

NMHU Foundation Use of Funds Policy
Approved by NMHU Foundation Board of Directors July 11, 2018

I. Purpose

The purpose of the NMHU Foundation Use of Funds Policy is to define and clarify the process and guidelines for use of all NMHU Foundation Funds. This policy is intended to work in coordination with the NMHU and NMHU Foundation Advancement Policy, as well as other NMHU and NMHU Foundation policies, in addition to all applicable laws, regulations, advisory or letter rulings, or other precedent or guidance. This policy is also intended to reflect best practices, and the NMHU Foundation's fiduciary responsibilities related to donor funds.

II. Types of Funds

The NMHU Foundation maintains three types of donor funds:

- a. Unrestricted Funds – these funds are given to the Foundation without any restriction or designation from the donor, other than that the funds be used for purposes related to the University or Foundation. These funds accrue to the Foundation through charitable donations, event proceeds, and other operational income of the Foundation. The NMHU Foundation approves annually a budget reflecting the projected revenue and expense related to these kinds of funds, and has the authority to designate use of all unrestricted fund expenditures.
- b. Restricted – these funds are given to the Foundation with a restriction or designation from the donor which permits use of the funds only for a particular purpose, and does not place any prohibition on use of the principal of the gift. These funds are typically used on an annual or project basis. Examples are: athletics, academic departmental funds, funds for a particular project, matching donations, grant funds, etc. Compliance with the donor restrictions that may be placed on any particular donation or fund is the responsibility of the NMHU Foundation Board of Directors.
- c. Endowment - these funds are given to the Foundation with a restriction or designation from the donor which permits use of the funds only for a particular purpose, and also places a prohibition on use of the principal of the gift, directing the Foundation to only use the earnings generated by the gift in any given year. These funds are invested in accordance with the NMHU Foundation Investment Policy Statement, and endowed funds are overseen by the NMHU Foundation Finance Committee and the NMHU Foundation Board of Directors.

The NMHU Foundation Board of Directors has the authority and responsibility for all Foundation funds, regardless of the type of fund. Once funds are deposited at the Foundation, they become the assets of the Foundation and are no longer the property of the donor or depositor.

III. Deposits and Donations to Foundation Funds

The Foundation can only accept charitable contributions, fundraising event proceeds, and operational revenue of the Foundation for deposit into Foundation funds. Revenues from activities such as ticket sales, concession sales, contractually obligated payments, or other non-charitable revenue cannot be accepted for deposit into a Foundation fund. The NMHU

Foundation cannot pay gross receipts tax or other taxes inconsistent with its status as a 501(c)(3) tax-exempt charity on any funds deposited at the Foundation.

The Foundation may receive grant awards and other revenue from both public and private grantmaking organizations. The Foundation Executive Director and Vice President of Advancement, in collaboration with the Provost or Assistant Provost, will determine whether grant proceeds are appropriately directed to the Foundation, or to the University.

IV. Fund Creation and Contributions

Creation of a Foundation fund is authorized by the Foundation Executive Director and Vice President of Advancement, and is typically done upon receipt of a qualifying charitable contribution. NMHU faculty, staff, students, or other employees seeking to create a fund into which contributions may be received must contact the Foundation for authorization, must complete all required forms, and must submit all requested documentation. Typically, new funds are only created where contributions are expected to exceed \$500 annually, and where no other existing fund can be appropriately used to receive the donations expected. Otherwise, restricted donations and accompanying expenses may be handled on an ad-hoc basis, or through the general or unrestricted funds of the Foundation.

Contributions can be received into existing Foundation funds without prior notice, so long as the fund receiving the contribution has requirements aligning with those the donor has placed on the incoming contribution, as determined by the Foundation Executive Director and Vice-President of Advancement.

V. Authorized Signatories

Expenditures from all funds require the documented approval of an authorized signatory for the applicable fund.

- a) Unrestricted funds are authorized by the signature of the Foundation Executive Director and Vice President of Advancement, with the oversight and consent of the NMHU Foundation Board of Directors, and in accordance with the bylaws of the Board. Typically, expenditures from unrestricted funds are authorized through an annual budget process of the Board of Directors, and the NMHU Foundation Budget Committee.
- b) Endowment Fund expenditures are governed by the NMHU Investment Policy Statement and overseen by the NMHU Foundation Finance Committee and Board of Directors. Expenditures are authorized by the signature of the Foundation Executive Director and Vice President of Advancement, with the oversight and consent of the NMHU Foundation Board of Directors, in accordance with the bylaws of the Board.
- c) Restricted Fund expenditures must be authorized by a full-time staff or faculty member of NMHU. Contingent faculty members, students, or part-time, temporary, contracted, or seasonal staff cannot serve as authorized fund signatories.

- d) If documented donor designations, directives or restrictions specifically and explicitly require the recommendation of a donor, staff, faculty, coach, or other person, that person shall make said recommendation in writing, which then shall be forwarded to the authorized signatory on the fund, and included in the documentation authorizing expenditures from the fund.
- e) Each fund must have at least two (2) qualifying authorized signatories. Should a fund have only one signatory, the appropriate Dean or Vice-President in the area of the fund expense can serve as a signatory for any restricted Foundation fund, at the discretion of the Foundation Executive Director and Vice-President of Advancement.
- f) Expenses cannot be self-authorized. An authorized signatory other than the expense payee must authorize all expenses from Foundation funds. Expenses also cannot be authorized by a close relative (spouse, parent, child, aunt/uncle, niece/nephew, brother/sister, first cousins, etc.) of the expense payee.
- g) Any authorized signatory may be removed for any reason at the sole discretion of the Foundation Executive Director and Vice President of Advancement, in consultation with the Foundation Board of Directors.

VI. Allowable Disbursements and Expenditures

All Foundation funds typically must be used for charitable support of the NMHU Foundation or NMHU. The following uses of any Foundation Fund will not be permitted, including but not limited to:

- a) Personal use, such as mileage reimbursement for personal travel, medical bills, legal fees, or rent;
- b) For expenditures on which any type of federal, state, local, or other certain taxes must be withheld, for example, reimbursement of moving expenses for an incoming NMHU employee, wages, benefits, or other compensation. However, these expenditures may be reimbursed to MNHU upon the approval of the Foundation Executive Director and Vice-President of Advancement, but Foundation funds must be disbursed to the NMHU Business Office, upon written request from the Business Office, which shall contain verification that the donor requirements are met, and all documentation of the expense requested by the Foundation. The Business office shall then, in consultation with Human Resources, determine the amount and type(s) of tax to be withheld and will be responsible for actual withholding of said taxes and payment to the appropriate tax authority;
- c) To benefit a single individual, such as paying expenses for tuition or fees of an individual student, or repair of student-owned equipment or items. Please note - scholarship and student emergency funds are an exception to this rule, and follow the appropriate IRS guidelines;
- d) Non-University or Non-Foundation use, such as support of another organization, whether if it is a private, corporate, public, or non-profit organization. Limited exceptions to the extent that

they are consistent with IRS guidance and the Patriot Act, may be authorized by the Foundation Executive Director; and,

- e) Any purpose not permitted by law, regulation, University or Foundation policy, procedure, or practice; any use not consistent with the charitable mission and IRS 501(c)(3) determination of the NMHU Foundation; or, any other use specifically prohibited at the direction of the Foundation Executive Director and Vice-President of Advancement, in consultation with the NMHU Foundation Board of Directors.

VII. Check Request Process

Disbursements from any Foundation fund must be made by use of the current Foundation Check Request Form (attached as Appendix A). The form must be completed, and all documentation requested by the Foundation submitted with the check request (see Documentation Requirements, below, for commonly occurring documentation needs). Check requests must be submitted at least ten (10) calendar days in advance of the date of payment. The NMHU Foundation will not seek out documentation in support of a check request submitted to the Foundation; appropriate documentation and submission related to check requests is the exclusive responsibility of the requesting party.

VIII. Documentation Requirements

All documentation requested by the Foundation must be submitted along with a check request, in order to receive a disbursement from a Foundation Fund. This documentation may include, but is not limited to:

- a) A completed and authorized Travel Request Form, where disbursement from a Foundation fund is requested to reimburse any travel-related expenses, whether they may be of a NMHU student, staff, or faculty member, or for prospective students, visiting families, or other non-NMHU employees or students;
- b) Receipts reflecting expenses paid personally and where disbursement from a Foundation fund is sought as reimbursement of said expenses; no informal receipts shall be accepted, and the Foundation Executive Director and Vice-President of Advancement shall have the sole discretion to require documentation in addition to or instead of any receipt submitted; receipts associated with reimbursement requests must reflect the name of the payee as payor of the receipted expenses;
- c) Invoices reflecting contracted-for and/or due and payable charges where disbursement from a Foundation fund is sought to directly pay a vendor. Each vendor must also have submitted a complete and fully executed IRS Form W-9 to the Foundation. Where payment is to be made pursuant to a contract with a vendor, a copy of the contract must be submitted. Invoices must be on vendor letterhead and must state the official business name, address, telephone, and email address of the vendor; and,

- d) The Foundation Executive Director and Vice-President of Advancement, in consultation with the NMHU Foundation Board of Directors, reserves the right to decline reimbursement of any request where all requested documentation is not submitted to the Foundation in a timely manner.

IX. Special Situations

The following should be kept in mind for situations that may arise in the course of use of Foundation Funds:

- a) Payees receiving disbursements from the Foundation whose residence or business address is outside the United States and its territories must complete either a W-9 or W-8 form prior to receipt of any payments from Foundation funds;
- b) Cash advances are not made from Foundation funds;
- c) Scholarship payments, stipends, internship funding, and any other payments intended to offset expenses related to a student's attendance at NMHU (fees, books, etc.) shall be disbursed directly to a student's account at NMHU from the Foundation, unless otherwise authorized by the Foundation Executive Director and Vice-President of Advancement;
- d) All disbursements must be requested no later than within fifteen (15) business days of the end of the NMHU and NMHU Foundation fiscal year (June 30th). Requests for disbursements made or incomplete later than fifteen (15) business days after the last day of the fiscal year (June 30th) shall be refused, and the NMHU Foundation shall not be liable or responsible for any payments or reimbursements not requested in accordance with this policy.
- e) Student club and organization funds shall not be maintained where the club or organization is not officially chartered with the University for two consecutive years. In the event that the student club or organization fund has a balance at the end of the two consecutive years in which the club or organization has not been officially chartered with the University, that balance shall be moved to the Student Emergency Fund maintained at the Foundation and used in a manner consistent with the guidelines of that fund. No funds will be returned to a student club or organization fund in the event the club or organization re-charters after two consecutive years of not being chartered.

X. Uses of Restricted Funds

The Foundation must honor any restrictions placed upon a fund by contributing donors; because of this obligation, the Foundation requires documentation that uses of any restricted fund align with the donor restrictions. This documentation varies from fund to fund, and shall be determined by the Foundation Executive Director and Vice-President of Advancement.

Only donors can place restrictions on funds relating to their own contributions, subject to the NMHU and NMHU Foundation gift acceptance guidelines and other provisions of the Advancement Policy, and in consultation with the Foundation Executive Director and Vice-

President of Advancement and NMHU Foundation Board of Directors. Additional restrictions cannot be put in place and should not be communicated, inferred, or publicized by NMHU faculty, staff, students, or others.