

*Please note: This is a transcription so there may be slight grammatical errors.*

Alex Badger:

Public charities and private foundations have a legal and ethical responsibility to honor a donor's intention for their donations. Understanding best practices in this area can help make the process easier and more efficient.

Philanthropic donors value the opportunity to direct their gifts. When their input is honored, they feel connected to your organization and are more likely to support your efforts again in the future. But the opposite is true, as well. When donors' requests are not met, they report feeling deceived and are more likely to speak negatively about the organization. This is true regardless of the size of their donation. Clearly, it is in their organization's best interest to solicit donor direction, but when this process is not handled correctly, honoring donor intent can feel unnecessarily restrictive. Here's an example. What if a donor agrees to fund a single large project, say building a garden, but does not specify what to do with excess funds when the project is complete? While you may think the donor would be happy to support building a playground nearby, the donor may feel differently. Donors want to support your organization, but often the specifics of their gifts are deeply personal.

The key to navigating these situations is understanding how to balance donor intent with what's reasonable for your organization. That means matching donor wishes to your mission and having honest conversations upfront. If your organization does not currently have a gift acceptance policy, take the time to write one. For instance, will you accept a real property, like a deceased family member's home? What about cryptocurrency? Revisit this policy regularly to be sure it fits the needs of your organization and complies with the Uniform Prudent Management of Institutional Funds Act, also known as UPMIFA. For large gifts, you'll want to create a restricted gift agreement. This agreement defines how a gift will be used and gives the organization the right to modify restrictions when they become impractical or impossible for the organization to achieve. A donation may be time restricted, purpose restricted, or both.

All gift restrictions are legally binding. That means when accepting the gift, you must honor the restriction or risk legal action. Ideally, each restricted gift will begin with an open discussion with the donor about what your organization can and cannot do, and what would be most helpful to achieve your mission. Even if this conversation results in the loss of a gift, having an honest and respectful relationship is the best practice. It helps you and your donors build mutual confidence and helps the donor gain a deeper understanding about the inner workings of your organization. Of course, having a personal conversation with every donor may not be possible, especially for organizations with thousands of donors. Also, some will be donating after their death. One best practice is to solicit donations in defined categories that are helpful and reasonable to the organization. For instance, you may let donors designate their contributions for buildings and land, operating expenses or community outreach. You'll also want to review granting language for any gift from a trust or estate.

Finally, make sure to document and track restrictions carefully. Thorough record keeping helps ensure legal compliance and can help your organization navigate any potential changes or removal of restrictions on funds that are being held for its benefit. Want to help develop your donor intent practices? Call CAPTRUST and put our experience to work for you.

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