

# Ethical Fundraising with Seniors

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Standards of Practice





*The SantaFe Senior Living Foundation amplifies the gifts of compassionate donors to enrich the lives of seniors in our communities by:*

- *Caring for seniors in need,*
- *Providing vital services and programs,*
- *Ensuring state of the art homes and technology, and*
- *Advancing exceptional associates.*

**Mission:** To enrich the life of each senior we serve.

**Vision:** To be the trusted choice for seniors

## **ETHICAL FUNDRAISING WITH SENIORS**

**Purpose:** To establish fundraising best practices and standards applicable in each SantaFe Senior Living, Inc. (SFSL) community.

**Practice:** To enrich the life of each senior we serve, SantaFe Senior Living Foundation, Inc. (SFSLF) will adhere to a set of ethical fundraising standards which specifically address our activities with older adults while protecting and preserving their right to autonomy and self-determination.

A. SFSLF adheres to the following standards and practices in all foundation activity:

- I. The national [Association of Fundraising Professionals \(AFP\) Ethical Standards](#),
- II. The National Association of Charitable Gift Planners (formerly the Partnership for Philanthropic Planning) and the [American Council on Gift Annuities Standards of Practice for the Gift Planner](#), and
- III. [The Donor Bill of Rights](#) established by the Association for Healthcare Philanthropy, the AFP, the Council for Advancement and Support of Education and The Giving Institute.



- B. Additionally, as no national standard for ethical fundraising specifically with the senior population exists, SFLSF adheres to the following additional standards and practices in all foundation activity:
- I. SFLSF acknowledges the special and close relationships which exist between our residents and associates and will endeavor to honor this unique and valued bond of trust by being mindful of the best interests of the donor's present and future needs (Note 3, Addendum A).
  - II. SFLSF will, in as much as it is relevant, continue to follow guidelines and principles established by other related senior service providers to guide our practices.
  - III. SFLSF will adhere to all Florida Statutes (Note 11, Addendum A).
  - IV. SFLSF acknowledges that there are instances where the capacity of a potential senior donor to consent is not clear, and directs all SFLSF associates to use their best judgment, based on education and training, and to always have the best interest of the potential donor as the focal point of our actions and activity, being mindful of all potential issues under Florida Statute 825.103. There may be times when it is appropriate for SFLSF associates to seek the input of others, such as trusted family members, professional advisers and physicians to gain an accurate perspective of donor capacity (Notes 3, 6, 19 and 21, Addendum A).
  - V. SFLSF will enrich the lives of seniors by using various communications channels at least annually to:
    - a. share helpful information on Dementia-and-decision-making (Note 9, Addendum A),
    - b. educate constituents on elder abuse prevention using resources from the Elder Investment Fraud & Financial Exploitation Prevention Program (Note 15, Addendum A) and the Florida Department of Elder Affairs Elder Abuse Prevention Program (Note 10, Addendum A),
    - c. encourage the following five behaviors in seniors prior to the presence of any memory care or impaired judgment issues:
      - i. Have a **durable power of attorney** drafted for business and financial matters to make things easier on loved ones should something happen. You may want to consider having the document held in escrow, not to be released to the agent except under circumstances you identify in the escrow letter. (Notes 2, 4, 13, 17, 18 and 19, Addendum A)

- ii. **Create an estate plan** to detail how your assets will be distributed after your passing to family, friends, charities and others (Notes 2, 4 and 19, Addendum A)
  - iii. Create a Florida **Designation of Healthcare Surrogate**, living will, and a designation of a pre-need guardian. (Notes 3, 4 and 19 Addendum A)
  - iv. Establish **relationships with trusted** financial, tax, insurance and legal **advisers** giving consideration to attorneys who specialize in elder law (Note 1- Page 25, Addendum A) and/or estate planning, and to
  - v. **Involve and inform family** members in the planning of such issues. So long as it does not interfere with your estate planning goals, consider adding designated agents under durable powers of attorney to financial accounts along with payable on death (POD) beneficiaries. (Note 1- Page 41 & Notes 17, 18 and 19, Addendum A).
- VI. SFSLF will not seek charitable donations from individuals when we are aware there is a "conclusion of incapacity" or diminished capacity to the point where financial decision-making may be affected, and will instead shift the relationship of any such donor to one of respectful stewardship. (Notes 2, 7, 19 and 20, Addendum A).
- VII. SFSLF will adhere to consistent practices in meetings with potential senior donors where planned or major giving is discussed. SFSLF associates will:
- a. Offer to hold meetings in a quiet, familiar locations free of background noise(Note 1 –Page 45 & Note 16, Addendum A),
  - b. Ask the potential donor if there is anyone else they would like to have join them for the meeting (Note 1 – Page 48, Note 7 & Note 14 – Page 8, Addendum A),
  - c. Ask the potential donor if they have an executed durable power of attorney for financial matters (Note 14 – Page 7, Addendum A). If the potential donor makes SFSLF aware that an executed durable power of attorney for financial matters is in place, associates will include that person in any discussion of major or planned gifts,
  - d. Wear a nametag (Note 16 – Addendum A),

- e. Seek information which will help better serve the potential donor such as:
  - i. how the potential senior donor is feeling,
  - ii. how their vision is,
  - iii. if they have the ability to read printed follow-up material, and
  - iv. how their hearing is (Note 1, Addendum A),
- f. Assure the donor is comfortable during any gifting discussion (Note 8, Addendum A),
- g. Inform the potential donor no immediate decision is needed, there is time to consider any donation and to consider other options (Note 14 – Page 6, Addendum A),
- h. Encourage donors to discuss the proposal and other options with their own advisers (Addendum B),
- i. Validate the donor’s feelings and separate themselves from the situation to avoid escalation if a potential donor becomes upset (Note 8, Addendum A),
- j. Suspend discussions of gifting when a decline in mental capacity is perceived until such time as discussions can resume (Note 12, Addendum A and Notes 2 and 20, Addendum A),
- k. Accept donations from those who are believed to have the ability and capacity to mentally understand the donation including (Note 7 & Note 11, Addendum A);
  - i. the nature, extent and value of the donation,
  - ii. his/her relationship to those who would naturally claim a substantial benefit from the donation, and
  - iii. the practical effect of the donation being discussed,
- l. Report changes in physical or mental health of a potential donor which raise concern about the potential donor’s health or safety or the safety of others to SFSL caregiving associates and remain on site until help arrives. Associates may also notify the potential donor’s contact-person or ask SFSL caregiving associates to do so,

- m. Discontinue approaching the potential donor to seek charitable donations, and note the reason in the potential donor's record, when SFSLF perceives a pattern of decline in mental capacity during two or more meetings with a potential senior donor that makes gifting unadvisable, unless this perceived decline is later addressed (through measures which may include but are not limited to hearing aids, reduction in stress, improvement in sleep and/or changes in health, diet or medication) (Note 7, 13 & 17 – Addendum A),
  - n. Attempt to have at least two people present, with one of them being a trusted family member or professional adviser of the donor, when working with a donor who has previously made a pledge and where the donor's current mental capacity is in question (Notes 16 and 20, Addendum A).
- VIII. SFSL and SFSLF associates will not be present when a potential donor is signing legal documents related to gifting to the SFSLF. Associates also are not allowed to serve as witnesses to such documents.
- IX. SFSL and SFSLF associates will not serve as the durable power of attorney or healthcare surrogate for SFSL residents and SFSLF donors (Note 20, Addendum A).
- X. SFSL's own legal and financial experts will not draw up a bequest or other charitable gift document for a donor making a gift to SFSLF (Note 16, Addendum A).
- XI. SFSLF will disclose the education and credentials of associates, how associates are paid, services and products offered by the Foundation and regulatory oversight (Sample available on request from [david.kremer@sflc.org](mailto:david.kremer@sflc.org) - based in part on Note 1 – Pages 19-23 & 27 & Note 5, Addendum A).
- XII. SFSLF will follow-up with written communication to summarize meetings with potential donors where planned or major giving is discussed (Note 1 – Pages 50-51 and Notes 5, 13, & 16 Addendum A).
- XIII. SFSLF will keep records of all contacts with donors including reports of personal visits, phone calls and written communication (Note 7, Addendum A).
- XIV. SFSLF associates will contact family or advisers of a potential donor, as appropriate, when asked to do so by the potential donor, while complying with any requests for privacy (Note 19, Addendum A).



- XV. SFSLF will make this set of practices available online and will share printed copies with those interested.

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### **Addendum A.**

#### **Guiding Materials Used in Our Practices in Fundraising with seniors.**

Note 1 – “A Financial Guide to Working with Older Clients,” prepared by AARP and the Financial Planning Association (FPA) as a basic overview of what financial professionals need to know about older persons to serve them better.

([http://www.aarp.org/content/dam/aarp/money/how\\_to\\_guides/2011-08/Financial%20Professional%20Guide%20Working%20Older.pdf](http://www.aarp.org/content/dam/aarp/money/how_to_guides/2011-08/Financial%20Professional%20Guide%20Working%20Older.pdf) )

Note 2 – “Respect for Autonomy,” The Alzheimer’s Association.

([http://www.alz.org/documents\\_custom/statements/Respect\\_for\\_Autonomy.pdf](http://www.alz.org/documents_custom/statements/Respect_for_Autonomy.pdf) )

Note 3 – “Ethical Issues and The Elderly: Guidance for Eldercare Providers,” by Mark R. Ensign, JD, CPA.

(<http://www.ensignlaw.com/Ethical%20Issues%20and%20Elderly.html> )

Note 4 – “End-of-Life Care,” The Alzheimer’s Association.

(<http://www.alz.org/documents/national/endoflifeEI.pdf> )

Note 5 – “Making Your Printed Health Materials Senior Friendly,” National Institute on Aging. (<https://www.nia.nih.gov/health/publication/making-your-printed-health-materials-senior-friendly> )

Note 6 – “Matters of Principal: Ethical Fundraising and Investing,” FutureAge magazine, September/October 2007, American Association of Homes and Services for the Aging, now known as ‘Leading Age.’

<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiJ9Yip5pjOAhXF6YMKHVsfAg4QFgqeMAA&url=http%3A%2F%2Fwww.leadingage.org>



[%2FMatters of Principal Ethical Fundraising and Investing Sept-Oct2007.aspx&usg=AFQjCNH2r4M4gwE1aKcb2N0ItmYB5AM\\_5g&bvm=bv.128617741,d.amc](#)

Note 7 – “A Development Officer’s Guide to Dealing with Aging Donors (and their Families!) When the Donor’s Mental Capacity is Questionable,” by Katherine W. Lambert, Lambert Law, LLC, Glendale, WI. <http://www.lambertlawllc.com/>

Note 8 – “Dementia-Related Behaviors,” The Alzheimer’s Association, 2015, & “Challenging Behaviors,” The Alzheimer’s Association  
[https://www.alz.org/national/documents/statements\\_antipsychotics.pdf](https://www.alz.org/national/documents/statements_antipsychotics.pdf)

Note 9 – “Respect for Autonomy,” The Alzheimer’s Association  
[http://www.alz.org/documents\\_custom/statements/respect\\_for\\_autonomy.pdf](http://www.alz.org/documents_custom/statements/respect_for_autonomy.pdf)

Note 10 – Florida Department of Elder Affairs Elder Abuse Prevention Program  
[http://elderaffairs.state.fl.us/doea/abuse\\_prevention.php](http://elderaffairs.state.fl.us/doea/abuse_prevention.php)

Note 11 – “Evaluating Decision-Making Capacity in Older Individuals,” by Marshall Kapp, Florida State University  
[http://med.fsu.edu/userFiles/file/Evaluating%20Decision%20Making%20Capacity%20in%20Older%20Individuals\\_.pdf](http://med.fsu.edu/userFiles/file/Evaluating%20Decision%20Making%20Capacity%20in%20Older%20Individuals_.pdf)

Note 12 – “Geriatrics: Decision-Making, Autonomy, Valid Consent and Guardianship,” Miami University  
[http://www.miami.edu/index.php/ethics/projects/geriatrics\\_and\\_ethics/decision-making\\_autonomy\\_valid\\_consent\\_and\\_guardianship/](http://www.miami.edu/index.php/ethics/projects/geriatrics_and_ethics/decision-making_autonomy_valid_consent_and_guardianship/)

Note 13 – “Protecting Senior Investors: Compliance, Supervisory and Other Practices used by Financial Services Firms in Serving Senior Investors,” September 22, 2008 & 2010 Addendum – U.S. Securities and Exchange Commission’s Office of Compliance Inspections and Examinations, North American Securities Administrators Association, and Financial Industry Regulatory Authority, August 12, 2010.  
<https://www.sec.gov/spotlight/seniors/seniorspracticesreport081210.pdf>

Note 14 – Financial Industry Regulatory Authority (FINRA) Regulatory Notice 07-43  
<http://www.finra.org/sites/default/files/NoticeDocument/p036816.pdf>



Note 15 - Elder Investment Fraud & Financial Exploitation Prevention Program

<http://www.investorprotection.org/ipt-activities/?fa=eiffe-pp>

Note 16 – “How a Rise in Dementia Poses Tests for Charities,” Chronicle of

Philanthropy, September, 2015. <https://www.philanthropy.com/article/How-a-Rise-in-Dementia-Poses/232727>

Note 17 – “Protecting Older Investors: The Challenge of Diminished Capacity,” AARP Public Policy Institute, November 2011

[http://www.aarp.org/content/dam/aarp/research/public\\_policy\\_institute/cons\\_prot/2011/rr2011-04.pdf](http://www.aarp.org/content/dam/aarp/research/public_policy_institute/cons_prot/2011/rr2011-04.pdf)

Note 18 – Review by Marian L. Hasty, Esq. LL M-Estate Planning, Gautier and Hasty, P.L., Coral Gables, Florida. <http://www.ghlawyers.com/>

Note 19 – Review by Shannon M. Miller, B.C.S., Florida Bar Board Certified Elder Law

Attorney, The Miller Elder Law Firm, Gainesville, Florida. <http://millerelderlawfirm.com/>

Note 20 – Review by Robert P. Hofmann, MA, CFRE, Senior Director of Development, University of Minnesota-Duluth School of Fine Arts, Duluth, Minnesota.

[http://www.d.umn.edu/development?\\_ga=1.228326109.1959332170.1469711523](http://www.d.umn.edu/development?_ga=1.228326109.1959332170.1469711523)

Note 21 – Florida Statute 825.103 Exploitation of an elderly person or disabled adult

[http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0800-0899/0825/Sections/0825.103.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0800-0899/0825/Sections/0825.103.html)

### **Addendum B.**

Sample disclaimer text for The Village at Gainesville:

“Neither SantaFe Senior Living Foundation, Inc., doing business as The Village at Gainesville Foundation, nor any of its associates is in the business of providing any legal, financial, insurance or tax advice. It is always a good idea, a must in fact, to consult with your own professional advisers before making decisions about sizeable charitable contributions. Many also choose to involve their family in such decisions.”

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