

## Hamilton Community Foundation

<b>POLICY:</b> <b>ESTABLISHMENT AND OPERATION OF A FUND</b>	<b>NUMBER:</b> <b>4.4</b>	<b>PAGE:</b> 1 of 16
<b>Section:</b> <b>Asset Development</b>		
<b>ESTABLISHED:</b> May 15, 2012	<b>REVISED/REAFFIRMED:</b> November 15, 2025	<b>SUBJECT TO REVIEW:</b> Every Three Years

### **Preamble**

This policy seeks to ensure that the establishment and operation of funds 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. It ensures that funds set up at HCF are made in accordance with legal and ethical regulations and guidelines. This policy aims for funds to encourage collective and community-led philanthropy, and to learn from the past and avoid replicating historical philanthropic practices that have been harmful to community groups.

This policy sets out parameters to limit and control risks associated with establishing funds and provides a framework to consider new opportunities. It enables HCF to respond consistently and on a timely basis to establish funds, to identify potential issues with funds and enables the Board of Directors to exercise its fiduciary responsibility. It works to protect HCF from potential liabilities related to setting up and operating funds 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 establishment of a fund. 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.

HCF provides a variety of pathways for donors to support the community and further their philanthropic interests, including establishing a fund. This policy provides the key aspects of establishing and operating funds at HCF. This policy is organized into the following areas: authorization for setting up funds, various

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factors to be considered when setting up a fund, geographical focus, structure of funds, types of funds, source of funds, and naming policy. It also includes appendices on minimum fund amounts and fee schedules.

### **AUTHORIZATION FOR ESTABLISHING FUNDS**

The following factors will inform the decision to establish and operate a fund and clarify if the fund is considered a standard donation. Notwithstanding any guidance in this policy, the Board 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 fund 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. The Board will be informed of all new funds.

When funds and 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. See 4.2 Donation Acceptance Policy which outlines the terms of reference for creating the Donation Acceptance Committee, including the inclusion of community input where relevant.

### **KEY FACTORS TO BE CONSIDERED WHEN SETTING UP A FUND**

To determine if a new fund should be established, the following key factors will be considered. This applies to the fund purpose, donor and sources of the funds.

1. **Vision, Mission & Values** – Does the fund further or hinder HCF’s values? Is there alignment between the fund and HCF’s goals? Is HCF the right organization for this fund or should the donor be directed to a different organization, such as another foundation or a front-line organization?

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2. **Public and Community Relations** – Will the fund damage the reputation of HCF and/or create harm or oppression to community? This harm could include the name of the fund, purpose of the fund, source of the donation, fund (if transferred from another organization), and/or the donor. Has the fund been reviewed to determine if the source of funds could inadvertently harm the intended communities? Has an initial review been completed for any concerns? See below section, Source of Funds.
  
3. **Community needs** – How will the fund meet community needs? Does HCF need to seek community input before establishing the fund, such as for a Designated fund? Should any community organizations be consulted based on who the fund is intended to support? For new funds benefiting equity-deserving or Indigenous communities, HCF will consult with representatives of those communities to ensure granting aligns with communities’ defined priorities.
  
4. **Consistency** – Is the fund consistent with prior or current practices, or would acceptance establish a precedent going forward that we would not want to repeat? Does establishing this fund align with HCF’s policy 4.2 Donation Acceptance Policy, if the fund includes a new donation? For flowthrough funds, will the fund advance priorities in HCF’s Strategic Plan?
  
5. **Agreements** - HCF works with donors to develop written and signed agreements with respect to the name, fund type, purpose and use of their donations at the time a donation is made. Since difficulties can arise from donations where the terms are expressed unilaterally, such as a donation made by a will without HCF documentation, donors are encouraged to discuss their wishes with HCF in advance to ensure feasibility, appropriate planning and if fund agreements need to be developed and signed. This will ensure

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that the donation is used as the donor intended and in a way that aligns with HCF policies and procedures and benefits community.

- 6. Standard Form Documents** - HCF will provide a standard agreement for the type of fund preferred by the donor and upon request by the donor, to their advisors. HCF's legal counsel shall review all such standard agreements on a regular basis (at least every three years) or should a need be identified. Care should be taken to ensure the donor understands the reasoning for the clauses and how the agreement protects the donor, community and HCF. For a fund to be considered standard, the agreement template cannot be altered by staff or donors except in the permitted sections where donors can add their own information; otherwise, it is considered a complex fund and not a standard fund.

### **MINIMUM FUND AMOUNT**

Donations of any size are welcomed by HCF; however, minimum fund levels apply to set up various types of funds and are included in Appendix A. These minimum fund amounts are to be reviewed at least every three years with this policy. The minimum amount is set to ensure that the fund will generate grants of sufficient size to be effective and impactful. Funds may be built up to the requisite amount over time as a growing fund, but no grants will be distributed from the income of a fund until it has reached the required capital minimum or follows other direction in the fund. Staff will work with the donors to ensure growing funds become operational and when that is not possible, redirect with Board approval to the Community Fund or another discretionary fund to ensure continued community benefit.

In addition, HCF will offer accessible pathways for establishing funds, including pooled or collective giving models that lower the entry point for donors and equity-deserving communities. This includes donating to the Community Fund, with the option of a named fund in the Community Fund. Other funds are open to all donors and have lower or no thresholds for giving, including Women for Change, HCF Student Awards and funds that publicly fundraise.

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### **GEOGRAPHICAL FOCUS**

The principal focus of HCF's discretionary activities is the municipal boundaries representing the City of Hamilton, but may include regional, provincial and federal opportunities that are aligned to HCF. In addition, HCF extends its reach to Indigenous-led communities and organizations across the traditional territories it operates within, recognizing their distinct relationships to place and governance.

HCF may accept donations for any charitable purpose across Canada and in some limited cases beyond Canada, as permitted by the Income Tax Act of Canada and the subsequent guidelines by the Canadian Revenue Agency (CRA). A new fund may not be established if there is no substantial benefit to HCF, community or alignment with HCF's vision, mission and values. A donor may also be referred to another community foundation or charitable organization if HCF determines that the donor and/or the community will be better served by another organization(s).

### **STRUCTURE OF FUNDS**

Funds will be structured in accordance with the Income Tax Act and Canadian Revenue Agency (CRA) directives. At HCF, there are two key structures of funds: endowed funds (e.g. held permanently in the endowment) and multi-year flowthrough funds (e.g. fully disbursed over a set period of time, such as two, five or 10 years as agreed upon in the agreement). New donations can be directed to any of these funds and the donation would be allocated according to the structure of the fund. As an example, donations to an endowed fund would go to the fund's endowment (also called the capital) and donations to a multi-year flowthrough fund would be directed to be disbursed over the fund's set period of time. Funds can utilize one of these types of structures or a combination of them.

As an endowed foundation that works to meet community needs now and in the future, HCF's funds are primarily endowed. HCF affirms that flowthrough funds and donations are important vehicles for community impact, particularly when aligned with equity and Reconciliation needs. As a result, new funds can be set up as multi-

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year flowthrough funds with no endowment component if the purpose of the fund aligns with an HCF strategic goal or if the donor has another endowed fund at HCF.

In addition, when donating to a fund that has reached its minimum amount to start a fund, HCF provides the option for donors to direct all, or a portion of new donations to be made available for short-term flowthrough, which is to be granted within 12 months. If the short-term flowthrough is not granted during this period, HCF reserves the right and discretion to move these amounts to the fund's capital in an endowed fund or set up as a multi-year flowthrough fund.

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, like a multi-year flowthrough fund. Grants from existing funds to the Community Fund will be considered short-term flowthrough and cannot be put back into the capital of the endowment. 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 FUNDS**

Donors may choose to establish any of the following types of funds. Funds are organized between Discretionary (Unrestricted, Community Fund and Field-of-interest funds) and Donor-Directed (Donor-advised, Designated, Student Awards, Agency and other funds).

**Unrestricted funds, such as the Community Fund,** are those funds fully available to HCF for any of the charitable purposes encompassed by HCF's mission. The Board of Directors determines how unrestricted funds are used and the amount and timing of these grants.

**Field-of-interest funds** are those funds where the donor expresses a preference that the fund be used for a specific charitable purpose without designating the recipient organizations or programs through which such charitable purposes shall be served. The Board of Directors determines how Field-of-interest funds are used and the amount and timing of these grants.

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**Donor-advised funds** allow the donor or people designated by the donor as the Fund Advisory Committee to offer recommendations to HCF regarding grants from the fund.

**Designated funds** are earmarked for a particular charitable organization and all grants made from such funds must be made to, or for the use of, the designated recipient organization. The Board of Directors determines the timing and amount of these grants. If the recipient organization ceases to exist or changes its status as a charitable organization, the Board of Directors will be guided by the terms of variance set out in the agreement established for the fund. If this is not possible, the Board of Directors may select an alternate charitable use for the designated fund compatible with its original purpose. All organizations will be informed if funds have been set up for their organization as a Designated fund.

**Student Awards** provide awards, scholarships and bursary grants to individuals for educational purposes. They may be restricted in one of several ways, such as for use at a designated educational institution or for a particular course of study. Currently, HCF does not offer new Student Award funds where HCF administers the committee as one of HCF's standard funds. If such an opportunity arises, it would be considered a complex fund that would be reviewed by the Senior Management Team, and if needed, a Donation Acceptance Committee.

**Agency funds** are for organizations that would like an ongoing source of revenue for their programs or operations to be administered by HCF. Since the endowed funds become permanent funds of HCF, the capital may not be withdrawn unless HCF is judged to be negligent in carrying out its responsibilities in the opinion of a third-party arbitrator. As a way to support community organizations, a grant may be provided for each new Agency Fund. The value of such a grant will be 10 percent (not to exceed \$5,000) of the initial donations to the fund and will be added to the capital of the fund.

**Supporting funds** offer donors an opportunity to support HCF's work by investing in its community leadership, management and administrative capacity through the establishment of a fund or a donation to the Operating Endowment Fund.

**Program funds** support selected projects for which donations may be solicited or

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directed. These funds typically relate to the Strategic Plan and can be set up as a multi-year flowthrough fund or as a project budget line and not as a fund.

**Funds held on behalf of others (“managed” funds)** are similar to an Agency Endowment Fund, but the assets are still owned by the agency/ organization. Therefore, the assets can be withdrawn by the agency/organization from HCF. With HCF’s focus on responsible and impact investing as an endowed foundation, it is not accepting new managed funds held on behalf of others. Consideration of any new managed funds would require a review by the Senior Management Team and as needed, a Donation Acceptance Committee as a complex fund.

### **SOURCE OF FUNDS**

HCF also reserves the right to refuse any source of funds, 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 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 endeavor to not 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 is the name of the fund. All naming opportunities will be reviewed for alignment with HCF’s values. HCF reserves the right to decline or revoke naming where a donor’s actions, source of wealth, or legacy conflict with HCF’s equity and Reconciliation commitments. Before accepting a new fund, 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

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signed by the President & CEO. In addition, if any naming or recognition risks perpetuating harmful legacies, alternatives should be pursued, now or in the future. See 4.2 Donation Acceptance Policy for full Naming policy.

**ADDITIONAL FACTORS TO BE CONSIDERED WHEN SETTING UP A FUND**

1. **Stable granting stream:** In order to ensure a stable granting stream regardless of the investment results, funds may be structured in one of two ways, with standard new funds set up with the provision for encroachment:
  - (a) "Encroachment" – If required, use a portion of the capital to meet HCF's annual spending amount.
  - (b) "Reserve" – To meet the spending amount, draw on the fund's reserve for granting established from new donations or accumulated income.

See Short-Term Reserve for Named Funds policy.

2. **Restrictions on Purpose of Fund:** As HCF is particularly interested in establishing funds where the donor has directed HCF in general, rather than in particular, terms as to the beneficiaries of the fund, donors will be invited to consider making at least a portion of their fund unrestricted. See also #10 below. Any restrictions must still align with and adhere to HCF's mission, visions, charitable objects and policies.
3. **Benefit:** The nature of any charitable donation is that a donor benefits from a charitable tax receipt. A donor cannot expect material consideration (financial benefits other than income tax relief, or other opportunities of benefit) to flow from the donation, or after the donation has been made, or to direct HCF as to how it must apply the earnings from the donation. However, a donor may:
  - (a) Establish, at the time the donation is made, limitations on the uses of the donation, such as specifying particular charities or charitable purposes for which a donation may be used. The donor may subsequently waive or loosen such restrictions.

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(b) Advise HCF from time to time how they wish the grants from the fund to be applied.

(c) Engage in educational opportunities offered by HCF. HCF has a responsibility to benefit the community through granting and other forms of support, and to offer learning and engagement opportunities to donors on ways they can enhance their community impact. See 4.1 Financial Accountability, Ethical Fundraising and Donor Relations for additional ways HCF works to provide such benefit and learning for community and donors.

4. **Donor’s Charitable Purpose:** HCF will work to ensure new donations and funds are aligned with HCF’s vision, mission and values. While donor-directed funds can grant to any registered charitable organization in good standing with the Canada Revenue Agency, HCF will communicate information and provide learning opportunities to donors about community needs and other community knowledge.
5. **Duration of Advice:** Donor-advised funds provide an opportunity for the original donor who establishes such a fund to decide who will serve as an advisor to the fund. The original donor may also recommend a member of a succeeding generation of their family or others to serve as advisors, or to recommend the process to select successor advisors. The selection of the advisor will be at the discretion of HCF. When there is no succession plan for the fund advisory committee, the default in new fund agreements will be for the fund to grant/disburse to the Community Fund or other HCF discretionary funds to ensure continued community benefit.
6. **Application of Administrative Policies and Fees:** HCF revises its policies from time to time that impose administrative charges on its funds (endowment or otherwise), guide the manner of investment of the funds and determine the appropriate portion of funds to distribute for charitable purposes or retain as capital to protect against erosion by inflation. In the absence of any agreement, HCF will apply its discretion in accordance with its policies to all funds under its control and may amend such policies on a continuing basis. A current fee schedule is in Appendix B.

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7. **Purpose of Funds:** Should the original purpose of the fund become impossible, unwise, impractical or unlawful to fulfill at a future time, HCF will apply the variance power given in the fund agreement for redirection of distributions. In the event there is no fund agreement with variance power in place, HCF will seek legal advice to determine how HCF can reapply the funds for community benefit.

Should HCF ever cease to exist, the provisions under the Canada Not-for-Profit Corporations Act and charitable law would apply (i.e., distribution of remaining assets to appropriate charitable organizations). In such circumstances, HCF would endeavor to ensure that the original purpose of the funds would be considered along with community needs.

8. **No Benefit to Individuals:** As required by law, HCF applies the earnings from its funds only to benefit charitable organizations or carry out its own charitable work. However, in the case of Student Award funds, while HCF is legally entitled to provide awards directly to individual students, these funds are generally directed to the educational institution on behalf of the student.

9. **Inactive or Expired Funds**

When a fund becomes inactive or cannot fulfill its original intent, the default will be redirection to the Community Fund or another equity-aligned discretionary fund to ensure continued community benefit.

10. **Direction from Courts**

In exceptional circumstances, HCF reserves the right to apply to the Superior Court of Justice for direction on any change to a donation where HCF's discretion is not available at law or to address any other aspect of this policy that requires judicial intervention, order or supervision.

**OTHER RELEVANT POLICES**

Asset Development Policies, including Financial Accountability, Ethical Fundraising and Donor Relations Policy, Donations Acceptance Policy, and Third-Party Events

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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

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Minimum Fund Amounts

<b><u>Type of Fund</u></b>	<b><u>Minimum Donation</u></b>
<b>Named fund within the Community Fund:</b>	\$5,000
<b>Field-of-interest funds:</b>	
Per fund with one pre-determined area*	\$10,000
*Pre-determined areas are limited to Arts & Culture, Education, Environment, Health & Human Services, and Recreation	
Per fund where donor creates area	\$25,000
<b>Donor-advised funds:</b>	
Per fund	\$25,000
<b>Designated funds:</b>	
Per fund (each charitable beneficiary should be at least \$10,000)	\$25,000
<b>Agency endowment funds:</b>	
Donation or transfer of agency funds	\$25,000
<b>Student award funds:</b>	
Program administered by HCF for other organizations	\$50,000
<b>Supporting funds:</b>	
Named fund within HCF's administration endowment	\$5,000

All above funds that have reached their fund minimum can flow additional donations as short-term or multi-year flowthrough.

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Fee Schedule

**A. Annual fee**

An annual fee is charged by HCF to recover the administration, financial management and costs of the fund related to grantmaking. In the case that a gift arrives before the gift agreement is signed, the fee period begins when the gift arrives.

The fee is calculated as a percentage of the market value of the fund at the beginning of each fee period and includes the following:

**Investment**

- Monitoring investment manager and custodian performance
- Co-ordination and liaison with the investment manager and custodian
- Staff support to the Investment Committee

**Legal**

- Completion of annual audit
- Liability insurance as necessary for the Directors of HCF
- Response to government regulations and audits

**Finance**

- Maintenance of detailed accounting records for each fund
- Preparation of periodic statements on the capital balance and income of the fund

**Grantmaking**

- Review of proposed grant beneficiaries to ensure compliance with CRA requirements
- Issuance of grant distributions and correspondence
- Maintenance of grant records and required information systems
- Communication from organizations to donors and/or fund advisory committees
- Provide opportunities to learn about community needs, current granting priorities and other education related to the mission of HCF

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Fee Schedule

**Communications**

- List of funds on HCF website
- Opportunity to include name of new funds in impact or annual reports or other publications

**B. Investment Counsel and Custodian Fees**

These fees reflect the amounts paid to the Investment Counsel and the Custodian and are calculated as a per annum percentage of the market value of the fund at the beginning of the fee period.

**C. Rates**

These are the rates for funds set up at the date of this Policy and are subject to change in the future:

Fund Type	Investment Counsel and Custodian Fees	Fund Administration	Total fee per annum
Named fund in Community Fund	0%	0%	0%
Donor-advised fund	0.40 of 1%	1.60%	2.00%
Designated fund	0.40 of 1%	1.10%	1.50%
Field-of-interest fund	0.40 of 1%	1.10%	1.50%
Agency fund	0.40 of 1%	1.10%	1.50%
Student awards	0.40 of 1%	1.60%	2.00%
Multi-year flowthrough fund	No fee as flowthrough is not part of the endowment. These funds do not receive gains/losses.	One-time 2% fee when donation is made plus an annual fee according to fund type.	One-time 2% fee when donation is made plus an annual fee according to fund type.

- (i) The annual fees will be calculated as the percentage of the market value of the fund at the beginning of each fee period.

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- (ii) It is to be expected that, by their nature, the costs of these expenditures and activities may fluctuate (higher or lower) and therefore the rates will be set prior to the beginning of each fee period, reflecting current conditions.
- (iii) Fees for short-term flowthrough donations will be no fees or a one-time administration fee, depending on the staff time required to process donations and grants. These fees would be communicated to the donor in advance of the donation.
- (iv) Fees are exclusive of any harmonized sales taxes or excise tax obligations.