Student Success Donation/Gift Solicitation Policy

Several Student Success departments have a long history of receiving ongoing, outside support and sponsorship for programs. Other Student Success offices on occasion solicit donations and/or gifts for program enhancement from both internal university entities as well as those external to the University. In an effort to avoid multiple and simultaneous requests, preserve Student Success relations and insure accountability Student Success departments should adhere to the following policy and guidelines:

- Any solicitation or request for donations and/or gifts must be discussed and approved by the appropriate Associate Vice Provost.

- Gift solicitations for staff recognition and departmental functions may occur on rare occasions. However; the primary purpose of donation/gift solicitations is to encourage student participation and support student programs and activities. Specifically, the program should contribute to student recruitment, retention, timely graduation, diversity and student engagement.

- For purposes of this policy, the definition of “gift” is: Any goods or services which have monetary value and which are normally not made available to the general public without a charge. Examples include, but are not limited to conference folders, clothes, food, gift certificates, and tickets for KUAC, Lied Center and University Theatre events. Items that have been budgeted and purchased for the purpose of being a give-away are exempted from this policy.

Additional guidelines:


- KU Endowment Association – Gifts to State Employees and Gifts to Others (Non-Employees) - see attached document
Proposed by the Gift Solicitation Work Group:
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Gifts to State Employees

The practice of offering "gifts" to employees is coming under increasing scrutiny from the State, regarding ethics issues, and from the IRS, regarding tax issues. Unfortunately, the ethics rules governing such gifts have not always been clear or well understood, but the State has taken a strict view regarding enforcement of the ethics law. (See Kansas statute KSA 46-237 & Ks. Governmental Ethics Commission.) Not only do gifts from outside organizations, including the KU Endowment Association, fall under the State’s ethics laws, but recent opinions from the State Ethics Commission have concluded that gifts from an employee's state agency also are subject to the ethics law. The State Ethics Commission's guideline for gifts to State employees provides for severe penalties for the employee. (See website www.accesskansas.org/ethics/giftguide.htm.) As a general rule, it is prohibited to accept or solicit gifts, discounts, loans or other economic opportunities in connection with an employee's official position. There are several exceptions, including (1) gifts of less than $40.00 that are given at a ceremony or public function and the employee accepts because of the official position held; (2) gifts from relatives or personal friends that are unrelated to an employee's official position; (3) gifts received on behalf of the state that become the property of the state; and (4) items received from the state agency as an employee award or other form of taxable compensation.

Additionally, whether permitted under Kansas ethics law or not, the IRS considers a gift to an employee to be an award or bonus, which is generally taxable, as discussed in the previous section, Faculty and Staff Awards.

Consequently, to ensure University compliance with State ethics law as it pertains to gifts, as well as IRS tax law and regulations, any payment or other transfer of property to or for the benefit of a University employee of $40 or more in value which is purchased with KU Endowment funds will be reported on the employee's W-2 as taxable compensation to the employee. Examples of this situation include gifts of flowers, including delivery and any other charges associated with the gift; plaques, trophies, or other tangible expressions of appreciation; and meals in which only a few, select employees are invited to attend and for which there is more than an incidental personal benefit received. Except as noted in the last...
paragraph of this section, this statement does not prohibit the use of KU Endowment resources for these purposes, it simply recognizes that such purchases, if in excess of $39.99, will be treated as taxable compensation, rather than as gifts. Further, meals where a clear business purpose is documented, including departmental functions that build morale among employees, do not fall under the State ethics law because any personal benefit received from the function is incidental. (See section 5.6 for more on qualifying meal and entertainment expenses.) However, whenever it is determined that the $40 rule must be enforced, it will apply regardless of whether the payment or transfer of property is to recognize sympathy, job performance or other notable achievement or event. While gifts given after retirement from state service would not be subject to the ethics rule, withholding for IRS purposes will still apply. Note also that the entire amount is compensation, not only the excess over $40. Please see section 5.5 for information on how to process these taxable fringe benefit payments.

Employee gifts in the form of gift certificates in any dollar amount are considered a cash equivalent, and are included in the employee’s W-2 income. Because the University currently has a policy disallowing gift certificate awards or bonus payments to employees, no KU Endowment funds may be used to pay or reimburse for gift certificates given to KU employees.

None of the foregoing, however, precludes employees from taking up voluntary collections among themselves to purchase farewell or other gifts for fellow employees, including gift certificates. Supervisors are cautioned, however, that subordinates' donations, in terms of amount and the decision to contribute, should be truly voluntary. When questions arise about whether a payment represents a gift to a State employee, the University General Counsel should be consulted for guidance.

Because the KU Endowment Association is tax exempt under IRC §501(c)(3), it may use its funds only for its tax-exempt purpose of benefitting the University of Kansas. If KU Endowment funds are used to provide a "personal benefit," both KU Endowment and the person authorizing the expenditures from the KU Endowment fund may be subject to sanctions from the Internal Revenue Service (see section 3.0). Under the Internal Revenue Code and IRS regulations, Endowment funds cannot be used to purchase non-business meals or other personal gifts, such as those for Secretary’s Day, Boss’ Day, new baby, weddings, etc. These items provide a disproportionate personal benefit to the recipient with very little benefit to the University, if any. As such, the expenditures are not made for a business purpose as defined by the Internal Revenue Code and IRS regulations and, consequently, will not be paid. However, this does not preclude the use of KU Endowment resources for bona fide staff meetings, luncheons, etc. or for employee recognition awards, as discussed above.

Gifts to Others (Non-Employees)

The IRS generally considers the transfer of gifts as taxable income. Taxable income of $600 or more to non-employees is reported to IRS on Form 1099. Although there may be no reporting to IRS for gift amounts less than $600, KU Endowment still must obtain the gift recipient’s social security number (taxpayer ID) for gift amounts that are not de minimis in value, in order to comply with IRS information collection requirements. Although the de minimis value standard is not clearly defined by the IRS, a value of $25 has been cited in several court cases as an acceptable de minimis threshold.

Clearly, the intended goodwill of providing the gift can be negated somewhat by the required tax reporting, so the KU Endowment Association will always communicate with the requesting unit/department when such a gift payment must be reported for tax purposes. In order to avoid the tax reporting, the requesting department can withdraw the request for payment or the recipient could accept the gift on behalf of the department, and return it to the department for display or re-use, etc.

If the requesting department determines to proceed with the gift purchase, it is acceptable to cover the related tax on the gift with a cash payment to the gift recipient. After the KU Endowment Association is advised that the requesting department has informed the gift recipient of the tax impact, it will process the payment for the gift purchase and any related tax costs as requested by the department.
If a cash payment, such as honorarium, and a non-cash gift are provided to a non-employee, such as a visiting lecturer, and the combined value of the gift and the cash payment together exceed $600, a 1099 must be reported to the IRS. The full gift value must be included unless it is *de minimis* in value.

Obviously, any gifts purchased with KU Endowment funds must be given on behalf of the University department that benefitted from the service being recognized by the gift, as opposed to being given by the Fund Account Representative or any other specific person. Any gift that is represented as being solely from an individual is personal in nature. Paying for personal gifts is clearly contrary to the KU Endowment Association’s mission, and such requests will not be paid. There must be a legitimate business reason for the University department to provide the gift.