

# Gift Administration Policy for FFLA

## OVERVIEW AND PURPOSE

This FFLA policy aims to establish transparent policies and procedures regarding the use of gifts ("Gifts") received by FFLA, address donor interests and contribute to the financial sustainability of FFLA. Without financial stability, FFLA cannot fulfil or carry out its mission.

**NOTE: This policy does not apply to IOTA funds collected by FFLA as Florida's IOTA Administrator under Bar Rule 5-1.1(g), or in-kind gifts made to FFLA.**

Historically, FFLA, in most instances, has not charged or retained a portion of donors' gifts to defray associated expenses or to help to pay the administrative and operating expenses incurred in support of its mission. This practice was based on the fact that all revenues received and all expenses incurred were combined, allocated, and distributed together.<sup>1</sup> The amendment to Rule 5-1.1(g) now renders that approach unsustainable as it relates to IOTA collections. As such, this policy seeks to implement a process for recouping and/or defraying administrative and operating costs associated with the development, acceptance, and management of non-IOTA gifts received by FFLA.

## EXPENSES INCURRED

The development, acceptance, and management of gifts, donations, and other contributions require incurring administrative and operating expenses, including payroll. The Internal Revenue Service defines these expenses to include:

- program expenses—expenses directly related to carrying out FFLA's mission and that result in goods or services being provided—for example, grants to agencies providing civil legal aid;
- administrative expenses—expenses for FFLA's overall operations and management—for example, costs of accounting, insurance, office management, auditing, human resources, general legal services, and other centralized services; and,

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<sup>1</sup> This resulted in about 90 cents of every dollar received by FFLA being distributed in the forms of grants, awards and program related expenses.

- fundraising expenses—including costs for publicizing and conducting fundraising campaigns, maintaining donor mailing lists, conducting special fundraising events, and any other activities that involve soliciting contributions<sup>2</sup>.

Generally, administrative expenses and fundraising expenses make up a nonprofit's "operating expenses."

In addition to fixed and variable office operating expenses, some typical examples of expenses incurred in connection with the development, acceptance, and management of funds received include:

- Accounting and auditing expenses;
- Employee and supervisor time for donation processing and acknowledgment;
- Insurance and security services expenses;
- Expenses associated with awarding grants and monitoring results;
- Fundraising and solicitation of funds expenses;
- Investment-related fees and expenses;
- Merchant and Vendor fees (i.e. mailing lists, fundraising and development software, credit card and banking fees, etc.);
- Printing, publishing and postage costs; and,
- Software and database expenses related to online and electronic development, acceptance and management activities.

## **DEFINITIONS**

For purposes of interpreting and applying this policy, the following definitions apply:

*Gifts* are funds or other things of value that are donated to FFLA and meant to be used in a manner consistent with the mission of FFLA.

*In-Kind Gifts* are contributions of goods or services, rather than gifts of cash or stock.

*Endowment Gifts* are donations made to FFLA designated explicitly to the Florida Bar Foundation's Endowment Trust, a 501(c)(3) Supporting Organization to FFLA. Fellows' pledges are an example of endowment gifts.

*Unrestricted Gifts* are all donations to FFLA not designated for or subject to a special purpose or program area.

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<sup>2</sup> IRS Form 990.

Restricted Gifts are those donations where the donor has restricted their use to a specific purpose or for the benefit of existing FFLA grant programs and activities the Board of Directors has previously approved, such as Children's Legal Services. These donations are subject to specific administrative and/or use requirements agreed to by the donor and the FFLA at the time the Gift is made. Examples include the Alan B. Bookman Memorial Fund and the Bank of America Legal Settlement. These gifts generally have long-term or perpetual payouts and typically include an agreement with specific terms associated with their administration.

### **SCHEDULE OF EXPENSES FOR THE DEVELOPMENT, ACCEPTANCE AND MANAGEMENT OF GIFTS RECEIVED**

The Board of Directors is responsible for reviewing, approving, and establishing an annual operating budget for FFLA. It does so with the intent of keeping administrative and operating expenses as low as possible while ensuring adequate resources to allow FFLA to carry out its mission while promoting the ongoing sustainability and financial well-being of the organization.

FFLA's annual budget, along with the current allocation of program, administrative, and fundraising expenses, as well as its annual Consolidated Financial Statements, are posted online and also available upon request.<sup>3</sup>

To ensure its financial sustainability, FFLA will retain a portion of donors' cash gifts, both unrestricted and restricted, to pay administrative and operating expenses. FFLA Board has discretion on the amount that shall be retained. No amount shall be retained on Gifts that expressly prohibit such retainment, provided, however, FFLA reserves the right to refuse such Gift if it determines that acceptance of the gift would work an undue financial hardship on it.

FFLA pays its bills with some of the Gifts, understanding that it is a steward of the money and charged with reasonable and responsible spending. FFLA is audited annually, and its budget, tax returns, etc., are always open for inspection. FFLA adheres to the donor's bill of rights and reiterates its corporate gift acceptance policy, both of which are attached.

Any donor who wishes to discuss the retention amount for their Gift is welcome to contact FFLA to discuss and determine a mutually agreeable and appropriate retention amount for the Gift. All Gifts are deemed accepted after five (5) days of the funds being received.

Endowment gifts will go directly to the Florida Bar Foundation Endowment Trust. No portion of the Gift will be retained for administrative or operating expenses, except fees paid to third parties to maintain the Endowment.

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<sup>3</sup> <https://fundingfla.org/about-ffla/ffla-finances/>

**EXCEPTIONS**

All exceptions to this Policy must be reviewed by the Development / Pro Bono Committee and approved by FFLA's Board of Directors. Exceptions to this Policy should be granted in only the rarest of circumstances and should be generally limited to situations where there is reasonable potential for developing a substantial long-term funding relationship with a donor and the Gift's designated use is compatible with FFLA's mission.

**APPLICABILITY**

Except as otherwise provided, this Policy applies to all Gifts received by FFLA.

**EFFECTIVE DATE**

This policy shall take effect immediately upon adoption by FFLA's Board of Directors and shall be prospectively applied only to gifts, donations and other contributions made or received after such date. It replaces and supersedes any proceeding policy concerning this subject matter.

**AMENDMENTS**

This Policy may from time to time, be reviewed by the Development / Pro Bono Committee, which may make recommendations for amendments to this Policy to FFLA's Board of Directors. Amendments shall only be effective upon specific approval of the Board of Directors.

**REFERENCES AND SOURCE MATERIALS**

Attachment A: Donor Bill of Rights, adopted by FFLA 2015

Attachment B: Florida Bar Foundation Gift Acceptance Policy 2001, Rev. 3.2010

Attachment C: Foundation Example-DC Bar Foundation Annual Report 2020

Attachment D: Foundation Example-MacArthur Foundation Indirect Cost Policy

Attachment E: Foundation Example-Massachusetts Bar Foundation Annual Report 2020

Attachment F: Foundation Example-Ohio Bar Foundation Annual Report 2019

Attachment G: Foundation Example-Red Cross Financial Statement 2020

Attachment H: Foundation Example-Texas Bar Foundation Annual Report 2021

Attachment I: Foundation Example-Walden Family Services Gift Acceptance & Administrative Policy 2013

Attachment J: Foundation Example-WestPoint Graduates Gift Policy & Procedures Manual 2021

Attachment K: Article-Overhead, California Association of Nonprofits 2022

Attachment L: Article-Nonprofit Starvation Cycle-Stanford Social Innovation Review 2009

Attachment M: Article-Overhead Myth What's All The Fuss About – Qgive

Attachment N: Article-Administrative Fees, Council of Foundations

Attachment O: Article-Nonprofits May Need to Spend a Third of Their Budget on Overhead To Thrive

Attachment P: Article-BBB Standards for Charity Accountability

Attachment Q: Article-How Forbes Picked Americas Top Charities for 2019

Attachment R: IOLTA Handbook 2020

Attachment S: Understanding & Evaluating Your Fundraising Strategy Toolkit