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We often think of unrestricted gifts as undesignated, but they can be <i>broadly</i> <i>designated</i> and truly unrestricted	Most common restricted gift: Restricted Purpose Gifts can also be restricted by: • Terms • Gift vehicle • Funding Asset
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• Narrow eligibility criteria that may prohibit use of the gift long-term

Administrative Difficulties

- Programs that are difficult and expensive to execute or that simply lie outside the missional priorities of the organization
- Funds that are dependent on the continued employment of a particular employee

Legal Difficulties

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- Benefactor wishes to retain control over the gifted asset
- Benefactor wishes to impose restrictions that are illegal or unethical
- Gift acceptance issues regarding assets (Pre-arranged sales of real estate gifts or debt-encumbered property)

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Financial Difficulties

- Cannot meet the investment expectations of the benefactor
- Doesn't meet institutional minimums for type of fund or for endowment
- Benefactor has a complicated financial relationship with the institution: vendor, investor in for-profit activities, board member who sits on investment committee

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Stewardship Difficulties

- Benefactor seeks more recognition than stewardship policy allows
 - Wants same recognition for deferred gifts and current gifts
 - Wants more recognition than institutional standards
- Benefactor seeks the stewardship "deal" a friend received eons ago

Laying the Foundation for Yes

- · Gift acceptance policies and teams
- Gift agreements

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- · Exceptions to policy
- Risk tolerance

A Layer of Facilitation and Review at Mayo Clinic

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- Development Administrators (DAs) are fundraising initiative experts and liaisons to clinical, research, and educational areas
- DAs vet restrictions with area leaders and sometimes suggest alternatives to development officers and benefactors

A Layer of Facilitation and Review at Mayo Clinic

• DAs prepare Memoranda of Understanding (MOU) to assure that restrictions can be honored, particularly above a certain dollar threshold, and assure that proposal language properly captures the restriction

Gift Acceptance Policies

- Help minimize inconsistency
- Manage benefactor expectations
- Help rein in "entrepreneurial" development officers and volunteers
- Maintain institutional integrity

"A foolish consistency is the hobgoblin of little minds, adored by little states and philosophers and divines." - Emerson

Components of Most Gift Acceptance Policies

Mission

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- Conflict of interest
- Gift Acceptance Committee
- Gifts that the organization will not accept

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- Gift vehicles
- Assets accepted as gifts
- Trustee appointment

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• Booking, valuation, and counting standards

You might want to include:

- Stewardship policy
- Real estate acceptance and management policies
- · Policy on gold coins
- Use of outside counsel
- Escalation policy

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PC Cale | Invested in your measure Gift Acceptance Team at Mayo Clinic

- .
- Gift Planning Associate Chair ~ Chair
- OGP Gift Planning Administrator ~ Administrator
- Legal Officer
- Director of Finance
- Director of Stewardship
- Principal Gift Officer
- Major Gift Officer
- Administrative Assistant

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The Gift Acceptance Team

- Is committed to facilitating gift closures
- Interprets and enforces policy
- Does not make policy
- Members have tolerance for ambiguity

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Every Rule has an Exception, and Most Exceptions are Governed by Rules

- Mayo Clinic Gift Acceptance Team maintains a record of prior exception decisions
- Documenting gift acceptance exceptions creates guidelines for future exception decisions

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- Not all exceptions set precedents
- Some exceptions eventually will be codified in the gift acceptance policy

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Documentation is Everything

- Call reports should document all encounters in which benefactor discusses restricted intention
- Capturing the restricted intention from its earliest iteration
- Documenting institutional promises made regarding restrictions
- Confirming the benefactor's intention during every conversation
- Including family members in conversations as appropriate and documenting conversations with them

Nothing is as Important as a Well-Drafted Gift Agreement

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- Be prepared: have several templates for various types of gifts
- Always include changed circumstance language
- Review regularly to assure compliance with current law

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Nothing is as Important as a Well-Drafted Gift Agreement

• Assure layers of review prior to signatures

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 Ask benefactor to seek advice of his/her advisor prior to signing

Managing Risk

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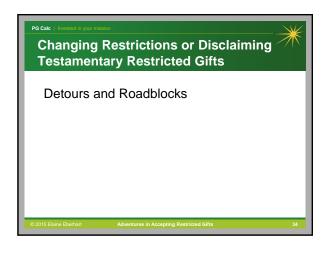
- Know the risk tolerance of the decision makers
- Outline the risk in internal documents; don't underestimate the risk
- Project risk long-term; err on side of worst-case scenario in describing risk for decision makers
- Though you are benefactor-centric, cue decision makers that you are committed to protecting the interests of the institution

Managing Expectations

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- Move slowly; don't get ahead of the decision makers.
- Don't get stakeholders excited about gifts that may not happen.
- Attend to relationships with legal, finance, and programmatic colleagues before negotiating difficult gift scenarios.
- Take one for the team.
- · Know when and how to escalate.



Changing Restrictions for Endowed Funds: UPMIFA

- Restrictions can be released with the written consent of the benefactor.
- If the benefactor's written consent cannot be obtained, a court of appropriate jurisdiction can release the restriction if the restriction "is obsolete, inappropriate, or impracticable."

Changing Restrictions for Endowed Funds: UPMIFA

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- If the fund is over 20 years old and the amount is less than \$25K, the charity may not need to go to court
- A release cannot change the use of the funds to non-charitable purposes

Disclaiming a Restricted Testamentary Gift: Questions

- Can the gift be disclaimed under applicable federal and state law?
- What is the time period in which docs can be filed?
- Have you filed the appropriate state documents?
- Have you already accepted any part of the disclaimed asset, a trust distribution, for instance?

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A few cases about which you probably have heard . . .

Cases That Suggest What Can Go Wrong and How Badly

- Sweet Briar College
- Garth Brooks
- The Barnes Foundation
- The United Daughters of the Confederacy v. Vanderbilt University









