



## **Guidelines for Establishing a Restricted Fund**

*These guidelines provide information to consider when establishing a restricted fund. Many donors create restricted funds to establish scholarships or academic program support funds. These funds are typically named for donors, in honor or memory of a loved one, or to recognize a member of the Hudson Valley faculty or administration.*

*In considering the establishment of a restricted fund, potential donors should be aware that tax laws require that charitable gifts be irrevocable and unconditional in order for a donor to receive the associated tax benefits. A donor cannot continue to enjoy control over donated funds or property contributed; once a donor has made the contribution, the assets become the property of the charitable organization and cannot be returned under any circumstances.*

### **I. Definitions**

- a. A **restricted fund** enables donors to restrict the use of their fund. The Foundation works with donors to document mutually agreed upon guidelines which govern the use and spending of the fund.
- b. A **permanently restricted (permanent/endowment) fund**, often called an *endowment*, exists in perpetuity. Gifts to the fund are invested for long-term growth with the understanding that the principal may not be expended, only the income earned.
- c. A **temporarily restricted (temporary) fund** is intended to be short-term in nature. The monies in a temporary fund are not expected to exist in perpetuity and the fund may be expended in its entirety, according to the fund guidelines.

### **II. Establishing a Restricted Fund – Permanent/Endowment**

- a. The minimum gift required to establish a permanently restricted (endowment) fund is \$25,000. The donor(s) may contribute this amount over a period of one to five-years.
- b. Guidelines for the use of the spendable income generated by the endowment will be agreed upon by the donor(s) and the Foundation in a mutually executed Fund Agreement, kept on file in the Foundation office.

- c. A fund that is building toward an endowment will be considered temporarily restricted until the minimum gift threshold has been met, at which time it will be converted to a permanent endowment fund.
- d. Once the minimum gift threshold has been met, and the fund is endowed, funds will be invested for one full investment cycle. Earnings will be calculated at the end of the fiscal year immediately following the initial investment cycle and distributed both to make awards under terms of the Fund Agreement, and to increase the corpus of the endowment as allowed by economic conditions and existing board policies.
- e. Donors will be contacted at the end of 60 months if the minimum gift threshold has not been met. If, upon consultation with the donor, he/she is unable to fully endow the fund, the fund will remain temporarily restricted and expended in accordance with the Fund Agreement on file.
- f. No disbursements will be made from funds building toward endowment. Donors who wish to see their scholarship awarded immediately, for example, are encouraged to make an additional current use donation(s).

### **III. Establishing a Restricted Fund – Temporary**

- a. The minimum gift required to establish a temporary fund is \$5,000. The donor(s) may contribute this amount over a period of one to five-years. Donors are asked to sign a pledge form documenting this commitment.
- b. Academic departments seeking to establish a temporary fund in support of the department may do so with a minimum of \$1,000. Funds may be used, but are not limited to, purchasing equipment, supporting professional development, and providing merit-based awards to students. Funds may not be used to support social activities of the department.
- c. Guidelines for the use of the temporary fund will be mutually agreed upon between the donor(s) or department chair, and the Foundation in a mutually executed Fund Agreement, kept on file in the Foundation office.

### **IV. Establishing a Restricted Scholarship Fund (Temporary or Endowed)**

- a. Donors are encouraged to be as broad as possible when specifying criteria for scholarship funds. For scholarship funds, a donor may request a preference for:
  - i. Academic merit (minimum overall GPA)
  - ii. Financial need
  - iii. Geographic area of residence
  - iv. School or academic degree/certificate program
  - v. Eligibility to be limited to U.S. citizens and permanent residents.

- b. Donors may not recommend or suggest scholarship recipients. The Internal Revenue Service will not recognize a contribution for charitable tax deduction if the donor retains control over the gift funds or how they are used. Therefore, a donor may not participate in the selection of scholarship or award recipients, name an individual to the scholarship committee, or structure the criteria so narrowly as to limit selection to a small population comprised solely or primarily of individuals related to the donor or that the donor would choose without this restriction.
- c. The Hudson Valley Community College Foundation Scholarship Committee selects scholarship recipients, unless otherwise stated, based upon the requirements listed on each scholarship Fund Agreement.
- d. Donors may volunteer to serve on the Foundation Scholarship Committee but must excuse themselves from the selection of recipients for their own scholarship.
- e. The Hudson Valley Community College Foundation does not discriminate on the basis of age, gender, race or color, national origin, religion, disabling condition, marital status or sexual orientation.

**V. Establishing a Non-Scholarship Fund (Temporary or Endowed)**

- a. Donors are encouraged to be as broad as possible when specifying criteria for non-scholarship restricted funds. Non-scholarship restricted funds may be created to support:
  - i. A college department, academic program or student support program
  - ii. Purchase of equipment or technology enhancement
  - iii. Marvin Library
  - iv. Capital construction or renovation

**VI. Investment and Distribution of Restricted Funds**

- a. The Hudson Valley Community College Foundation Endowment Management, Investment and Spending Policy (EMISP) outlines the investment strategies for restricted funds (endowed and temporary) and the process for determining annual distributions. The EMISP is approved by the Hudson Valley Community College Foundation Board of Directors and the college's Board of Trustees, and regulated by the State of New York. Please contact the Foundation for a copy of the EMISP or view it online at [www.hvcc.edu/foundation](http://www.hvcc.edu/foundation).

## **VII. Release of Donor-Imposed Restrictions**

- a. Under Section 522 of the New York State Non-For-Profit Corporation Law, if at some point in the future the purpose of a restricted fund becomes obsolete, inappropriate or impracticable, the Foundation may seek an alternative use for the fund.

If the donor is available, a restriction on the use of such a fund may be released with the donor's written consent pursuant to Not-for-Profit Corporation Law § 522.

If the donor is deceased or otherwise not available to give consent, a restriction on the use of an institutional fund may be released by the court in a proceeding pursuant to Not-for-Profit Corporation Law § 522.

## **VIII. Publicity for newly created restricted funds**

- a. Once a fund has been permanently endowed, publicity regarding the fund will be released to the public unless the donor stipulates otherwise.

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