POLICY

Eau Claire Community Foundation
For Good. For Ever.

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GIFT ACCEPTANCE POLICY

Introduction

The Eau Claire Community Foundation's Board of Trustees has adopted this Policy to assist the Foundation's director, officers, employees, agents, and fiduciaries (which include supporting organizations, affiliate funds, and volunteers) in fulfilling their obligations and commitments. All funds shall be accepted according to the Declaration of Trust of the Eau Claire Community Foundation.

Donors' Interests

Protection of Donors' Interests: Trustees, Committee members, and staff will consider the stated intentions of donors and shall not encourage donors to make gifts that are inappropriate, in light of the donors' personal or financial situations or the donors' known philanthropic interests. Donors are encouraged to consult with legal counsel and financial advisors in making their decision. In particular, donors should be made aware of:

- The irrevocability of a gift.
- Assets subject to variability (market value, investment return, and income yield).
- The ECCF reserves the right to refuse any gift.

Confidentiality of Information: Information obtained by any representative of the ECCF about a donor or the donor's assets or philanthropic intentions shall be held in confidence by the Trustees, Committee members, and staff.

Donors will be encouraged to notify the ECCF of their planned gifts and any such information shall be kept confidential unless permission is obtained from the donor.

Legal Counsel: The ECCF encourages donors to have the terms of all proposed agreements reviewed by the donor's own legal and financial advisors. It is the donor's responsibility to obtain any necessary appraisals, file appropriate tax returns, and defend against any challenges to claims for tax benefits.

All agreements, contracts, and other legal documents relating to contributions to the ECCF and the management of ECCF assets may be reviewed by the ECCF's legal counsel before execution or use.

Standard Form Documents: For administrative ease and convenience, the ECCF developed standard forms of fund agreements and other documents relating to contributions. The ECCF provides standard forms to prospective donors and their advisors upon request and encourages their use whenever practicable, with minimal, if any, modifications.

Executor Appointment: If ECCF is named in a will and is also named as an Executor or as an Alternate Executor, ECCF will decline to serve in probate court. If an employee of ECCF is individually named for such appointment, due to their status as an employee, they will likewise decline. Serving as an Executor is not within the mission of ECCF, potentially presents conflicts of interest, potentially opens ECCF to liability concerns, could incur unforeseen expenses, and could create undue burdens on staff.

<u>Foundation's Interests</u>

Restrictions: No fund may be accepted if, after review by the Board of Trustees, there is reason to question whether the restrictions desired will jeopardize the classification of the fund or does not comply with the ECCF's mission.

Ultimate Use of Gift: While donors may identify a specific philanthropic purpose, the creation of unrestricted and field-of-interest funds will be encouraged.

Fiscal sponsorship Funds: The ECCF accepts fiscal sponsorship funds which meet the ECCF's mission and requirements.

Sale of Assets: Physical assets will be sold as soon as practicable and the net proceeds reinvested in a manner consistent with the ECCF's investment policies.

Variance Power: All funds shall be accepted subject to the variance power (the right of the Board of Trustees to direct and vary the terms of the gift, including controlling all distributions), as set forth in the Declaration of Trust of the Eau Claire Community Foundation.

<u>Gifts and Funds</u>

Minimum Amounts: The minimum amount to establish a named fund at the ECCF must be approved by the Foundation's Board of Trustees from time to time on recommendation by the Gift Acceptance Committee.

Type of Fund	Minimum Amount to Establish a Fund	Minimum Amount to be Fully Funded
Named Fund (designated, field-of-interest, unrestricted)	$500	$10,000
Designated Scholarship Fund	$1,000	$15,000
Donor-Advised	$1,500	$25,000
Agency Endowment	$500	$10,000
Agency or Donor Pass-Through	$500	$10,000
Acorn Fund (Acorn funds have five years to become fully funded)	Follows Minimum required.	Follows minimum to be fully funded.

Time Limit: An Acorn Fund must reach the required minimum size within five years of its establishment; otherwise, after notice to the donor, it will terminate and will be added to the Foundation's unrestricted funds. Annual gifts are encouraged to all Acorn funds.

Gift Expenses: All expenses associated with making a gift (such as, without limitation, the cost of an appraisal, legal and accounting expenses, the cost of a phase one environmental report,) shall be generally paid by the donor. Expenses incurred by the ECCF in accepting a gift, such as legal expenses, shall be charged against the fund when established.

Administration Fee: The Board-approved administrative fee schedule applies to all funds except in those instances where the Board of Trustees approves a different fee.

Selection of Investment Manager: See Policy Regarding Outside Money Managers.

<u>Types of Funds</u>

The ECCF is comprised of a variety of grantmaking funds. The ECCF offers a continuum of funds designed to be responsive to donor needs. All types of ECCF funds can provide added value to philanthropy in the community. Endowment funds are subject to the ECCF's spending policy, which includes the intent that the corpus or principal is not invaded for granting purposes. Donors may add to existing funds in any amount.

Unrestricted Fund - *The unrestricted fund is best suited for:*

- The donor who wants his or her gift to have the broadest impact on a community over time.
- The client who recognizes that community agencies and needs change over time and wants his or her gift to remain flexible to respond to those changes.

Field of Interest Funds - *The Field of Interest Fund is most appropriate for:*

- The donor who has an abiding interest in a particular charitable cause rather than specific organizations.
- The donor who recognizes that charitable organizations change in mission.
- The client who wishes to fund emerging projects with a certain target audience.

Designated Named or Designated Scholarship Fund - *Designated funds are most appropriate for:*

- The donor who wishes to support a particular charity(s) or school(s) but wants a third-party oversight to ensure that principal is not invaded or that the gift is used as he or she specified.
- The client who wants to make an endowment gift to a charity that does not have extensive investment management capability.

Advised Funds

The donor retains an advisory capacity in making grants from the fund. All grants made from advised funds will be distributed to other charitable entities that meet the qualifications set forth by sections 501(c)(3) and 170(b)(1)(A) of the Internal Revenue Service Code. A grant from an advised fund cannot be used to satisfy an irrevocable personal or corporate pledge or obligation of the donor, or to provide a benefit to the donor such as paying membership dues. The donor-advised fund is able to use both principal and interest if the donor wishes.

Scholarship Awards are excluded from donor advised funds. An advisor can donate to a Scholarship Fund at ECCF whether designated or pass-through. Advisors can't grant into a Scholarship Fund after the scholarship application has closed as the candidates for the award are then known and it could be an attempt to increase an award only for particular candidates.

The Pension Protection Act of 2006 states that all donors, advisors, and related parties shall not receive more than incidental benefits from donor advised fund grant distributions and prohibits grants to individuals from donor advised funds.

- This includes checks written directly to an individual or checks written to an entity (such as a university) for the benefit of a specified individual;
- prohibits organizations receiving grants whose primary purpose is lobbying, cemetery associates, and funds set up to provide emergency relief to specific individuals or families;
- prohibits funds used to fulfill pledges or secure benefits from the distribution recipient and;
- prohibits donor advisors or related parties from receiving grants, loans, compensation or similar payments from donor advised funds.

Agency Funds – *Supports nonprofits by:*

- Broadening a nonprofit's financial base and attract donors who wish to support its work long-term.
- Designed to provide a steady stream of income to support general operations or a specific program of the organization.

Pass Through Funds - *Are most appropriate for:*

- Short-term charitable giving which allows a donor to make a lump sum contribution to receive the tax benefit and can recommend distributions to charities when ready.
- IRA gifts must be designated at time of establishment.

Fiscal Sponsorship Funds

Fiscal Sponsorship Funds are created primarily for time-specific projects and are not invested in the ECCF's long-term pooled assets. Rather, they are invested in highly liquid money market accounts in order to meet the needs of the funds. These funds allow disbursement of principal and are not restricted by the ECCF's spending policy.

Supporting Organization

The ECCF will support only "Type 1" supporting organizations within the meaning of the Internal Revenue Code ("Code") Section 509(a)(3); that is, those supporting organizations which are "controlled by" the ECCF because the ECCF appoints a majority of the directors to the supporting organization's board.

- A supporting organization of the ECCF shall be funded with a minimum donation of $2,000; provided, however, that an organization with an initial funding of a lesser amount shall be accepted upon the donor's commitment to provide additional funding either during his or her lifetime or at death.

Excess Business Holdings Policy

Under the Pension Protection Act of 2006 (PPA), the private foundation excess business holdings rules now apply to donor advised funds as if they were private foundations. That is, the holdings of a donor advised fund in a business enterprise, **together with the holdings of persons who are disqualified persons with respect to that fund,** may not exceed any of the following:

- Twenty percent of the voting stock of an incorporated business
- Twenty percent of the profits interest of a partnership or joint venture or the beneficial interest of a trust or similar entity

Ownership of unincorporated businesses that are not substantially related to the fund's purposes is also prohibited.

Donor advised funds receiving gifts of interest in a business enterprise after the date of the PPA's enactment (August 17, 2006) will have five years to divest holdings that are above the permitted amount, with the possibility of an additional five years if approved by the Secretary of the Treasury. Funds that currently hold such assets will have a much longer period to divest under the same complicated transition relief given to private foundations in 1969.

What is a business enterprise?
A "business enterprise" is the active conduct of a trade or business, including any activity which is regularly carried on for the production of income from the sale of goods or the performance of services. Specifically excluded from the definition are:

- Holdings that take the form of bonds or other debt instruments unless they are a disguised form of equity
- Income from dividends, interest, royalties, and from the sale of capital assets
- Income from leases unless the income would be taxed as unrelated business income
- "Functionally-related" businesses and program-related investments
- Businesses that derive at least 95 percent of their income from passive sources (dividends, interest, rent, royalties, capital gains). This will have the effect of excluding gifts of interests in most family limited partnerships, and other types of holding company arrangements.

What is a disqualified person?
Donors and persons appointed or designated by donors are disqualified persons if they have – or reasonably expect to have – advisory privileges with respect to the donor-advised fund by virtue of their status as donors. Members of donors' and advisors' families are also disqualified, but the section does not define "family" and does not cross-reference either section 4958 or 4946 for the definition. Finally, the term includes 35-percent-controlled entities as defined in section 4958(f)(3).

Eau Claire Community Foundation Policy with regard to assets categorized under the PPA as "excess business holdings"
ECCF will identify and monitor any new gift to a donor advised fund of any interest qualifying as an "excess business holding" under the PPA. ECCF will exercise its best effort to dispose of the contributed interest at the best possible price within five years of the date of the gift, as required under the PPA. In any event, ECCF will dispose of any excess business holding prior to the five year time limit, except in the event that the Treasury Department grants an additional five year holding period. ECCF will notify potential donors of such interests of this requirement prior to the contribution of such interest.

<u>Gift Acceptance Procedures</u>
Unrestricted Gifts to the Foundation: Contributions which are not restricted or directed by the Donor for a specific Fund and which are less than or equal to $1,000 shall be allocated to the Operations Fund. Unless otherwise directed by the Donor, such gifts greater than $1,000 will be allocated as follows:

- 80% to the Community Fund
- 20% to the Operations Fund

The Executive Director will contact all Donors with unrestricted and undesignated gifts greater than $1,000 to determine if the Donor wishes to give specific direction or establish a Fund.

Contributions received upon death through a legacy bequest, annuity or other form for which the Donor has not provided direction, restriction, or a completed ECCF Statement of Intent form, shall be allocated as follows:

- Gifts of less than $1,000 will be allocated to the Operations Fund.
- Gifts greater than $1,000 and less than $10,000 will be allocated as follows:
  - 80% into the Community Fund
  - 20% into the Operations Fund
- If the gift is greater than $10,000, which is the minimum fund balance required for an unrestricted named fund, shall be held in a Board-established, quasi-endowed,

unrestricted named fund. If the gift is greater than $10,000, the first $10,000 will be held in a Board-established, quasi-endowed, unrestricted named fund. All gifts greater than $10,000 are subject to approval by the ECCF Board of Trustees. The remaining balance will be allocated as follows:
    - At least 80% to the unrestricted named fund
    - Up to 20% to the Operations Fund
- Unrestricted Funds will conform to the Administrative Fee Policy of the Foundation.

If the contribution received upon death is an annuity or another form of gift that is amortized over time, the value of the estimated total gift will be used in following the above policy.

For contributions received through a legacy where the donor has not completed the ECCF Statement of Intent form, the descendant's name will be added to the Legacy Society, regardless of the amount of the gift.

Authority for Negotiation: The Trustee Board Chair and the Executive Director are authorized to negotiate planned gift agreements with prospective donors. The Chair may also delegate authority to other Board and/or staff members.

Authority for Approval: Gifts not requiring Board approval shall be cash, checks, marketable securities, gifts of personal property used in the ECCF offices or programs, and life insurance so long as the purpose and form of those gifts is in keeping with the standards set out herein.

The Board of Trustees Chair (and in his/her absence, the Gift Acceptance Committee) is authorized to accept all gifts or bequests on behalf of the ECCF unless one or more of the following circumstances apply, in which case, the Gift Acceptance Committee shall review the proposed gift.

- The property that is the subject of the gift or bequest includes non-marketable securities, tangible personal property, real estate, non-publicly traded securities, oil and gas, or gifts not in compliance with these policies.
- The gift or bequest includes a restriction or suggestion regarding the ECCF's use of funds that raise legal, ethical, policy, or practical concerns for the ECCF.
- In the judgment of the Chair, there are other risks or concerns that should be reviewed by the Gift Acceptance Committee.
- In the case of illiquid assets, the ECCF will not release any monies from a fund prior to the liquidation of the assets. Fees for illiquid assets may be assessed in arrears upon liquidation of the asset.

Gift Acceptance Committee: Any prospective gifts or bequests falling within the items above shall be referred to the Gift Acceptance Committee, which may consider the issues involved through meeting(s), telephone discussion(s) or other means. Legal counsel may be consulted.

The Gift Acceptance Committee shall consist of people representing legal, finance, accounting and past trustees and shall be chaired by the Vice Chair of the Board of Trustees.

The Gift Acceptance Committee, after review of the prospective gift or bequest, shall report its recommendation to accept or reject the gift or bequest, to the Board of Trustees for action by the Board at its next regular meeting.

Policy Modification: The Trustee Board Chair (or in his/her absence, the Vice Chair) may, in an emergency or for other reasons, modify the procedures set forth in this policy for a particular gift or bequest.

Modification of this policy and procedures shall be considered only after reasonable consultation with members of the Gift Acceptance Committee who are available. The change shall be reported to the Board of Trustees at its next regular meeting.

Acknowledgment: Donors shall receive an acknowledgment of the gift in accordance with federal tax regulations.

Restrictions: In conformance with Treasury Department regulations governing community foundations, gifts to the ECCF may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the ECCF from freely and effectively employing the transferred assets, or the income derived therefrom, in furtherance of its exempt purpose.

Investment of Gifts: It is the policy of the ECCF to convert all gifts to cash as soon as possible. The ECCF reserves the right to make any or all investment decisions regarding gifts in accordance with its Investment Policy.

In making a gift to the ECCF, tax law requires donors to give up all rights, title, and interest to the asset contributed. In particular, donors give up the right to choose investments and investment managers, brokers, or to veto investment choices for their gifts.

However, when the size of the fund warrants separate investment consideration, the ECCF will endeavor to accommodate requests from donors for separate investment of fund assets, or use of a particular investment manager, broker, or agent in accordance with the Investment Policy, and may consult with donors on investment options for such funds as contained in the Investment Policy for Outside Money Managers.

Cost of Accepting and Administering Gifts: Generally, costs associated with the acceptance of a gift such as attorney fees, accounting fees, other professional fees, as well as other costs to establish a gift such as appraisal, escrow, evaluation, and environmental assessment fees will be borne by the donor.

The direct costs of administering outright and planned gifts of the ECCF will be borne by the assets of the individual funds, except for those special circumstances as determined by the Executive Committee. Custodial, investment, and administrative fees will be paid from the respective funds in accordance with the Foundation’s guidelines and fee schedule.

Forms of Gifts to the ECCF: Gifts to the ECCF take on a variety of forms. Many are outright gifts by living donors, either on a one-time or periodic basis. Others are testamentary gifts that take effect upon a donor’s death.

If the value of a gift other than cash or marketable securities exceeds IRS rules, a donor is required by tax law to obtain a qualified appraisal and submit it to the IRS on form 8283. A copy of the appraisal and form 8283 shall be provided to the ECCF. If such gifts are sold within two years of receipt at a price other than the appraised value, Form 8282 must be filed by the ECCF.

The IRS form 8283 must provide the following information:

- Independent appraisal of value of the subject entity and statement of the percentage of the entity to be gifted to the ECCF;
- Assurance that the ECCF will be held harmless in the event the entity becomes bankrupt or is otherwise unable to satisfy its obligations;

- Assurance that the ECCF will be held harmless in the event the entity is sued.

In cases where an interest gifted to the ECCF is promptly liquidated, but its value is less than the amount specified by the ECCF for a fund to be eligible for payout, the donor will be contacted and given the opportunity to contribute an additional amount to bring the fund up to "fully funded" status. If not, the interest will become a restricted, designated contribution.

Stock in Privately Owned Companies and Partnerships: Generally, the ECCF does not accept gifts of general partnership interests due to potentially unlimited liability. The acceptability of a gift of closely-held stock, S corporation stock, or a partnership interest will depend on the ultimate financial liability of the ECCF, the amount of management attention required, whether the gift provides minority or majority control, or whether the donor requires that such interest not be sold.

Consideration will be given to whether an S corporation or partnership interest generates unrelated business taxable income, if there is corresponding revenue to pay such taxes, the nature of the business, record-keeping and accounting requirements, and how quickly the gift can be converted to cash.
If an entity owns or operates assets of the types listed below, the respective guidelines shall be applied in connection with consideration of the nature of the entity's interest in the assets.

Estate/Real Property: Evidence of clear title to the property must be provided by the donor to the ECCF; property with multiple owners will be accepted only if all owners of the property agree in writing to the gift. No real estate may be accepted as a gift if the donor has already arranged its subsequent sale by the ECCF, as this would constitute a tax violation.

Real property that is encumbered by a trust deed loan or mortgage will be accepted only in exceptional circumstances. Prior to acceptance of a gift of real property, the ECCF and the donor must agree, in writing, on arrangements for paying expenses associated with the property, including taxes and assessments, insurance coverage, and maintenance costs.

A Phase I environmental Impact Audit and other studies deemed necessary by the ECCF must be completed before real estate may be accepted as a gift.

In addition to the considerations listed above, commercial properties and businesses will be examined in relationship to the potential for exposure of the ECCF to unrelated business taxable income.

If a donor wishes to contribute real property or an interest in real property to the ECCF either directly or through a life estate arrangement, the Board shall consider all facts and circumstances in determining whether to recommend accepting the gift. Donors always should be advised to confer with their own counsel to review the terms of the gift.

Royalties, distribution rights: The ECCF may accept gifts of royalties or distribution rights on published works (such as books of films) where there is clear evidence of marketability or assurance of an income stream. A qualified appraisal is required.

Retirement assets: Account type retirement plans, in which a balance accumulates as principal, may be gifted to the ECCF. These include Individual Retirement Accounts (IRA), 401(k), 403(b), and defined contribution plans. Annuity plans, such as defined benefit plans, in which retirement benefits are paid out as income and principle does not accumulate, generally cannot be used for charitable gifts.

Oil, Gas, and Mineral Interests: The ECCF may accept oil, gas, or mineral property interests, where appropriate. Criteria for acceptance of the property shall include:

- What is the form of the interest? The ECCF will not accept general partnership interests. If the interest is a Sub-S corporation, or working interest generating unrelated business taxable income, project the tax cost upon sale of the asset.
- Is there environmental liability associated with receipt of the asset?
- Is the asset readily marketable? If so, describe the market and estimated timetable for sale.

Oil, gas, and mineral interests shall be sold as soon as practical upon receipt unless determined otherwise by the ECCF Investment Policy.

Life Insurance Policies: The ECCF will accept gifts of permanent life insurance policies if the ECCF is named as owner of or is assigned ownership in such policies. Policies continuing on a premium-paying basis may be maintained as such by the ECCF. The ECCF may, on the recommendation of the Board, elect:

- To have the ECCF continue the premium payments
- To surrender the policy in exchange for its cash surrender value.
- To invoke procedures under which the existing policy values can sustain the policy without further outlay of ECCF funds for premium.

The ECCF will consider its own interest and the best interest of the donor in the light of tax ramifications in determining on a case-by-case basis the acceptability of encumbered life insurance policies. Particular care will be given to problems of self-dealing, jeopardy investments and unrelated business income.

Charitable Remainder Trust: The ECCF may accept appointment as a revocable or irrevocable beneficiary of a charitable remainder trust. The ECCF will not accept appointment as a Trustee of a charitable remainder trust. Donors establishing charitable remainder trusts shall use professional fiduciaries in that role.

Charitable Lead Trust: The ECCF may accept appointment as a revocable or irrevocable beneficiary of a charitable lead trust. The ECCF will not accept appointment as a Trustee of a charitable lead trust. Donors establishing charitable lead trusts shall use professional fiduciaries in the role of trustee.

Charitable Gift Annuities: The ECCF does not offer charitable gift annuities.

Bequests: A bequest through will or trust to the ECCF should include the following:

- The name of the Eau Claire Community Foundation.
- Bequests may be from a will or trust and may be specific or contingent in nature.

Anonymity Policy & Procedures for Gifts and Grants: Generally, a donor's identity will be used within the Foundation and for processing of a donation, grant, or grant request. The identity of the donor will be revealed to Trustees, staff, grant recipients, published documents and to the media.

If the request is anonymous, a donor's identity will only be used within the Foundation and only for processing of a donation, grant request including but not limited to:

- The minimum number of staff and the Board of Trustees will have access to the donor's identity.
- The identity of the donor will be revealed only to those individuals or organizations specifically authorized by the donor or be revealed only to grant recipients with the donor's approval and will not be published or revealed to the media.

Fund Distribution section removed, and other adjustments made. BOT approved 8/26/10
New Logo updated 6/9/11.
Revised Outside Money Manager section, and Gift and Funds Minimum amounts. BOT approved 7/28/2011
Addition – Unrestricted Gifts BOT approved 10/27/2011
Revised in accordance with Council on Foundations Recertification Standards. BOT approved 4/26/2012
Updated fiscal sponsorship fund limits and admin fee 10/25/2012
Updates “pass-through” to “fiscal sponsorship” 8/30/2017 – Does not require approval
Addition – No scholarship awards from donor advised funds 4.26.2018
Addition – minimums for Scholarship funds page 2 approved 7.20.2018
Defined pass-through and agency funds approved 12.18.2018
The addition of affiliate sin this was approved on December 6, 2019
Addition – Executor of will or estate approved July 21, 2022