

Gift Acceptance Considerations & Policies:

**Should your nonprofit say,
“Yes, please!” or “No, thanks”?**

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February 20, 2019**

Mission of Pro Bono Partnership of Atlanta:

To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals.

We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

Pro Bono Partnership of Atlanta Eligibility & Other Information

- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
 - ✓ Be a 501(c)(3) nonprofit.
 - ✓ Be located in or serve the greater Atlanta area.
 - ✓ Serve low-income or disadvantaged individuals.
 - ✓ Be unable to afford legal services.
- *Visit us on the web at www.pbpatl.org*
- We host free monthly webinars on legal topics for nonprofits
 - ✓ To view upcoming webinars or workshops, visit the [Workshops Page](#) on our website
 - ✓ Join our mailing list by emailing rla@pbpatl.org

Legal Information:

- ✓ This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.
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Key Questions

- Should our organization accept this gift?
- If we accept it, what would we do with it?
- Do we have a policy directing us how to answer these questions?

Other Questions Not Answered Here

- How do we accept and manage investments?
- What are the tax consequences of a gift?

Should I accept this gift?

- Does it fit my organization's mission?
- Is it worth the restrictions or obligations that may come with it?
- Does it create a conflict of interest?

Draft a Policy to Answer these Questions

- Which gifts can staff accept? (*A: Routine gifts*)
- Which gifts need further review (and who reviews)? (*A: Non-routine gifts, or gifts that may present a conflict of interest; maybe a Board Committee*)

Draft a Policy to Answer these Questions

- When is an expert needed? (*A: Unique gifts*)
- When is legal counsel needed? (*A: If you hesitate to accept it, contact counsel*)
- Can common gift offers or other criteria help answer these in your Policy? (*A: Probably...*)

Draft a Policy to Answer these Questions

- What classes of gifts that meet and do not meet your mission? *(A: It depends...)*
- Who determines what gift restrictions or obligations are reasonable and unreasonable? *(A: Each nonprofit is different...)*

Draft a Policy to Answer these Questions

- Pro Bono Partnership of Atlanta maintains a template **Gift Acceptance Policy** that should be tailored to your organization's mission and risk profile with assistance from PBPA.
- ***The same gift may be acceptable to one organization, but not another.***
Each organization is different.

Hypotheticals

- Today you run DryHigh, a nonprofit that encourages alcohol abstinence among high school students.
- You and 2 staff members speak monthly at local public schools and offer students after-school activities.

(These hypos do not have one “right” answer.)

Hypothetical #1 - Donation

- **Cash:** \$1000 to purchase beer and wine at your adults-only annual fundraising gala.

Hypothetical #1 - Analysis

- How does it fit with your mission?
- What if it's direct donation of beer and wine from the local liquor store?
- What if it's in exchange for ad space in the gala's program?

Hypothetical #2 - Donation

- **Real estate:** two nice tennis courts in a local neighborhood.
- Although, the neighborhood needs to continue using them during the weekends.

Hypothetical #2 - Analysis

- It can fit your mission to provide after-school activities. But are the maintenance, property taxes, and insurance obligations worth it?
- Is DryHigh large enough and ready to take this on? Why is the neighborhood wanting to get rid of them? Who will manage them on weekends?

Hypothetical #3 - Donation

- **Commercial Investment:** 25% ownership in a local coffee shop.
- With the investment, it will stay open late for students to encourage a safe alternative late at night.

Hypothetical #3 - Analysis

- Commercial partnerships always create risk. DryHigh must avoid losing its nonprofit status. Contact legal counsel first!
- Partnerships also lead to disputes and complexity. Again, too much time for a small organization? Is there a simpler solution available – e.g. pay/volunteer for extra hours?

Hypothetical #4 - Donation

- **Financial Investment:** Offer to bequeath 1000 shares of Acme company stock from a parent's personal portfolio, currently worth \$100,000.
- Conditioned on DryHigh serving 50 new students after hours each year for the next 10 years.

Hypothetical #4 - Analysis

- Several issues here:
 - Is this a donation or just a pledge? Setup a trust?
 - Can DryHigh staff support this additional growth?
 - What will the stock be worth upon death?
 - Would DryHigh sell or keep the stock? Is it publicly traded and marketable? *(Hint: the organization's Gift Policy should identify how to answer this.)*

Hypothetical #5 - Donation

- **Real estate:** A private school principal will donate 2 acres of undeveloped land adjacent to his school if DryHigh builds a permanent facility on the land and meet with his school's students daily, not just monthly.

Hypothetical #5 - Analysis

- How will this impact the mission – will the other schools see diminished visits and resources? Is it fair and proper for a private school to obtain special treatment?
- Is DryHigh prepared to build on the land? Can it build a new HQ? What about a gym?

Hypothetical #5 – More...

- What if the principal will fund a gym with his name on it?
- To rebuild his reputation after a DUI?
- What if those funds come from his mayoral campaign organization?

“Take Aways”

- Do you want to accept the gift?
 - Does it support the mission?
 - Does it truly help the organization or burden it with responsibilities, restrictions, or obligations?
 - Does it involve a questionable source?

“Take Aways”

- What will you do with the gift?
 - Do you have the expertise to own, manage, or sell it?
 - What is the process for deciding what to do with it?
 - Can the gift be simplified while accomplishing the same goal?

“Take Aways”

- Draft a good policy to cover many situations.
- But no policy covers every possible situation.
- If accepting a gift makes you hesitate, first contact PBPA or your legal counsel.

Questions?

Want more?

Watch: [Thanking Donors– The Legal Way](#)



For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

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