

Hamilton Community Foundation

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**Preamble**

This policy seeks to ensure that donations are used to further the vision, mission and values of Hamilton Community Foundation (HCF), meet community needs and consider donor interests and objectives. It clarifies roles, responsibilities and expectations of various partners, including HCF, community organizations and donors. This policy sets out parameters to limit and control risks associated with donation acceptance and provides a framework to consider new opportunities. It ensures that donations to HCF are made in accordance with legal and ethical regulations and guidelines. This policy aims to learn from the past and avoid replicating historical philanthropic practices that have been harmful to community groups. The policy enables HCF to respond consistently and on a timely basis to new donations, to identify potential issues with donations and for the Board to exercise its fiduciary responsibility. It works to protect HCF from potential liabilities related to accepting or not accepting donations that come with financial consequences and reputational risks.

**Policy Statement**

This policy works to embed Hamilton Community Foundation’s vision, mission and values into the organization’s acceptance of donations. In addition, this policy works to align with HCF’s Declaration of Action on Truth and Reconciliation, and Equity Statement, reflecting our public commitments to equity, Reconciliation, accessibility, anti-oppression and mitigating and addressing harm.

This policy includes, but is not limited to, donations, including annual, monthly and one-time donations; pledged gifts; donations to establish a new fund; gifts to support strategic priorities; and standard and complex gifts. Donations that are made to existing funds and through routine types of donations are considered standard and accepted as part of HCF’s regular operation. Complex gifts are those that are not standard and this policy outlines how such donations are reviewed and considered for acceptance, considering the needs of HCF, community partners and donors, now and in the future.

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This policy is organized into the following areas: authorization for accepting donations, various factors to be considered when accepting a donation, types of donations, naming, returning and transferring gifts, donation acceptance committee, and general provisions.

### **AUTHORIZATION FOR ACCEPTING DONATIONS**

The following factors will inform the decision to accept a donation and clarify if the donation is considered a standard donation. Notwithstanding any guidance in this policy, the Board of Directors reserves the right to refuse any donation, whether or not the donation initially may comply with this policy. The Vice-President, Philanthropic Services has authority to accept standard donations and to negotiate straightforward donation agreements, with signing authority from the President & CEO for fund agreements and signing authority from the Chief Operating Officer/ Chief Financial Officer for tax receipting.

When donations are not standard and are considered complex, the Senior Management Team will review and if consensus is reached, the donations will be accepted and the decision-making process will be documented for transparency and accountability. If consensus is not reached or if the Senior Management Team makes the request, a Donation Acceptance Committee will be created. If the Donation Acceptance Committee cannot reach consensus, the Board of Directors will decide if the donation is accepted.

### **KEY FACTORS WHEN ACCEPTING A DONATION**

To determine if a donation should be accepted, the following key factors will be considered. This applies to the donor, sources of the funds and donation vehicles.

1. **Vision, Mission & Values** – Does acceptance further or hinder HCF’s values? Is there alignment between the donor’s and HCF’s goals? Is HCF the right organization for this gift, or should the donor be directed to a different organization?

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2. **Public and Community Relations** – Will acceptance damage the reputation of HCF and/or create harm or oppression to community? This harm could include the name of the fund, source of the donation, and/or the donor. Has the donation been reviewed to determine that the source of funds does not inadvertently harm the intended communities? (Hypothetical example: a fund that has been set up to support people living with addictions with the donation coming from a pharmaceutical company associated with the opioid epidemic.) Has an initial review been completed for any concerns?
  
3. **Community needs** – How will the donation meet community needs? Does HCF need to seek community input before accepting the donation, such as for a Designated fund? Should any community organizations be consulted based on who the fund is intended to support? When donations directly affect community organizations, HCF will consult with these communities before proceeding to determine if additional community input needs to be received before accepting the donation.
  
4. **Consistency** – Is acceptance consistent with prior or current practices, or would acceptance establish a precedent going forward that HCF would not want to repeat? How will this donation potentially influence future donations? Are these types of donations HCF would want to see more of in the future? Does accepting this donation align with HCF’s policy 4.4 Establishment and Operation of a Fund, if it establishes a new fund? For flowthrough donations and funds, will the donation advance priorities in HCF’s Strategic Plan?
  
5. **Form** – Is the donation in a form that HCF can use without incurring substantial expense or difficulty? Does the donation follow Canadian Revenue Agency (CRA)’s directions on legal donations, tax receipting and that the donation is voluntary? See the section below for types of donations.

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**ADDITIONAL FACTORS RELEVANT TO THE DONOR ARE BELOW**

- 1. Donors’ Interests** - HCF staff will confirm that HCF is an appropriate organization to carry out the donor’s charitable goals. HCF will inform, guide or otherwise assist donors who wish to support HCF’s activities, but under no circumstances will pressure or unduly persuade a donor to make a donation. HCF staff will document communication with donors and the steps they have taken to ensure the donor is making the decision voluntarily and is competent to do so.

Individuals and groups considering a donation to HCF are encouraged to seek independent advice from their professional, legal and financial advisors before finalizing the arrangements for a donation that may affect their financial position, taxable income or relationship with other family members (estate plan). HCF staff will not provide professional advice. Due to the potential for a conflict of interest, HCF is not able to serve as executor of a donor’s will or as trustee of a charitable remainder trust. When requested, HCF may provide the donor with a list of at least two possible institutions and/or professional advisors who might be able to provide these services to the donor.

- 2. Fund and Donor Recognition** - HCF provides the option for funds and donors to be recognized in a list of funds on the HCF website, new funds in impact and/or annual reports. In addition, HCF shares recognition instructions to organizations that receive grants from HCF. Staff will explain to donors that organizations are not required to provide such recognition. In addition, donors may have the opportunity to be recognized in HCF stories through impact and annual reports and publications. See related 4.1 Financial Accountability, Ethical Fundraising and Donor Relations Policy and Privacy Policy. In addition, see #12 below.

- 3. Donor Engagement** - HCF will provide information to donors on what they can expect in their relationship with HCF, such as access to information about their funds, responsiveness to requests and learning opportunities. This engagement fosters information sharing, mutual respect, reciprocal partnership and clear expectations. Staff will manage donor expectations by

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being clear on what HCF can provide and reinforce the importance of community-centred giving. HCF staff and volunteers are entitled to safe, respectful relationships with donors, and harassment, discrimination, harmful or unethical behaviour will not be tolerated.

- 4. Donor Directions** – Donors can direct their donation to a specific fund. If not directed by a donor, donations will be directed to the Community Fund or another discretionary fund maintained by HCF. All new donations to the Community Fund will be endowed unless otherwise directed by the donor. In such cases, the Board reserves the discretion to spread the granting over a period of time, selected by the Board or stated in a policy of HCF, such as a flow-through fund. The Board also reserves the right to not endow Community Fund donations in times of market downturn to be able to continue granting.

### TYPES OF DONATIONS

HCF encourages donors to make current and/or deferred donations and the below guides staff and Board on the types of donations they can accept.

- 1. Current donations** - The form of current donations accepted by HCF should be property that is readily marketable at reasonable cost. This would include cash, deposit instruments of a government in Canada or financial institutions (e.g. banks, credit unions, trust companies), publicly traded securities, life insurance policies and any other donations consistent with its investment policies.
- 2. Deferred donations** - The form of deferred donations accepted by HCF may include bequests, donations of residual interests, charitable remainder trusts, donations of life insurance policies and proceeds, retirement income accumulations and such other donation arrangements as the Board of Directors may approve from time to time. Deferred donations will be documented and given due diligence to reduce future challenges of accepting and directing the donations as allocated or other problematic legacies (e.g. fund purpose being too narrow to meet community needs).

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3. **Other Forms of Property** - HCF recognizes that donors may occasionally wish to donate property that is not described in the previous paragraph such as real estate, tangible personal property, shares in publicly traded corporations that are not listed on prescribed stock exchanges or dealing networks, shares in private corporations, residuary interests in trusts, debentures, digital currency, partnership interests or other property interests not readily negotiable or valued. These types of donations are considered complex and revert to the Board for approval.

While HCF may consider accepting such donations, it will evaluate whether there may be hidden costs in accepting such property. HCF will also consider the potential for controversy and risk associated with owning or selling property and the resources needed to decide if the gift should be accepted, including property that is adjacent or subject to specific or comprehensive land claims. HCF, therefore, reserves the discretion to decline a donation of property because of the nature of the property that is being offered. In addition, HCF's commitments to Reconciliation will be considered and include consultation with Indigenous community members as needed. HCF will refer donors who wish to donate artwork or artifacts to another entity such as a museum, art gallery or cultural centre.

In addition, HCF will consider:

- (a) The difficulty in valuing the property or the likelihood that the value of the property will be a matter of differing opinions. HCF does not wish to become involved in valuation disputes with the Canada Revenue Agency.
- (b) The possibility that the property will not sell in a reasonable period of time.
- (c) The potential carrying cost and environmental risk associated with owning the property.
- (d) The potential for controversy associated with owning the property.
- (e) Whether a satisfactory arrangement can be made with the donor with respect to absorbing the costs of valuation, maintenance and disposition of the property.

4. **Donations that Create Liabilities** - HCF is unable to accept the following types of donations:
- (a) Donations of annuities, whether re-insured or reserve based.

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(b) Property that is required to be paid back (such as an interest-free loan).

5. **Donation Expenses** - Major expenses associated with making a donation, such as the cost of an appraisal, legal and accounting expenses, the cost of an environmental report and the like, shall be paid for by the donor rather than from the donation. Major expenses incurred by HCF in accepting a donation, such as legal expenses or costs of the property's maintenance and disposition, may be charged against the fund when the fund is established or offset the donation amount if no fund is established.
6. **Property Valuation** - While the donor is responsible for providing an independent appraisal of the property being offered as a donation, HCF reserves the right to secure and rely on its own appraisal in determining the acceptability of the donation and the value for the receipt for income tax purposes.
7. **Timing of Issuance of Receipt** - HCF cannot issue a receipt for a donation until it is legally the property of HCF and must issue the receipt for the value of the property as of the date it becomes HCF's property. In the case of publicly traded securities, the receipt will be determined by the closing price on the day the securities are received into HCF's brokerage account, which is typically the day notice of the donation is received by HCF.
8. **Disposition of Donations** - Donations of property will be sold as soon as possible and the proceeds invested in accordance with HCF's Investment Policy, unless an agreement has been made with the donor concurrent with the transfer of the property and/or the Donation Acceptance Committee has approved keeping the property. The timing, methods, means and details of the sale of such property will be at the discretion of HCF.
9. **Requests for Recognition and Privacy** - Names of donors and funds will be used internally for staff and Board operations and information. As outlined in 4.1 Financial Accountability, Ethical Fundraising and Donor Relations Policy, donors can agree or not agree to include their fund's name in the list of funds on the website, list of new funds in reports and with recipient organizations. Requests for full anonymity will not be encouraged and will be

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reviewed by the Senior Management Team and, as needed, a Donation Acceptance Committee. The donor will be advised if this review is required.

- 10. Source of Donations** – As outlined in 4.1 Financial Accountability, Ethical Fundraising and Donor Relations Policy, HCF also reserves the right to refuse any donation, regardless of its form, that could be a source of harm for community, or which may bring HCF into disrepute. Staff will review the source of new donation and funds, following Canadian Revenue Agency (CRA)’s directions to not accept illegal donations from fraudulent tax schemes, illegal fundraising activities, illegal sources or property that was not given voluntarily. This review includes ensuring donations and funds come from established financial institutions. In addition, staff will endeavour not to inadvertently harm HCF, community or intended beneficiaries by accepting donations or funds linked to harmful practices. If necessary, donations and funds will be declined or redirected in alignment with HCF’s vision, mission, values, community commitments and other Asset Development Policies.

**NAMING** - Another important consideration in the acceptance of donations is any related naming of programs, buildings and funds.

- 1. Programs and Buildings** - HCF does not routinely name programs or buildings after a donor or name of a fund. Any consideration for an exception to this practice will consider HCF’s vision, mission and values, and will require review by the Senior Management Team and, if needed, a Donation Acceptance Committee. Other routine forms of recognition will be considered following HCF policies, such as including the name of the donor or fund on our website or in other publications.
- 2. New Funds, Programs and Leadership Initiatives** - Before accepting a new fund or creating names for new programs or leadership initiatives, staff will ensure that the names reflect HCF’s vision, mission and values, and will be reviewed by a cross-team staff committee. This includes vetting and reviewing names for cultural appropriation, misusing words from cultures outside of the donor’s context and language, and, if needed, consulting with the affected communities. This is part of the standard process before new fund agreements are signed by the President & CEO. Funds named after an

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individual may need to be changed in the future and revisited after a fund is established. In addition, if any naming or recognition risks perpetuating harmful legacies, alternatives should be pursued, now or in the future.

- 3. Existing Funds, Programs and Leadership Initiatives** - Existing funds, programs and leadership initiatives that have names that staff, Board and/or community members deem not to comply with HCF’s vision, mission and values, will go through a review process, using a similar process as the HCF complaints process. This can include names that perpetuate stereotypes, marginalization or historical oppression. This process will include a formal and documented review, making recommendations for renaming, or, if that is not possible, removing the name from public recognition or returning or transferring the donation at the discretion of HCF. Such documentation would include the rationale for decision making for the purposes of transparency and consistency. This review will include the Senior Management Team and, if needed, a Donation Acceptance Committee.

**DONATION ACCEPTANCE COMMITTEE**

The Donation Acceptance Committee will be an ad hoc committee of the Board providing advice and counsel to the Senior Management Team. The Committee will comprise the Board Chair, President & CEO, Vice-President, Philanthropic Services, one other member of the Senior Management Team, at least two other Board members with the skills and knowledge required for the circumstances, and one or more committee members or community members with representation or a mandate to consult with any impacted communities. A Donation Acceptance Committee will be created after the Senior Management Team has discussed donations that are complex or unusual, do not follow HCF’s standard fund agreements and policies or have a reputational or other risk. In addition, the Donation Acceptance Committee will be created when the Senior Management Team cannot reach consensus on how to move forward or when they decide additional consultation is needed. There may be circumstances when the Donation Acceptance Committee initiates a legal review and/or other professional advice.

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## RETURNING OR TRANSFERRING GIFTS

If the donation cannot be accepted, staff will work to return the gift before a tax receipt is provided, when possible. If staff want to review returning a donation or transferring a donation to another charitable organization after a tax receipt has been provided, the Senior Management Team will be consulted and, if needed, a Donation Acceptance Committee will be created.

## GENERAL PROVISIONS

**Fit with Mission** - All donations, funds and their subsequent granting must be consistent with HCF's vision, mission and values, follow the above factors and must not compromise HCF's integrity and reputation in the community or its classification as a registered public foundation under the regulations of the Income Tax Act of Canada.

**Consultation** – In addition, the President & CEO, Chief Operating Officer/Chief Financial Officer and Vice-President, Philanthropic Services may choose to consult with the Senior Management Team and/or the Donation Acceptance Committee before undertaking to accept a gift including, but not limited to:

- Donations from donors requesting full anonymity and/or anonymity from the Board.
- Donations from a source that may cause harm to community and/or risk to HCF's reputation.
- Shares in privately owned companies and shares in publicly traded companies that are not listed on prescribed exchanges or dealing networks.
- Real estate, tangible personal property, partnership interests or other property interests that are not readily negotiable or valued.
- Residual interest trust, charitable remainder trusts, debentures, mortgages.
- Donations of \$1 million or more, donations-in-kind, digital currency.
- Any other donation where there is reason to question the validity of the

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donation, the liability that might come with it, the wisdom of accepting it or that falls outside the stated policies of HCF.

**OTHER RELEVANT POLICES**

Asset Development Policies, including Financial Accountability, Ethical Fundraising and Donor Relations Policy, Establishment and Operation of a Fund Policy, and Third-Party Events Policy

Governance Policies, including Complaints Policy, Privacy Policy, and Conflict of Interest Policy

Related policies across the organization, including Community Leadership, Community Relations, Finance & Administration, Human Resources, and Granting