeley.edu/policies/philanthropicallo.pdf>

*Philanthropic Naming Guidelines* (refer to Eureka)

*Policy on Philanthropic Gift Fund Minima:*  
<https://campuspol.berkeley.edu/policies/giftfundminima.pdf>

*Principles of Community:* <https://diversity.berkeley.edu/principles-community>

## **Revision History**

### **July 1, 2021 Revision**

- The name of the responsible office was updated to reflect a changed organizational structure in University Development and Alumni Relations.
- Addresses the distinction between the authority to solicit and accept gifts and the authority for internal controls for gift processing. Adjusts the document to reflect the alignment of responsibilities that follow this distinction.
- Requires knowledge of the identity of donors making gifts of cryptocurrency.