

SD Mines Foundation Policy Manual

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SECTION 1: GENERAL INFORMATION

The South Dakota School of Mines and Technology Foundation

The South Dakota School of Mines and Technology Foundation (SD Mines Foundation) is a private, not-for-profit corporation, originally named the South Dakota School of Mines and Technology Endowment Association. The Endowment Association was chartered April 21, 1954, under provisions of the State of South Dakota to function as the legal conduit for the acceptance, investment, management, and distribution of private gifts given for the funding of activities and programs related directly to the mission, role, and scope of the South Dakota School of Mines and Technology. The Restated Certificate of Incorporation under the new name of South Dakota School of Mines and Technology Foundation was completed on June 9, 1980.

As approved on November 10, 2015, the South Dakota School of Mines and Technology Foundation also does business as SD Mines Foundation. This change was made so the name of the foundation is consistent with the naming convention used by the university.

The Mission of the SD Mines Foundation

The foundation exists to develop and manage private resources to support the mission and priorities of SD Mines, to support the needs of students, faculty and staff and to contribute to institutional excellence.

Gifts may include cash, property (real and otherwise), securities, life insurance policies, bequests, trusts, life income agreements, and gifts-in-kind. Gifts, which are accepted, are administered according to the stipulations of the donors on behalf of the School of Mines. Unrestricted gifts are distributed upon the approval of the SD Mines Foundation Board of Trustees.

The U. S. Internal Revenue Service has ruled that gifts to the SD Mines Foundation are deductible for federal income tax purposes (subject to statutory limitations) and for federal estate and gift tax purposes. The foundation is a tax-exempt entity under Section 501(c)(3) of the Internal Revenue Code. Their records also indicate the SD Mines Foundation is not a private foundation within the meaning of section 509(a) of the Code as described in section(s) 590(a)(1) and 170 (b)(1)(A)(vi).

The foundation functions as a fiduciary entity on behalf of the donor of a gift and the university program or activity to be funded by the gift. A Board of Trustees administers the affairs of the foundation. The foundation is completely separate from, and independent of the Board of Regents of the State of South Dakota.

Structure of the Foundation

A volunteer Board of Trustees governs the SD Mines Foundation. The trustees are elected from a slate of nominees submitted to the trustees by the Governance Committee. The Governance Committee Chair must be a trustee and is appointed by the Chairperson of the Board of Trustees. The Governance Committee Chair appoints members to the Committee which shall be no fewer than three (3) members and with at least one other member being a trustee.

The day-to-day management of the foundation is the responsibility of the President of the SD Mines Foundation. The President of the SD Mines Foundation reports to the Board of Trustees on all matters concerning foundation business. The Board of Trustees has the authority to appoint such person as President of the SD Mines Foundation as the Board deems appropriate.

The Board of Trustees determines the policy operations of the SD Mines Foundation guided by the foundation's bylaws. Committee purpose and responsibilities are detailed in the specific committees' specifications. Committees are utilized with the following committees in place:

EXECUTIVE COMMITTEE – The primary purpose of the Executive Committee (the “Committee”) is to take action on time- sensitive and other urgent matters when the SD Mines Foundation Board of Trustees (the "Board") is not in session, and as provided in Section IV. The Committee works closely with the Board of Trustees and is delegated the authority to govern the business and affairs of the Foundation on behalf of the Trustees as needed between Trustee meetings in all matters with the exception of modifications of the Bylaws and Articles of Incorporation.

AUDIT COMMITTEE - The primary purpose of the Audit Committee (the “Committee”) is to review the annual accountant-prepared audit of the SD Mines Foundation (the “Organization”). The review is designed to provide the Board of Trustees (the “Board”) with oversight on the business processes and controls that mitigate financial risk to the Organization, and to ensure that financial and regulatory reports prepared by the Organization management are accurate and both fairly and fully report the results of Organization's financial activities.

COMPENSATION AND HUMAN RESOURCES COMMITTEE - The primary purpose of the Compensation and Human Resources Committee (the “Committee”) is to take action on compensation and other human resources issues for approval by the SD Mines Foundation Executive Committee (“Executive Committee”) or the SD Mines Foundation Board of Trustees (the "Board"). The Committee leads the annual review for the President and makes recommendations for the contract of the President based on this review and based on a review of comparable salaries of foundation presidents and CEO's in accordance with Federal and State law and organizational best practices.

INVESTMENT COMMITTEE - The primary purpose of the Investment Committee (the “Committee”) is to oversee the successful and prudent operation of the investment portfolio management process and the foundation Investment Policy. The committee works closely with staff and professional advisors to review and analyze investment allocation and performance at least quarterly. The Committee reports on performance to the Board of Trustees and/or the Executive Committee, and recommends adjustments in the investment

program. Please refer to the SD Mines Investment Policy Statement (IPS) for more information.

FUNDRAISING AND OPERATIONS COMMITTEE - The primary purpose of the Fundraising and Operations Committee (the “Committee”) is to advise the SD Mines Foundation Board of Trustees (the “Board) regarding matters related to donor development and operational planning and metrics.

GOVERNANCE COMMITTEE – The primary purposes of the Governance Committee (the “Committee”) are to advise the SD Mines Foundation Board of Trustees (the “Board) regarding matters related to organizational development and to identify and nominate candidates to fill Board vacancies.

Staffing the Foundation

The foundation may employ salaried and part-time staff as needed to carry out its operations and activities. The Foundation President reports directly to the Chair of the Board of Trustees and the Executive Committee. This staff person is responsible for the day-to-day operations of the foundation as directed by the Board of Trustees.

The President of the SD Mines Foundation is charged with implementing the goals identified by the Board of Trustees through its policies and procedures. In addition, the President of the SD Mines Foundation may exercise his/her professional judgment with regard to action in all matters not specifically covered by these policies and procedures.

Other staff and officers may be appointed from time to time, including Vice Presidents. Any officer appointment shall be approved by the Board of Trustees.

Board of Trustees Qualifications and Responsibilities

Overview

The SD Mines Foundation was incorporated in 1980 for the purpose of accepting, holding and managing significant private financial gifts designed to support the programs, special needs, and other enhancements of the School of Mines. In conformance with that purpose, individuals are elected to serve voluntarily as members of the foundation Board of Trustees. Each selection so made anticipates that each trustee's personal commitment and influence with others will serve to ensure the growth and success of the foundation and thereby augment the quality and reputation of the university.

The ***SD Mines Foundation Trustee Membership Selection Guidelines*** document identifies the specific attributes for trustee selection.

The ***SD Mines Foundation Board and Member Expectation*** document identifies specific trustee expectations.

Term of Office

Each trustee shall be elected for a four (4)-year term. Upon completion of the trustee's term of office, the Board of Trustees may, but is not required, to consider such person for reelection to another term. Board of Trustees members are limited to serving no more than three (3) consecutive terms and will be ineligible for another term until an interval of one (1) year has elapsed.

Reciprocal Commitment

The success of the SD Mines Foundation in securing support from alumni, parents, friends, corporations, and foundation is vested in the commitment of the volunteer Board of Trustees. In recognition of the unique demands on these volunteers, all elected trustees are assured of a strong and reciprocal commitment from the foundation staff to provide the information and expertise necessary for implementation of or follow through on initiatives stimulated through voluntary effort.

Indemnification Statement

The SD Mines Foundation shall, to the extent legally permissible, indemnify each person who may serve or who has served at any time as an officer, trustees, or employee of the foundation against all expenses and liabilities, including, without limitation, counsel fees, judgments, fines, excise taxes, penalties and settlement payments, reasonably incurred by or imposed upon such person in connection with any threatened, pending or completed action, suit or proceeding in which he or she may become involved by reason of his or her service in such capacity; provided that no indemnification shall be provided for any such person with respect to any matter as to which he or she shall have been finally adjudicated in any proceeding not to have acted in good faith in the reasonable belief that such action was in the best interests of the SD Mines Foundation; and further provided that any compromise or settlement payment shall be approved by a majority vote of a quorum of Board of Trustees who are not at that time parties to the proceeding.

The indemnification provided hereunder shall inure to the benefit of the heirs, executors and administrators of persons entitled to indemnification hereunder. The right of indemnification shall be in addition to and not exclusive of all other rights to which any person may be entitled.

No amendment or repeal of the provisions which adversely affects the right of an indemnified person shall apply to such person with respect to those acts or omissions which occurred at any time prior to such amendment or repeal, unless such amendment or repeal was voted by or was made with the written consent of such indemnified person.

This constitutes an agreement between the SD Mines Foundation and the indemnified officers, trustees, and employees. No amendment or repeal of the provisions which adversely affects the right of an indemnified officer, director, or employ shall apply to such officer, director, or employee with respect to those acts or omissions which occurred at any time prior to such amendment or repeal.

This indemnification does not apply to actions taken by trustees who have resigned, effective with their resignation. Nor will it extend to Board of Trustees members who have been

suspended or put on probationary status by affirmative vote of two-thirds (2/3) of all the members of the Board of Trustees.

Director and Officer Liability Insurance

The SD Mines Foundation maintains in force a Director and Officer Liability Insurance Policy, and provides coverage to individual trustees or officers for any act or omission (subject to standard policy definitions and exclusions) while acting within the scope of their duties as trustees or officers. This policy is reviewed annually along with the other insurance coverage for the foundation.

Federal Law

The Volunteer Protection Act of 1997; Public Law 105-19. The act protects unpaid volunteers acting within the scope of their organizational responsibilities at the time, provided their actions do not lead to criminal misconduct or gross negligence.

South Dakota Codified Laws

47-23-2.1. Liability of director, trustee, committee member, or officer serving without compensation. No director, trustee, committee member, or officer serving without compensation, other than reimbursement for actual expenses, of any corporation organized under this chapter or under similar laws of another state, and which is exempt from taxation pursuant to Section 501(a) of the Internal Revenue Code, 26 U.S.C. Section 501(a) and is listed as an exempt organization in Section 501(c) of the Internal Revenue Code, 26 U.S.C. Section 501(c), or any hospital organized pursuant to chapter 34-8, 34-9, or 34-10 is liable, and no cause of action may be brought, for damages resulting from the exercise of judgment or discretion in connection with the duties or responsibilities of such director, trustee, committee member, or officer while acting in an official capacity as such director, trustee, committee member, or officer, unless the act or omission involved willful or wanton misconduct. The immunity provided by this section applies to any member of an advisory board, serving without compensation, other than reimbursement for actual expenses, of any corporation described by this section.

Source: SL 1987, ch 343, § 1; SL 2006, ch 230, § 1.

Communicating with the Board of Trustees

The ordinary method of communication with the trustees shall be in writing and through regular channels and the appropriate organizational structure.

Requests to make oral presentations to the trustees shall be submitted in writing to the chairperson of the Board of Trustees at least two weeks prior to the meeting at which the matter is to be considered by the trustees. In addition, a written explanation of the purpose for the request must be provided. The chairperson shall determine the appropriate means, whether written or oral, for the requestor to communicate with the Board of Trustees. The Board of Trustees or its designated committee shall consider the request and determine a response as appropriate.

Donor Control

A donor may not retain any explicit or implicit control over the use of a gift after acceptance by the foundation. A donor can suggest a department or area to which the foundation should apply the contribution. However, to be considered a gift for Council for Advancement and Support of Education (CASE) and Council for Aid to Education (CAE) purposes no further involvement on the part of the donor is appropriate after gift acceptance. (Note: This section on donor control does not refer to revocable deferred gifts or revocable or conditional pledges, which remain in the control of the donor until the institution realizes the gift and are countable when reporting to CASE but not to CAE. It speaks to the use of all gifts once they are actually received by the foundation.)

Donors should expect to receive appropriate acknowledgement and to be assured that their gifts will be used for the purposes for which they are given. (See the **Donor Bill of Rights** developed by CASE and other organizations for a full list of donor rights located in the SD Mines Foundation Policy Manual Reference Documents). A donor should not expect to retain any control, actual or implied, over the use of the gift once it has been accepted. Donors and institutions can agree on what area of the institution will benefit from the gift, but the donor cannot direct the hiring of faculty, determine who receives a scholarship, select the architect of a building or dictate the contents of an academic program. The institution must retain full control of its mission and management decisions. In cases where the donor demands control over institutional decisions or expects something inappropriate in return for the gift, such as the admission of a son or daughter or preference in the issuance of a contract, the institution has an ethical responsibility not to accept the gift. In all cases, the integrity and autonomy of the institution must be preserved.

Public Information

The foundation will provide copies of its most recent audited Annual Financial Statement, its most recent completed Internal Revenue Service Form 990, its IRS determination letter, and a roster of the Board of Trustees to anyone who requests a copy. All requests for any information must be in writing showing the date, requestor's name, mailing address and daytime phone number.

Donors may request that an individual gift or all gifts from said donor are to be anonymous. Such requests shall be made in writing to the foundation. Gifts made by donors making this request will be listed as anonymous on all publicly available reports.

Definitions

MEMORANDUM OF UNDERSTANDING (MOU): A document prepared by foundation staff, signed by the donor(s) and the president of the foundation, that specifies purposes and management guidelines for endowed funds; MOU's are permanently held by the foundation.

LETTER OF INTENT (LOI): A document prepared by foundation staff, signed by the donor(s) that specifies intent of non-endowed funds.

PERMANENT ENDOWMENT: A permanent fund, the principal of which is invested for long-term growth and stable income that creates distributions of money from income generated by the fund.

QUASI-ENDOWMENT: A fund established by the foundation or university intended to function as an endowment, except the principal of which may be invaded for the purposes described in the Memorandum of Understanding, which is invested for long-term growth and stable income, that creates distributions of money from income generated by the fund.

TERM-ENDOWMENT: A quasi-endowed fund established by a donor to function as endowment for either a term of years or until the principal balance falls below a set amount. The MOU will set the payout and termination criteria. These funds generally direct more of the earnings to payout and less to maintaining principal.

DONOR DIRECTED FUNDS: Funds may be either quasi-endowed or non-endowed. The MOU provides that the donor have an opportunity each year to recommend transfers to support SD Mines.

NON-ENDOWED: Funds available for expenditure providing immediate support.

GIFTS: All contributions made by donors to the principal of an account, plus any interest and dividends added to the principal prior to reaching the appropriate minimum endowed level.

INCOME: Interest plus dividends plus market appreciation minus market depreciation.

TOTAL RETURN: The total earnings from investments net of money manager fees that are earned by the portfolio holding the Endowment and Quasi-Endowment accounts.

ACCOUNT HOLDER: The person authorized to receive reports for an account, to request information, and funds from that account.

DISTRIBUTION AMOUNT: Distribution amounts are dependent on fund value.

RESTRICTED GIFTS: Gifts made by a donor to a specific area of use.

UNRESTRICTED GIFTS: Gifts made by a donor without specifying an area of use.

Document Control

Document updates will be the responsibility of the following positions. The SD Mines Foundation Policy Manual is approved by the Board of Trustees. Interim changes can be approved by the Executive Committee.

Section	Responsibility
SECTION 1: GENERAL INFORMATION	President
SECTION 2: ACCOUNT MANAGEMENT	Director of Financial Services
SECTION 3: DATABASE AND WEBSITE MANAGEMENT	Database Management
SECTION 4: NON-DEFERRED GIFTS (CURRENT) and NON-CONTRIBUTION TRANSACTIONS	Director of Financial Services
SECTION 5: DEFERRED GIFTS	Director of Planned Giving
SECTION 6: PROPERTY MANAGEMENT	Property Manager
SECTION 7: SCHOLARSHIP MANAGEMENT	Director of Financial Services
SECTION 8: INVESTMENT POLICY	Director of Financial Services
SECTION 9: COLLABORATION POLICY	President
SECTION 10: NAMING POLICY	President
SECTION 11: STAFF AND FOUNDATION BOARD	Director of Financial Services
SECTION 12: SOCIAL MEDIA POLICY	President

SECTION 2: ACCOUNT MANAGEMENT

Establishing a New Account

Any donor, group of donors, corporation, foundation, or official component of the School of Mines may establish an account with the foundation, provided that gifts, grants, and other income to the account are made payable to SD Mines Foundation or to an existing named account within the foundation, and that the basic requirements as to minimum gift amount, intended purpose, and compliance with the mission of the university are met. New student group accounts will be established for groups that are certified through the student activities office.

Once the fund is established, gifts will be accepted into the specified account. Throughout this document, “gift” shall mean: all contributions made by donors to the principal of an account, and – if so specified in the Memorandum of Understanding - any interest and dividends added to the principal prior to reaching the appropriate minimum endowed level. Market appreciation and depreciation is not used to determine the “gift” amount of an endowed account.

New non-endowed accounts may have a signed letter-of-intent with the donor. Donor intent will be documented to insure that fund expenditures are consistent with the donor wishes.

Every new permanent endowment, term endowment, or quasi-endowment account established in the foundation should have a Memorandum of Understanding, which is to be created prior to or at the time the new account is initiated. The Memorandum of Understanding permanently guides the use of gifts and distribution from the endowment. The purpose specified in the Memorandum of Understanding may only be changed with the written consent of the original donor signatories and the president of the foundation. In the unlikely event should it ever become impossible or impractical to use the gift for the purpose specified in this document, the foundation may, at the discretion of the Board of Trustees, direct the fund to support a purpose(s) that is deemed to be most consistent with the wishes of the donor) and, if possible, in consultation with the donors.

Endowments in the foundation may also be created by adequately funded planned or deferred gifts. All planned or deferred gifts to the foundation should be identified by a specific reference in the donor's will, trust, or other legal document. A copy of the appropriate document(s) referencing the gift, or a reasonable substitute, should be supplied to the foundation.

All gifts establishing a specific endowed fund with the foundation must meet the minimum level required for that type of fund within five (5) years of the effective date of the Memorandum of Understanding governing the fund. If an insufficient amount of gifts, contributions, and reinvested net income has accumulated by the end of this five (5) year period to completely endow the account, the donor will be consulted (if possible) and a strategy for fully funding the endowment will promptly be agreed upon. If funding the endowment cannot be achieved, all

funds received may be transferred to the SD Mines Foundation Unrestricted Endowment or another fund specified by the Board of Trustees of the foundation, and the specific endowed fund created by the donor(s) shall cease to exist.

Exceptions to this policy may be discussed on a case-by-case basis with the president of the foundation prior to the end of the funding period.

Types of Accounts

Permanent Endowment Accounts

- Established when the donor has stipulated that only a portion of the proceeds from the gift may be spent. (See Spending Policy section.)
- These accounts are established through execution of a Memorandum of Understanding (MOU), which is signed by the donor(s) and the president of the foundation; the MOU binds the Foundation and the School of Mines to certain actions and specified uses of the gift(s).
- Gifts are invested for total return in one of the portfolios. (See Investment Policy section.)
- A fee may be charged against the account based on the market value of the account. (See Fees Charged to Accounts section)
- A minimum of \$30,000 in gifts must be received by any Permanent Endowment account before distributions will be made, usually within no more than a five (5) consecutive year period.
- Endowments are managed under the direction of the Uniform Prudent Management of Institutional Funds Act (UPMIFA) to provide an annual payout to support the purpose of the endowment and to preserve the purchasing power of the fund.
- Gifts to Permanent Endowment funds are maintained in perpetuity. In the event that market conditions produce investment returns insufficient to make the intended fund award, the SD Mines Foundation Board of Trustees may determine it necessary to temporarily decrease the fund value to make the award. If this situation arises, the SD Mines Foundation is committed to restoring the fund value from future earnings as part of its commitment to preservation and growth.

Quasi-Endowment Accounts

- Quasi-endowment funds are invested in the same portfolios as Endowments, are exposed to market valuation changes, have distribution calculation amounts. Funds were endowed by the foundation rather than by donor instruction/preference and will remain endowed unless the foundation board removes the endowment provision.
- A fee may be charged based on the market value of the account (See Fees Charged to Accounts section)

Term-Endowment Accounts

- Term-endowment funds are invested in the same portfolios as Endowments, are exposed to market valuation changes, have distribution calculation amounts, and the

principal is accessible for payout. Term endowments are held for specific period or until a specific occurrence, after which the principal and/or accumulations may be expended or utilized as specified in the MOU

- May be established when the donor has stipulated the use or distribution policy for the gift, which may include all or a part of the original gift, but feels that the growth potential of an endowment investment pool is appropriate
- A fee may be charged based on the market value of the account (See Fees Charged to Accounts section)
- A minimum of \$30,000 of gifts must be received by any new term-endowment account before distributions will be made

Non-Endowed Accounts

- Funds are placed in the SD Mines Foundation's investment management program
- Funds are available for distribution immediately
- All reporting is on a monthly basis
- Disbursement Authorization forms requesting payment must be received by the end of the working day on Fridays to produce a check by noon on Wednesdays
- Disbursements from these accounts are limited to the available funds in the account after income and fees are processed; deficit spending is not allowed

Account Holders

Every account established in the foundation shall have one primary "account holder" assigned to it. In the absence of an assigned account holder, the head of the academic unit or the President of the School of Mines (if a non-academic unit) is authorized to serve as the account holder until such time as a regular account holder may be identified.

Account holders generally must be full-time faculty or full-time staff currently employed at the university.

Account holders and signature proxies (staff-assigned in writing by the account holder to assist with the management of their account) are the only persons authorized to request distributions from any specific account managed by the foundation (see withdrawals from accounts section), or to direct funds to be transferred to any university account or individual. Account holders and signature proxies will have access to all statements and correspondence from the foundation regarding their specific account(s). Account holders are responsible for all management and record keeping for funds disbursed to them by the foundation once they receive those disbursements.

It is understood that the intent of the donors, the foundation Board of Trustees, and the SD Board of Regents, that all gifts entrusted to the foundation for the benefit of the university are to be properly managed. To this end, university staff members in charge of operating units are responsible for the proper and efficient management of activities within their units. These staff may, upon written notification to the foundation, designate certain alternate individual members of their staff to serve as Account Holder for specific accounts. This would be in response to retirements, reassignments, deaths, or other mitigating circumstances.

Obtaining Funds from Accounts

Withdrawals of Amounts from Endowment Accounts

- Permanent endowment accounts are designed to produce distribution amounts for use in such long-term activities as scholarships, fellowships, professorships and chairs.
- Withdrawals of distribution amounts are normally available:
 - after the minimum endowment level has been achieved through gifts and permanently reinvested amounts, and
 - after having reached the minimum endowment level for twelve (12) consecutive full months, and
 - in accord with the Memorandum of Understanding for the account.

Withdrawal Requirements (ALL ACCOUNTS)

- Funds may be withdrawn by check as directed or transferred to any SD Mines Foundation or School of Mines account.
- All withdrawals will occur after a Disbursement Authorization signed by the account holder is received by the foundation along with appropriate documentation.
- Disbursement authorizations must be received by the foundation by the end of the day on Fridays to be processed by noon on the following Wednesdays.
- Requests received by the foundation after the end of the day on Fridays will be processed during the following week.

Spending Policy

The Board of Trustees of the SD Mines Foundation utilizes the following procedures to distribute funds to the account holders of the various endowment funds under its management.

It is the philosophy of the Board of Trustees that stable distributions should be made available to account holders for the purposes described by the donors of the funds. Distributions of this nature should be made available perpetually. Distributions should be insulated from severe fluctuations in periodic investment returns as much as possible. Distribution amounts are dependent on fund balance.

The Board of Trustees establishes spending and investment policies to support the current and future operations of SD Mines and to preserve the purchasing power of endowments.

Currently, payout is calculated using a 12-quarter moving average to provide a stable flow of income to the institution. Using this method, earnings will be distributed quarterly based on the balance of each fund at the beginning of the quarter. Payout will be distributed quarterly based on the twelve quarter moving average of the fund times the quarterly payout rate (as determined by the Board).

The current payout rate is 4 percent. Four percent has historically allowed for a periodic payout and also allowed for some growth in the endowment balance.

Fees Charged to Accounts

The Board of Trustees will establish fees to be charged to non-endowed and endowed accounts. These fees are to cover cost of maintaining the funds and to support foundation operations (refer to ***SD Mines Foundation Fee Schedule***).

SECTION 3: DATABASE AND WEBSITE MANAGEMENT

Employees of South Dakota School of Mines & Technology, the South Dakota School of Mines & Technology Alumni Association, the South Dakota School of Mines & Technology Foundation and the Hardrock Club have access to information in a jointly operated unified database (UD) to coordinate and advance the missions of all four organizations in a mutually beneficial way. Details of the policy are contained in:

- ***South Dakota School of Mines & Technology Policy Number I-06***
- ***Unified Database Policy (UDP) dated 2/10/15***

The intention of these policies is to include in the UD personal data such as names, addresses, telephone numbers, and email addresses for individuals and entities; donation histories of individuals and entities; bequests; and donor meeting notes. Similar records may exist in other databases or lists held by SD Mines, Alumni Association, Foundation, Hardrock Club and volunteers, in which cases those records shall be consolidated into the UD and no longer maintained as separate records or databases by those entities or persons. All UD information, including the entire and any partial or complete compilation thereof, is private and proprietary and shall remain so when shared with or provided to other persons or entities. Disclosure of information in the UD that is not authorized by this Policy shall constitute an impermissible release of personal information under South Dakota law. The information in the UD shall remain private property and shall be provided with the protections from public release and unauthorized use. The UD shall be protected to the same or higher standard as other university databases. The data, data compilations, data maintenance, analysis and reporting stratagems associated with the UD are proprietary information and trade secrets, as recognized by South Dakota law, and shall be protected from disclosure by all parties. Authorized access is based upon user position, job title and need to know. Access to the database is defined in the Database Access Table (Exhibit A of UDP). Additionally, the policy sets forth a procedure for individuals without access to request information from the database.

SECTION 4: NON-DEFERRED GIFTS (CURRENT) and NON-CONTRIBUTION TRANSACTIONS

Contributions

The foundation establishes and maintains gift accounts for contributions made through the foundation. All charitable contributions including cash, gifts-in-kind, stock, and private grants are processed in compliance with IRS guidelines. This process includes receipting and acknowledging gift(s).

The foundation tracks pledges for all campaigns. The primary focus for pledges includes phonathons, capital campaigns, and other campaigns. For phonathons, pledges are posted based on the telephone conversation; for all other pledges, written documentation is required.

Non-Contributions

Student groups may make other deposits which do not meet the criteria for tax deductible donations, i.e. fundraisers, dues. These monies are deposited into the same fund as donations; however, no IRS dictated receipting or acknowledgement is necessary. A hand-written receipt is given for bookkeeping and audit purposes. Other examples: event registrations, career fair registrations, conference registrations, ticket purchases.

Professional Counsel

Each donor is encouraged to seek professional advice and counsel about any gift made to the foundation. Members of the Foundation Board of Trustees and SD Mines Foundation staff will not supply professional counsel or advice to donors about tax liability, estate planning, and comprehensive investment planning. Foundation staff will aid donors in examining these issues; they will aggressively encourage donors to seek appropriate independent professional counsel about their personal situation.

Gifts of Cash

Gifts of cash are defined as cash, checks or credit cards and may be made to the foundation at any time and will be accepted as outright contributions.

- **Currency**
Cash should be delivered to the foundation with a notation as to the account name and number for deposit. Donors will receive a hand-written receipt followed by a printed receipt and appropriate IRS acknowledgment. The account holder will receive notification of gift(s). At the end of the calendar year, the gift date is the postmark date on the envelope containing the donation.
- **Checks**
Checks made payable to SD Mines Foundation should be delivered to the foundation, with a notation as to the account name and number for deposit. Donors will receive a

receipt with an appropriate IRS acknowledgment. The account holder for the account will receive notification of gift(s). At the end of the calendar year, the gift date is the postmark date on the envelope containing the donation.

- **Credit Card**
Credit card payments are accepted by phone, email or online. In each case, the credit card is processed through Blackbaud Payment Service's online portal. The gift is recorded in Raiser's Edge and the credit card number is not saved. If timing requires the credit card number to be stored, the number will be secured under lock and key until such time that processing can be done. At the end of the calendar year, the gift date is the credit card processing date.
- **Matching Gifts**
Matching gifts are considered to be contributions. For recognition purposes, matching gifts are included in the initiating donor's total. For tax purposes and year-end donor summaries, matching gifts are not included in the donor total.

Securities (Stock)

Publicly traded stocks and bonds that have current marketable value will be accepted at any time. Valuation of the gift shall be the average of the high and low trade prices of the security on the day it is irrevocably transferred to the foundation. Commission and sales costs will be paid from the proceeds of the sale of the security.

The foundation normally utilizes brokerage houses to handle receipt of all securities gifted to the foundation. Special procedures apply to different types of stock gifts. Donors should contact the foundation for assistance and instructions regarding any gift of securities. The foundation will liquidate all stock upon receipt. Exceptions to this policy must be approved by the Investment Committee and the Executive Committee of the Board of Trustees.

Gifts-in-Kind

A gift-in-kind is a non-cash gift of property other than cash and marketable securities such as computers, lab equipment, books, software, and licenses. It is the policy of the foundation to sell all gift-in-kind donations as soon as possible unless the gift-in-kind is intended for use by a university department, office, or program. Exceptions to this policy must be submitted to and approved of by the executive committee of the foundation Board of Trustees. Property subject to appraisal requirements at the time the gift is donated requires that IRS Form 8282 be completed if the property is liquidated within three (3) years. The consequences of a decision to liquidate this type of gift should be discussed with the donor in advance of the Board of Trustees accepting a gift.

Both the donor and the foundation have certain responsibilities in giving and accepting gifts-in-kind. The statutory basis for these responsibilities is Sec 170(a)(1), United States Code, which states that a charitable contribution is deductible "only if verified under regulations prescribed

by the Secretary of the Department of the Treasury." The foundation follows all IRS guidelines and rules including the proper use of IRS Forms 8283 and 8282.

Depending on the value of the gift-in-kind the IRS requires the donor to obtain a professional appraisal of the property if they intend to claim a charitable deduction for the gift. The foundation does not pay for these appraisals as it is the donor's responsibility. Prior to the foundation accepting these gifts, a department head must verify that they want the property and follow other internal established procedures. The foundation will send an acknowledgement to the donor describing the property donated but will not reference the monetary value of the gift.

Under no circumstances is the Board of Trustees bound to share with any donor its investment decisions or use of any specific asset given as a gift beyond the specifications of the gift agreement document. Under conditions determined by the trustees, discussion of possible uses or liquidation strategies for a gift asset with a donor is advisable.

The foundation may also accept gifts of real estate. See Real Estate section below. Gift-in-kind acceptance procedures have been adopted by the foundation. Refer to ***Gift-in-kind Policies and Procedures***.

Gifts of Real Estate

Gifts of real estate are a type of gift-in-kind requiring attention in addition to that stated above. The foundation may, under certain conditions, accept gifts of real estate when a determination is made that the benefits to SD Mines and the foundation outweigh possible associated risks and liabilities. Factors considered will include environmental matters, soil conditions or other adverse physical conditions, mortgages or liens on the property, maintenance requirements and expense, managerial responsibilities, potential liabilities or dangerous conditions, location, marketability, and exposure to adverse publicity.

Gifts of real property (not shares) must be strategically important to advance the mission of the foundation and school.

Prospective donors of real estate may be referred to the foundation's real estate task force who will perform due diligence including assessment of the factors listed above and any other considerations. The committee will then recommend to the Executive Committee of the Board of trustees that the property either be rejected or accepted under specific conditions. The gift will not be deemed completed or effective unless and until both the Board of Trustees and the donor have agreed to and complied with all conditions of the property transfer.

The ***SD Mines Foundation Property Management Procedure*** document identifies the specific requirements for acceptance of real estate gifts.

Gifts of Service

Although gifts of professional service, volunteer time, or partial interest gifts are valuable to the university, they do not qualify as donations according to the IRS. The foundation may, if

requested, assign a value to these gifts for recognition purposes, but that does not imply that these gifts qualify for a charitable deduction in the same amount or any amount. In every case, it is the responsibility of the donor to substantiate to the IRS the gift value used on his/her tax return.

Other Deposits and Non-Contribution Transactions

Student groups and faculty/staff may make other deposits which do not meet the criteria for tax-deductible donations, i.e. fundraisers, dues, event registrations, career fair registrations, USGS hydrology conference registrations. These monies are deposited under the same policies as non-deferred gifts; however, no IRS dictated receipting or acknowledgement is necessary. A hand-written receipt is given for bookkeeping and audit purposes and the deposit is not recorded on constituent records as a donation.

SECTION 5: DEFERRED GIFTS

Life Insurance

Life insurance policies may be donated to the foundation or simply name the foundation as a beneficiary.

For the gift of a paid-up policy in which the donors name the foundation as owner and beneficiary, donors may receive an income tax deduction based on the lesser of the cash value of the policy, replacement value, or the total premiums paid according to IRS rules and regulations.

If premiums on the policy are still payable, two options may be considered. The donor may stipulate that the assignment of ownership of the policy at its current value is the total charitable gift, and may be surrendered for cash. The foundation may decide to accept an amount of paid-up insurance instead. In either case, the donor is relieved of the obligation to make further premium payments.

The foundation generally will not take on the obligation of making future premium payments; however, in highly unusual special cases it may do so with the approval of the Board of Trustees. The donor may opt to make unrestricted gifts at least annually, which the foundation will use to pay the premiums. The foundation is under no obligation to continue to make premium payments if the donor fails to do so.

Gifts through Wills, Living Trusts, and Testamentary Trusts

Bequests from a properly executed will, living trust, inter vivos trust, or testamentary trust shall be accepted in accord with the donor's wishes and in accord with the mission and purposes of the foundation. The trustees reserve the right to refuse all or any part of any bequest or beneficiary designation that does not serve to further the missions of the School of Mines and the SD Mines Foundation, or for any other reason determined by the trustees. The foundation generally will not serve as executor or trustee through these vehicles. An exception may be possible in situations where the foundation is the sole beneficiary and not likely to be challenged; however, the board must specifically approve for it to do so.

Charitable Gift Annuities

Donors who wish to establish current or deferred charitable gift annuity contracts with the foundation may do so under the following conditions:

- The minimum contribution necessary to establish a gift annuity contract shall be \$10,000.
- The payout rates on all gift annuity contracts shall follow the recommended guidelines established by the American Council on Gift Annuities, or its successor, a not-for-profit organization that sets charitable annuity rates that are approved for use by charitable

organizations by the Internal Revenue Service, unless donor agrees to a lower payout rate.

- Appropriate annual income tax return information will be supplied to the donor and filed with the Internal Revenue Service by the foundation's designee.
- The laws of the state in which the donor resides will be followed in establishing gift annuity contracts. The foundation will issue gift annuity contracts for annuitants living in most states; however, they reserve the right to not issue contracts to annuitants living in states whose requirements are difficult or onerous to meet.

Charitable Remainder Trusts and Charitable Lead Trusts

Donors who wish to establish charitable remainder or charitable lead trusts with the foundation as trustee may do so under the following conditions:

- The minimum asset value that will be considered for any such foundation-managed trust shall be at least \$50,000 with the foundation designated as the remainderman. All trusts managed by the foundation may be charged reasonable management fees according to the approved rates in effect at the time the trust is established.
- The Board of Trustees of the Foundation reserves the right to contract with any third party to serve as a co-trustee or successor trustee of any trust for which the foundation serves as trustee or co-trustee to fulfill any or all management functions. Any resulting management fees will be borne by the individual trust(s) so managed.
- Any charitable remainder trust for which the foundation would serve as trustee must also name the SD Mines Foundation as remainderman of at least 50% with the remainder value benefiting the South Dakota School of Mines and Technology.

Executor Functions

The foundation may, at its own volition, serve as executor or personal representative of estates where the foundation is identified as a major beneficiary. The Executive Committee of the Board of Trustees will determine if accepting proposed executor responsibilities is appropriate or not.

At the sole discretion of the Board of Trustees, all direct and indirect expenses associated with the executor's responsibilities will be borne by the estate, and shall be reimbursed from the estate being managed, or from the proceeds of the liquidated estate.

Trustee Functions

The foundation may, at its own volition, serve as trustee of charitable remainder trusts where the foundation is identified as a major beneficiary.

If the foundation accepts trustee responsibilities for a trust, then the following shall always apply:

- Unless noted otherwise, the laws of the State of South Dakota shall apply.
- The trustee will follow all guidelines for charitable trust administration established by the United States Internal Revenue Code.
- The trustee will be custodian of all original records pertaining to the trust.
- The trustee retains the authority to delegate any or all of the management operations to approved co-trustees, successor Trustees, or approved managers and agents.
- The foundation does not normally pay any legal, accounting, or appraisal costs associated with the establishment of a charitable remainder trust
- The trustee reserves the right to charge reasonable fees to the trust for its annual administrative expenses.

SECTION 6: PROPERTY MANAGEMENT

The SD Mines Foundation will manage (control, use, report as required, preserve, protect, repair and maintain) all properties supplementing the investment portfolio of the foundation. SD Mines Foundation will initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective control of properties according to local and state law. The SD Mines Foundation responsibility extends from the initial acquisition and receipt of property, through stewardship, custody, and use until formally relieved of responsibility.

The ***SD Mines Foundation Property Management Procedure*** document identifies the specific requirements for acceptance of real estate gifts.

SECTION 7: SCHOLARSHIP MANAGEMENT

The SD Mines Foundation will work with the SD Mines Academic Affairs Office for the timely award and reporting of donated funds. The foundation will provide information to Academic Affairs, which shall include funds available and any restrictions on those funds. The Scholarship Committee will award the funds in compliance with donor criteria (department, geographic, class year, academic, athletic, restrictions). Academic Affairs will provide the foundation with a report of awards made, including general student information. A scholarship process document will be maintained between the foundation and Academic Affairs to increase our effectiveness and assist in meeting reporting requirements of both offices.

SECTION 8: INVESTMENT POLICY

The Investment Policy Statement (IPS) is issued to accomplish the stated mission through the establishment of accepted investment vehicles and processes which will generate stable and growing income streams to promote and support education and research at the university (refer to ***SD Mines Foundation Investment Policy Statement***).

The goals of the foundation through the IPS are:

- Provide responsible stewardship of the funds donated to the foundation.
- Maximize investment returns within reasonable and prudent levels of risk.
- Maintain the value of all assets while providing a continuum of support to the university, especially in prolonged down markets.
- Preserve the inter-generational purchasing power of appropriate asset categories.

Investment Philosophy

The primary purpose of the foundation is to serve as the repository for donated funds for the benefit of the university. The foundation's assets support the university in a variety of ways. Some of these are long-term in nature while others have a shorter time frame. Some have a very specific purpose designated by the donor while others can be used in the general support of the university and foundation operations.

Despite the variety of ways that the foundation supports the university from these funds, one overriding principle must be followed; the management of these funds must be accomplished in a prudent manner for the funding purpose.

Abiding by this principle may result in different investment strategies depending on the purpose of the donated gift. As a result, a tradeoff between risk and return is a key element in the policy.

This means, among other things, that the following principles shall be followed:

- Foundation activities must be open and transparent to the public.
- All staff, board members, advisors, and managers must avoid completely any conflict of interest between their dedication to the foundation and any other outside activity.
- All investment decisions must obey a prudent-man rule. The prudent man rule directs trustees "to observe how men of prudence, discretion and intelligence manage their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income, as well as the probable safety of the capital to be invested."
- Investments that involve an extremely high degree of risk are not appropriate for the foundation.
- Competition should be used wherever practical in the selection of investments, managers, advisors, and services.

SECTION 9: COLLABORATION AGREEMENT

The foundation recognizes the importance of working collaboratively with the university, the Alumni Association, and the Hardrock Club. The Foundation Board of Trustees and the Foundation Staff are to conduct business with this in mind.

The Foundation President is instructed to meet regularly and collectively with the leaders of the Alumni Association, Hardrock Club, and the university (as designated by the President) to discuss matters related to the coordination of communication, events, and fundraising.

The foundation may enter into more specific agreements with these above mentioned entities. If so, these agreements will be included in the foundation's operating guidelines and procedures.

SECTION 10: NAMING POLICY

SD Mines and the SD Mines Foundation follow the university naming policy when naming facilities, internal parts of facilities, outdoor spaces and structures, academic honors and programs after donors supporting those purposes and/or personnel for honorary or distinction purposes. Details of the policy are contained in South Dakota School of Mines & Technology Policy Number I-04 Naming of Facilities, Programs and Funded Academic Honors.

The intention of this policy is to uphold the mission and reputation of the university when naming facilities, programs, and funded academic honors in order to maintain equity and consistency while suitably recognizing donors and honorees.

The policy establishes conditions for naming, a process to follow for approving the naming, approval levels required depending on the nature and expense of the project, duration of the naming and appropriate signage as needed.

A University Naming Committee oversees this policy and reviews all naming requests in accordance with the policy. Minimum gift levels are set by the Naming Committee and reviewed every five years in consultation with the SD Mines Foundation and the University Executive Council.

SECTION 11: PERSONNEL POLICY FOR STAFF AND FOUNDATION BOARD

Conflict of Interest

High standards, ethical behavior, personal integrity, and impartiality are inherent to the reputation and ultimate success of the SD Mines Foundation. In keeping with these norms, trustees and foundation staff must refrain from engaging in any behavior that might be construed as self-dealing or in conflict with the mission, goals, and fundamental purpose of the foundation. Examples of such behavior include the following:

- serving on boards of organizations that are in direct programmatic competition with the foundation;
- using the equipment or other resources of the foundation to secure outside personal gain;
- citing participation in the foundation to advance personal, political, or profit-motivated activities;
- marketing services or products to the foundation on a non-competitive basis;
- disclosing to outside parties any plans and other information on the foundation when such information is not readily available to the public;
- leveraging involvement with the foundation to secure favorable rates, discounts, or other preferential treatment; and
- profiting materially through counseling or other instructional activities predicated on skills and knowledge gained through association with the foundation.

The foundation acknowledges that the appearance of conflict of interest does not always imply actual conflict. Policy requires, therefore, that all potential conflicts of interest including memberships in or affiliations with other nonprofit or proprietary organizations, business affiliations with possible vendor implications, elected office at any level, and involvement in any other activity that might be construed as in conflict with the mission, goals, and purpose of the foundation shall be presented in writing to the Chair of the Foundation Board of Trustees and the Foundation's President for purposes of review and possible remedial action.

Such action may include holding the information on file, informing the Board of Trustees of the appearance of conflict of interest, or requiring the trustee to either cease or desist the activity or to relinquish serving as a Foundation Trustee.

Affirmative Action and Anti-Harassment Statement

The SD Mines Foundation adheres to the policies of the university in all facets of its role and responsibilities. The School of Mines policy on Affirmative Action and Anti-Harassment are excerpted below:

“The School of Mines is committed to recruiting and retaining a diverse workforce. The School of Mines is an equal opportunity employer who encourages all qualified candidates to apply for employment, especially candidates in legally-protected classes, and we hire the individual who can best fulfill the requirements of any given position regardless of race, color, creed, national origin, ancestry, gender, sexual orientation, military status, religion, age or disability. The Affirmative Action Council provides advice to the President in the formation and operation of programs and activities to assure that equal opportunities in employment and for access to and participation in the activities of the university without discrimination based on race, color, creed, national origin, ancestry, gender, sexual orientation, military status, religion, age or disability; and the commitment to the objectives of affirmative action, equal opportunity and non-discrimination in accordance with state and federal law, are communicated effectively to members of the university community and the public at large. The council will include at least a member of the faculty, a career service employee, a student, and a non-faculty exempt employee. The Faculty Senate, the Career Service Council, the Non-Faculty Exempt Employees Council, the Student Association and the University Cabinet are invited to nominate persons to serve on this council. The Affirmative Action/EEO Officer who also serves as the Human Resources Director is an ex-officio member of the committee. The Chair will be selected by the President. The School of Mines has a written affirmative action program to achieve prompt and full utilization of minorities, the disabled veterans, Vietnam-era veterans, and women at all levels and in all segments of the work force. The results of the program are to be reviewed annually, and the program is to be modified as necessary to achieve its stated objectives. Hiring procedures for all personnel: faculty, non-faculty exempt employees, career service employees, and student employees (other than work study), are outlined in writing within the Affirmative Action Plan.”

“It is the policy of South Dakota School of Mines and Technology that harassment will not be tolerated. It distracts the harasser, the victim and others from the tasks of the workplace and academic environment; it undermines morale and the psychological wellbeing of the victim; and it leads to expensive litigation and to possible liability. The university has zero-tolerance for harassment, whether it occurs on or off campus, during or after normal business hours, at work-related social functions, or during business related travel. Any employee or student violating this policy will be subject to disciplinary action including termination or dismissal.”

These policies are maintained, interpreted, and implemented by the President of the SD Mines Foundation, with the oversight of the Board of Trustees.

Whistleblower Policy

The foundation will investigate any possible fraudulent or dishonest use or misuse of foundation resources or property by faculty, staff, or students. Anyone found to have engaged in fraudulent or dishonest conduct is subject to disciplinary action up to and including dismissal or expulsion, and civil or criminal prosecution when warranted. All members of the foundation community are encouraged to report possible fraudulent or dishonest conduct (i.e., a whistleblower). An employee should report his or her concerns to a supervisor or manager. If for any reason an employee finds it difficult to report his or her concern to a manager or supervisor, the employee can report it directly to the Chairperson of the Board of Trustees.

Managers or supervisors are required to report suspected fraudulent or dishonest conduct to Chairperson of the Board of Trustees.

Drug and Smoke Free Environment

The SD Mines Foundation adheres to the Board of Regents drug-free workplace policy. This policy strictly proscribes the unlawful manufacture, distribution, dispensing, possession or use of controlled substances by board employees and agents while on duty or while in any workplace controlled by the board. For purposes of this proscription, the workplace shall include premises and vehicles owned and controlled by the board and other premises and vehicles when used by the board of education, research, service, or other official functions. Any person violating this proscription shall be subject to appropriate disciplinary action, which may include termination of employment.

The foundation adheres to the State of South Dakota Office of the Governor Executive Order 92/10 and the Board of Regents policy on smoking. This policy prohibits smoking in all facilities except for dorm rooms. Smoking is permitted outdoors.

Professional Conduct

The SD Mines Foundation expects employees to conduct themselves in a professional manner. Employees are expected to be courteous, promote team spirit, anticipate and meet customer needs, participate in improving the quality of work. Employees should know the structure, philosophy and purpose of the organization. Employees must maintain confidentiality concerning clients and coworkers. Any breach of confidence is grounds for dismissal.

Employee Benefits

The SD Mines Foundation provides group insurance benefits for employees working greater than 30 hours or more per week (not on a temporary basis). This includes medical, dental and a term life insurance policy. The foundation pays 100% of the employee only premium.

Permanent full-time employees participate in the foundation's 403 (b) defined contribution plan. Employee contributions of 3%, 4% or 5% are matched by the foundation. Employees currently have a choice between Fidelity or TIAA-CREF.

The foundation's cafeteria plan (funded with pre-tax employee dollars) includes dependent health insurance coverage, dependent dental insurance coverage, AFLAC supplemental insurance, 403 (b) deferred supplemental savings, medical and daycare reimbursement.

Foundation employees have been hired under two different leave plans: 1) paid-time-off or 2) vacation/sick leave. The vacation/sick leave plan was established when the foundation became a separate organization for payroll in the 1980s. This plan was structured to follow the Board of Regents plan. The paid-time-off plan was instituted in 2012 for new hires.

Administrative leave will be granted when the foundation closes due to inclement weather, power outages, civil disturbance, or other unavoidable circumstances. Employees shall receive compensation for the hours they would normally have worked with no loss of leave. When an office remains open and an employee is not able to reach the work site, the employee must use leave, paid-time-off or vacation, or leave with-out-pay for those hours.

Holidays

The SD Mines Foundation follows the same holiday schedule as the SD Board of Regents.

SECTION 12: SOCIAL MEDIA POLICY

All content posted on foundation social media sites should be appropriate, respectful and work related. Types of appropriate content can include, but is not limited to information associated with the university, foundation, alumni association, athletics, events, professional skills and STEM-related topics. At no time should they disclose confidential information and they must always respect donor privacy.

Staffs are reminded that they are personally responsible for the content published on blogs, wikis, websites, social networks or any other form of user-generated media.