



Battle Creek **Community** Foundation

For good. For ever. For all.

Gift Acceptance Policies of the Battle Creek Community Foundation

September 2016

(These policies supersede and replace the Gift Acceptance Policies of the Battle Creek Community Foundation, bearing a date of March 27, 2012)

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1. General Information

a. About the BCCF and the Purpose of these Policies

The Battle Creek Community Foundation (BCCF) is a non-profit corporation organized under the laws of the State of Michigan in 1974. The BCCF encourages the solicitation and acceptance of gifts for purposes that will assist it in accomplishing its charitable mission. The following guidelines govern acceptance of gifts made to the BCCF for the benefit of any of its activities, funds or programs. These policies are intended to assist the Board, staff and committees of the BCCF as to gift acceptance decisions. These policies can also be used by a donor and/or the professional advisor in making charitable gifting decisions.

b. Vision and Mission of the BCCF

The Strategic Plan for the Battle Creek Community Foundation was adopted and approved by the Board of Trustees on March 29, 2011. This Strategic Plan sets forth the following vision and mission statement:

(i) Vision Statement

To build a vibrant, healthy, and engaged community.

(ii) Mission Statement

To promote giving, build endowment, and provide leadership to improve quality of life.

c. Legal Counsel

The BCCF shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by **legal counsel** is recommended for:

- Closely held stock transfers that are subject to restrictions or buy-sell agreements.
- Documents naming the BCCF as Trustee.
- Gifts involving contracts, such as bargain sales or other documents requiring the BCCF to assume an obligation.
- Transactions with potential conflict of interest that may invoke IRS sanctions.
- Other instances in which use of counsel is deemed appropriate by the Gift Acceptance Committee as defined below.
- Transactions that may involve risk to the BCCF or its staff.
- Transactions where the staff may lack objectivity.
- Transactions where the staff has a conflict of interest.
- Transactions where the staff or Board of Directors feels it is necessary or advisable.

d. Conflict of Interest

The BCCF will urge all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. The BCCF conflict of interest policies that can be found in the Board of Trustees Manual, updated annually, apply to gift transactions.

e. Role of the Gift Acceptance Committee, Finance Committee, Executive Committee, Board of Trustees, President & CEO and Staff

While the Board has overall responsibility for establishing policies and direction for the BCCF's development programs, two committees established by the Board shall have particular roles and responsibilities with respect to development.

- a. Philanthropic Development and Marketing Committee. The Philanthropic Development and Marketing Committee (PDMC) will pursue, through initiating education and awareness efforts, the coordinated use and increase of human and financial resources for the benefit of all. In addition, the responsibilities of the PDMC include periodic review and recommendation for approval by the Board of acceptance policies and guidelines for gifts consistent with established policies and guidelines.
- b. Gift Acceptance/Executive Committee. The Executive Committee shall also serve as the Gift Acceptance Committee and will review proposed gift transactions referred to it by the President and CEO.

The President and CEO shall accept gifts in accordance with these policies. As determined by these policies, the President and CEO will also submit specific gift information to the Executive Committee which will act as the Gift Acceptance Committee for action on acceptance or denial of a specific gift. As part of the Gift Acceptance Committee review process, the committee may request that a specific gift be reviewed by the Finance Committee (or other BCCF Committee) as part of their decision-making process. This may also include, from time to time, an external review or opinion from legal, accounting, or other professionals. These options should always be made available for consideration in order to assume that appropriate due diligence is undertaken for prudent decision-making.

f. Restrictions on Gifts

The BCCF will accept unrestricted gifts and gifts for specific programs and purposes, provided that such gifts are consistent with its stated mission, purposes and priorities. The BCCF will not

accept gifts that are too restrictive in purpose. The Gift Acceptance Committee shall make recommendations as to the restrictive nature of a gift, and its acceptance or refusal, to the BCCF Board of Trustees, who shall make the final decision.

g. Undesignated Gifts

Any contributions that are made which carry no designation as to fund or use shall be allocated to “unrestricted,” as the Fund for Battle Creek, unless the Board directs otherwise.

h. Gift Purpose

The purpose of all gifts received by the BCCF must be consistent with the BCCF’s mission. Additionally, the gift purpose must be consistent with the BCCF’s qualification as a public charity under Internal Revenue Code Section 501(c)(3). In order to protect the intent of the donors and the BCCF, the purpose of each gift, along with restrictions and operating procedures, will be enumerated in the signed fund agreement or letter of transmittal in the absence of a fund agreement.

i. Right of Refusal

The BCCF reserves the right to refuse any gift. Some examples of when the BCCF would be required to refuse a gift include:

- (a) the cost of managing and/or preserving the gift far exceed any potential benefit provided by the gift, or
- (b) the gift or the gift’s purpose is in irreconcilable conflict with the BCCF’s tax exempt status, or
- (c) the gift or its purpose is contrary to a local, state or federal regulation or statute, or
- (d) the gift is inconsistent with or detrimental to the BCCF’s purpose, vision, mission or desired image.

j. Variance Power

The Board of Trustees has the power under the Bylaws of the BCCF to:

- (i) Modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations, if in their judgment, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the communities served;
- (ii) Replace any trustee, custodian or agent for breach of fiduciary duty under the laws of the State of Michigan; and
- (iii) Replace any trustee, custodian or agent for failure to produce a reasonable return with due regard to safety of principal, over a reasonable period of time.

If the Board of Trustees determines that possible grounds for exercise of one or more of these variance powers exist, the Board will notify the effected person or persons and give them a reasonable opportunity to provide an explanation or correction. The Board may only act under one or more of these variance powers upon the vote of a majority of the members of the Board.

Upon the exercise of one or more of the powers in the foregoing section, the Board of Trustees shall select the successor to whom the funds will be promptly transferred.

k. Donor Bill of Rights

Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support.

BCCF is committed to the highest ethical standards of philanthropy and development. In all transactions between potential donors and BCCF, BCCF will aspire to provide accurate information and full disclosure of the benefits and liabilities that could influence a donor's decision, including with respect to BCCF's fees, the irrevocability of a gift, prohibitions on donor restrictions, items that are subject to variability (such as market value, investment return, and income yield), BCCF's responsibility to provide periodic financial statements with regard to donor funds, and investment policies and other information needed by donors to make an informed choice about using BCCF as a vehicle of charitable gifts. **In addition, all donors will be strongly encouraged to discuss their gifts with their own financial and tax advisors before signing any gift agreement.** The role of BCCF's staff is to inform, guide, and assist the donor in fulfilling his or her philanthropic goals, without pressure or undue influence.

We strive to assure that all donors have these rights:

- I. To have information on the organization's mission, the way the organization intends to use donated resources, and its capacity to use donations effectively for their intended purposes.
- II. To have information on the identity of those serving on the organization's governing board, and to have confidence that the board will exercise prudent judgement in its stewardship responsibilities.
- III. To have access to the organization's most recent financial statements.
- IV. To feel confident that their gifts will be used for the purposes for which they were given.
- V. To feel confident that an appropriate acknowledgement and recognition will be made. Acknowledgment will indicate date, amount, fund allocation, and tax status of the gift. BCCF will endeavor to issue acknowledgment letter within 21 days of receipt.
- VI. To feel confident that information about their donations is handled with respect and with confidentiality to the extent provided by law.

- VII. To believe that all relationships with individuals representing organizations of interest to the donor will be professional in nature.
- VIII. To have information about whether those seeking donations are volunteers, employees of the organization, or hired solicitors.
- IX. To consider the option of having their names deleted from mailing lists that an organization may intend to share.
- X. To feel free to ask questions when making a donation and to feel comfortable that the answers will be prompt, truthful and forthright.

2. Types of Gifts

a. General

Accepted by Officers and Designated Employees. Any of BCCF's officers or employees designated by BCCF's Executive Committee may accept, for and on BCCF's behalf, any of the following types of gifts:

- Cash
- Tangible Personal Property
- Marketable Securities
- Charitable Gift Annuities
- Charitable Remainder Trusts
- Charitable Lead Trusts
- Retirement Plan Beneficiary Designations
- Bequests
- Life Insurance
- Life Insurance Beneficiary Designations

Accepted by Gift Acceptance Committee. All other gifts, included those listed below, will require review and approval by the Gift Acceptance Committee. Staff will complete an evaluation on whether to accept the underlying asset, based upon these policies:

- Remainder Interests in Property
- Bargain Sales
- Closely Held Stock and S Corporation Stock
- Real Estate
- Oil, Gas and Mineral Interests

The following criteria should be applied in determining whether to accept gifts in each gift form.

b. Cash

Checks shall be made out to the Battle Creek Community Foundation/Fund Name or BCCF/Fund name. The Fund name may also be referenced on the memo line of the check.

c. Tangible Personal Property

Appraisal: If the value of such gift exceeds \$5,000 (or subsequent limits as defined by federal tax law), an appraisal must be obtained, at the cost of the donor, in accordance with the federal tax law as it stands at the time of the gift.

All gifts of tangible personal property shall be examined under the following criteria:

- Does the appraisal appear fair and accurate? Is further authentication documentation required?
- Is the property marketable or useable by the BCCF?
- What are the costs involved with holding or disposing of the property?
- Are there any undue restrictions on the use, display, or sale of the property?

The Gift Acceptance Committee shall take action that will be ratified by the Board of Trustees as to acceptance of gifts of tangible personal property on issues directed to it by the President & CEO under these policies.

Gifts of Tangible Personal Property shall be submitted for review to the Gift Acceptance Committee even if the gift requires ongoing costs to maintain; entails restrictions on the use, display, or sale; or is not readily marketable.

It is to be noted that there is no specific prohibition against funding a charitable remainder trust with tangible personal property. However, serious questions have been raised which suggest exercising extreme caution. The donor should seek the approval of his/her own tax or legal counsel before making such a gift. In some cases, a ruling from the Internal Revenue Service might be sought before the gift is made. The simplest way to contribute tangible personal property is outright, though the donor should be aware that, for federal income tax purposes, the deduction for a contribution of appreciated tangible personal property is generally limited to its cost basis. All gifts of tangible personal property as part of a Charitable Remainder Trust shall be submitted for review to the BCCF Gift Acceptance Committee prior to being accepted by BCCF.

d. Securities

The BCCF can accept both publicly traded and closely held securities.

(i) Publicly Traded Securities

As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the Finance and Investment Committee. In some cases, marketable securities may be

restricted by applicable security laws; in such instances, a recommendation on the acceptance of the restricted securities shall be made by the Gift Acceptance Committee and approved by the BCCF Board of Trustees.

(ii) Closely Held Securities

Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in limited partnership and limited liability companies, or other ownership forms, can be accepted subject to approval as provided under these policies. If the value of such gift exceeds \$5,000 (or subsequent limits as defined by federal tax law), an appraisal must be obtained, at the cost of the donor, in accordance with the federal tax law as it stands at the time of the gift. Such gifts must be reviewed by the Gift Acceptance Committee. The review will be based on the following criteria:

- Are restrictions imposed on the security that would prevent the BCCF from ultimately converting the security to cash?
- Is the security marketable and if so, how easily?
- Will the security generate any unfavorable tax consequences, such as unrelated business income tax, for the BCCF?
- What are the time, administration, management and other costs or responsibilities that will be incurred during the holding period?

As a condition of the gift, the donor shall agree in writing to provide corporate governance documents, tax returns, regulatory filings (such as K-1s), shareholder agreements and other documents as requested by BCCF. Further, the agreement will provide for the payment of administrative expenses and unrelated business income taxes if the fund in which the gift has been placed contains insufficient cash to do so. Donor shall also agree to indemnify BCCF against all liabilities incurred by the donor on the gift prior to donation. If, upon initial review of the gift, it appears that potential problems may arise, further review and recommendation by an outside professional should be made. Donors should be advised as to the BCCF's policy that every effort will be made to sell non-marketable securities as quickly as possible.

e. Real Estate

Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, the BCCF shall require an initial environmental review of the property to ensure that the property has no environmental issues. If the initial inspection indicates that issues exist, the BCCF shall retain a qualified inspection firm, generally at the expense of the donor, to conduct an environmental audit.

When appropriate, a title binder shall be obtained, at the donor's expense, prior to acceptance by the BCCF of the real property gift.

An agent is used by the BCCF to liquidate or otherwise dispose of the property.

Criteria for acceptance of property shall include:

- Is the property useful for the purposes of the BCCF?
- Is the property marketable?
- Is the property of an acceptable minimum value?
- Are there any restrictions, reservations, easements, liens or other limitations associated with the property? Would such restrictions jeopardize the classification of such gift as charitable?
- Are there carrying costs, which may include insurance, property taxes, mortgages, notes, or other debts associated with the property?
- Will income generating property expose the BCCF to unrelated business income tax or other expenses including but not limited to marketing of property, lease preparation, maintenance, repairs, utilities and property management?
- What are the relevant disposition costs that are the responsibility of the BCCF?
- Does the environmental audit reflect that the property is free from environmental issues?

All gifts of real estate require Gift Acceptance Committee (or Board) approval and will consider evaluation of the usefulness of the property for the organization's purposes, marketability, physical condition, zoning restrictions, appraised value, appreciation potential, management responsibilities, related expenses, environmental issues, and risk. Donors considering a current gift of real estate will work with staff or BCCF's agent to provide the following:

1. Qualified Appraisal: Each gift of real property that results in a charitable deduction in excess of \$5,000 (or subsequent limits as defined by federal tax law) must be appraised in accordance with federal tax law as it exists at the time of the gift. Costs shall be subtracted from the proceeds of sale or borne by the donor. In the event the gift does not materialize, donor will be required to pay for the appraisal.
2. Phase I Environmental Audit: As part of the "due diligence" process to protect against liability exposure under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). If the environmental audit comes back with findings of concern and it is determined that additional testing is needed, the gift will need to be reviewed by the Gift Acceptance Committee before proceeding.
3. Disclosure of all restrictions: Reservations, easements, mechanic liens, title searches, encumbrances (such as mortgage) must be disclosed.
4. Disclosure of all Carrying Costs: These include but are not limited to, taxes, insurance, maintenance, association dues, membership fees, and other expenses.

Procedure for Accepting Real Estate:

1. After the requirements of the steps above have been satisfied, the President & CEO will make a recommendation to the Gift Acceptance Committee who have the authority to accept or refuse a gift of real property.
2. The Gift Acceptance Committee may refuse any offered gift of real property that is judged not to be in the best interest of the BCCF.
3. Prior to or upon transfer of title to the BCCF, the donor and the BCCF will sign an agreement stating the terms of the gift, which shall specify that there are no restrictions on the BCCF's right to use or convey the property.
4. Distributions from a component fund that consists entirely of real assets are limited to the net income of the property less expenses and unrelated business tax incurred by BCCF.

Marketing and Sale of Real Estate

1. After BCCF staff receive approval to accept a real estate gift, arrangements will be made to sell the property through a qualified real estate professional.
2. While it is anticipated that in most circumstances the sale price will equal or exceed the appraised value of the property, the terms of the sale will take into account current market conditions, availability of financing and other factors. The President & CEO has the discretion to accept or decline offers provided by the real estate agent for liquidation of the real estate.
3. The liquidation of the asset must be completed prior to initiating any payments to the donor such as those associated with a Charitable Gift Annuity. In the event BCCF is choosing to accept the real estate for its use and no liquidation is to take place, payments may be initiated (or the gift shall be considered completed) when the title is officially transferred to BCCF.
4. In the case of a sale of the real estate within two years of the date of the gift, the BCCF will report the actual sales proceeds to the IRS on Form 8282 ("Donor Information Return").

Real Estate Gifts By Bequests

It is anticipated, given the history of real estate gifts through estates to BCCF in the past that this type of gift arrangement will occur in rare or very limited circumstances. While gifts of this type may be very lucrative and appropriate, BCCF must exercise caution with regard to the costs of maintaining such gifts until such time they may be liquidated or transferred in order to

become a producing asset. Upon being notified that the BCCF has been named to receive a gift under any Will that has been admitted to probate or any trust arrangement, the President and CEO will contact the executor, trustee, or other legal representative of the estate to gather additional information if a gift of tangible personal property or real estate has been identified as a specific component of the gift to BCCF. If the BCCF will receive real estate or tangible personal property in satisfaction of the gift, the President and CEO will work with the executor trustee or other legal representative and the BCCF Gift Acceptance Committee to follow procedures as outlined in this document.

f. Oil, Gas and Mineral Interest

Prior to acceptance, the Gift Acceptance Committee shall review gifts of this nature, with final approval by the Board of Trustees.

Criteria for acceptance of this type of property include:

- Whether the property involves extended liabilities or other considerations that make receipt inappropriate?
- Whether the interest to be accepted is a working interest? Working interests are rarely accepted and should only be accepted where a plan exists to minimize potential liability and tax consequences.
- Whether an environmental review disclosed any potential environmental issues?
- What the carrying, administrative and disposition costs are?

g. Life Insurance

Appraisal: If the value of each life insurance policy result in a gift that exceeds \$5,000 (or subsequent limits as defined by federal tax law), an appraisal must be obtained, at the cost of the donor, in accordance with the federal tax law as it stands at the time of the gift.

The BCCF must be named as both the beneficiary and irrevocable owner of an insurance policy before the policy can be recorded as a gift. The policy must also be unencumbered by outstanding loans or other liabilities. It is the general rule that all policies will be liquidated as soon as is feasible. Gifts of life insurance policies may be accepted at any value into existing fund. Gifts of life insurance policies that are intended to establish new component funds must meet the minimum funding requirement of that fund type.

If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the BCCF may:

- Continue to pay the premiums;
- Convert the policy to paid up insurance; or
- Surrender the policy for its current cash value.

3. Tools for Making Gifts

After an initial review and determination is made as to the underlying gift involved in a transaction which includes a specialized gifting vehicle, the issues specific as to the gifting vehicle should be addressed.

a. Remainder Interests in Property

The BCCF will generally accept a remainder interest in property to the extent an outright gift of the property would have been accepted. However, the risk, administrative, disposition and other costs of having the future interest must also be examined.

The donor or other occupant may generally continue to occupy the real property for the duration of the stated life. At the death of the donor, the BCCF may use the property or reduce it to cash. Where the BCCF receives a gift of a remainder interest, expenses of maintenance, real estate taxes and any indebtedness are to be paid by the donor or primary beneficiary.

For both of the options listed below, BCCF will utilize extreme due diligence in accepting the gift in order to make every effort to assure that the gift does not provide liabilities or extra management/risk that could result in a negative financial or other outcome for the BCCF.

1. **Remainder Interest in a Personal Residence or Farm:** An individual may make a gift to the BCCF of a personal residence or farm subject to a retained "life estate." The donor may, after transferring deed and title to the BCCF, continue to live on the property for a term of years or for the lifetime of the donor and/or a loved one. However, the donor will remain responsible for paying real estate taxes, and for the general maintenance and upkeep of the property during the life estate term.
2. **Undivided Portion of an Individual's Entire Interest in Property:** An individual may make a gift of an undivided portion of an entire interest in property, such as an undivided one-half interest in real estate or a fractional interest in an oil or gas well. This entitles the donor to a charitable income tax deduction, subject to certain limitations and provides the BCCF with a producing asset or potential revenue.

b. Bargain Sales

The BCCF will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of the BCCF. All bargain sales must be reviewed and a recommendation made by the Gift Acceptance Committee, with final approval by the Board of Trustees.

c. Charitable Gift Annuities

The BCCF may accept real estate, tangible personal property, or any other illiquid asset in exchange for a current or deferred charitable annuity. In general, sufficient cash flow must be present to pay the annuity.

A. Charitable Gift Annuity Contract:

The charitable gift annuity is a contract between the BCCF and the donor. Lifetime annuity payments are made to an income beneficiary named by the donor in return for a gift of cash, securities, or real property. The annuity payment may continue to a spouse, or some other third party, but only one successive income beneficiary may be named in each agreement. Assets of the charitable organization support the commitment to the donor.

The agreed upon annual payment is a fixed dollar return stated as a “sum certain” and is determined by the size of the gift and the number and age(s) of the beneficiaries. Under a gift annuity, a portion of the annuity payments received by the income beneficiaries is a tax-free return of principal.

Charitable gift annuity payout rates are typically lower than rates offered by commercial insurance companies. This difference exists because a charitable income tax deduction is allowed for a gift annuity purchased from a charitable organization which is not available when a commercial annuity is purchased.

The American Council on Gift Annuities publishes recommended rates periodically after a study of mortality tables and an analysis of projected investment earnings. BCCF strictly adheres to rates recommended by the Council.

If appreciated property is donated, a portion of the capital gain will be taxed to the donor. However, the taxable gain may be pro-rated and reported in equal installments over the life expectancy of the donor as determined by the donor’s professional advisor, such as a tax preparer.

B. The Charitable Gift Annuity Policy

- a. The minimum amount for a gift annuity agreement will be \$10,000.
- b. Agreements will be limited to two (2) lives, the younger age being not less than 50 years of age.
- c. The rate of return payable to annuitants will be determined by using the annuity tables published by The Committee on Gift Annuities as a guide.

C. The Deferred Charitable Gift Annuity

The deferred charitable gift annuity is tailored to meet the needs of the donor who prefers to receive income at a future date, at least one year after the date of the gift, but is interested in claiming a charitable income tax deduction in the year of the gift. The deduction is based on the amount of the gift and the age(s) the beneficiary(ies) will have attained when payments are scheduled to begin. The annuity rate is based on that future age.

In offering deferred charitable gift annuities to donors, the same policy guidelines will apply as under regular gift annuities, except persons under fifty (50) years of age will be considered. However, activity will not begin until the donor has reached age 50.

d. Deferred Gifts and Planned Giving

These are gifts whose benefit does not fully accrue to BCCF until some future time, or whose benefits are split with non-charitable beneficiaries. BCCF representatives are authorized to solicit direct charitable gifts through wills, as well as contributions to establish gift annuities or charitable trusts. BCCF will work closely with donors and confer with financial advisors, at the request of the donors, to realize these gifts. In cases where the gifts are complex, the President/CEO may request review by the Gift Acceptance Committee.

A. Bequests

BCCF accepts bequests from donors who have directed in their wills that certain assets be transferred to BCCF and honors the wishes of the donor as expressed, but reserves the right of refusal as necessary and appropriate. Sample bequest language for restricted and unrestricted gifts is available from BCCF, to donors and/or advisors, upon request. BCCF may not be named as Executor for a donor in his/her will and will not serve if named. BCCF may create a named fund in memory of the donor, if there is no stipulation for anonymity.

B. Retirement Plans or IRA Accounts

Donors may make lifetime gifts of retirement assets or name BCCF as the beneficiary of their plan. Retirement plans include, but are not limited to, Individual Retirement Accounts (IRA), 401(k), 403(b), and defined contribution plans.

4. Types of Funds

There are different types of funds available at BCCF to address a variety of philanthropic interests and opportunities for donors to select. Each fund type has slightly different guidelines to best support the area of interest. All funds established at BCCF are listed in the BCCF Annual Report, website, and may appear in other printed or electronic media.

a. Donor Advised Funds

With a donor advised fund, a donor, fund advisor, and/or related parties, retains the ability to make suggestions on how grants will be made from the fund. The donor, fund advisor, and/or related parties, can make a grant to a charitable cause, even if it serves a population outside the greater Battle Creek area, if made during the donor's life. Upon making the initial gift, the donor establishes the mechanism such as a committee or successor to the donor, to provide the suggestions on the use of the fund. Donors establishing a Donor Advised Fund can recommend the engagement of one successor generation as advisors to the fund.

- To set up a donor advised fund, a minimum gift of \$10,000, or intent to grow to \$10,000, is necessary.
- All earnings or fund amounts in excess of \$10,000 are available to make gifts.
- At least 50% of the fund balance, but not less than \$10,000, at the conclusion of the donor administration, which must be within one additional generation from the donor, must stay within the BCCF permanently endowed funds, with a recommendation that the balance be transferred to the BCCF unrestricted fund.
- The assets of donor advised funds are owned and controlled by the Battle Creek Community Foundation.

All gifts to create a donor advised fund must be at least \$10,000. The minimum level recommended for individual grant distributions shall be \$100. Grants made from the advised funds may only 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. Grants from a Donor Advised Fund cannot result in the donor, advisors, or any related parties receiving an exchange of goods or services or any personal or material benefit that is not provided to the general public. Donor Advised Fund grants also cannot be used to satisfy all or a portion of a pre-existing personal pledge, or other personal pledge, or other financial obligation of the donors, advisors, or any related parties. Donors, advisors, or any related parties may not receive grants, loans compensation or similar payments (including expense reimbursements) from Donor Advised Funds. Provisions of the Pension Protection Act of 2006, prohibit Donor Advised Funds from making any grants to individuals such as scholarships, emergency hardship grants, or disaster relief grants. This includes checks written directly to an individual or checks written to an entity for the benefit of a specified individual. For example, a grant to a university for the benefit of a designated student is prohibited.

In addition:

Under the Pension Protection Act of 2006 (PPA), the private foundation excess business holdings rule 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:

- A. Twenty percent of the voting stock of an incorporated business

- B. Twenty percent of the profits interests of a partnership or joint venture or the beneficial interest of a trust of similar entity

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

Donor advised funds receiving gifts of interests in a business enterprise after the date of the PPA 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 since 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
- Business that derive at least 95% 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 35% controlled entities as defined in section 4958(f)(3).

BCCF Policy with regard to assets categorized under the PPA as "excess business holdings"

The Battle Creek Community Foundation will identify and monitor any new gift to a donor advised fund of any interest qualifying as an "excess business holding" under the PPA. BCCF 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, BCCF will dispose of any excess business holdings prior to the five year time limit, except in the event that the Treasury Department grants an additional five year holding period. BCCF will notify potential donors of such interests of this requirement prior to the contribution of such interest.

b. Scholarship Funds

To set up a scholarship fund, a minimum gift of \$10,000, or intent to build to \$10,000, is necessary. Unless the scholarship fund agreement provides to the contrary, scholarships should not be paid until the fund balances reaches \$10,000.

c. Field of Interest Funds

A field of interest fund can be opened with a minimum contribution of \$5,000, or intent to build to \$5,000. Income on the fund will be used in the area of interest designated by the donor in the fund agreement establishing the fund.

d. Community Project Funds

A community project fund is a type of fund provided as a community service. No minimum balance is required and the beneficiary organization or group has the ability to spend both principal and interest as needed. However, the fund is charged a fee, based upon the appropriate BCCF fee schedule. With a Community Project Fund, the organization utilizes the IRS Charitable Status of BCCF. All Community Project Funds must abide by the BCCF Donor Initiated Fundraising/Events Policy.

e. Organizational Endowment Funds

(i) Organizational Permanent Endowment Funds (Type I)

A standard organizational endowment fund can be opened with a minimum gift of \$5,000. However, a gift in any amount can be made to an existing organizational endowment fund. Any person or organization can set up or contribute to such a fund.

At the request of an individual, his or her contribution can carry the individual's name with a minimum gift of, or intent to build to, \$10,000, with a separate agreement.

The beneficiary organization is to be notified upon the receipt of a gift to its endowment fund. The named organization is able to spend the income, but not the principal, of the fund, with a general spending guideline established by the BCCF Board. With the approval of the organization's Board, all earnings on a fund during a twelve month period can be distributed to the organization, notwithstanding that the earnings are in excess of the established spending guideline.

(ii) Organizational Support Funds (Type II)

Once an organization has an existing Organizational Permanent Endowment Fund (Type I) opened in its name, it is possible for an organization to open an organizational endowment

fund that is unrestricted as to spending (an Organizational Support or Type II Fund). With this special type of fund, the organization is able to spend the principal as its governing body deems necessary or appropriate. A minimum gift of \$5,000 is also required to open an Organizational Support (Type II) Fund. Only an organization may establish this type of fund. Distributions from Organizational Support Funds greater than the annual five percent distribution level require documentation of board action (such as minutes from the meeting) that indicate the amount approved and the official action.

All gifts to an organization endowment fund will be made to the organization's permanent endowment (Type I) fund, unless the donor's intent is clear that the contribution be made to the organizational support (Type II) fund.

5. Miscellaneous Provisions

a. Securing Appraisals and Legal Fees

As mentioned throughout this policy, it is generally the responsibility of the donor to secure the donor's own appraisal, where required. The donor is also responsible for retention and payment of their own independent legal counsel. Donors considering a gift will work with BCCF staff on the following:

1. Appraisals and Donor Reporting Requirements

Donors are required to file Form 8283 for gifts of tangible personal property if the aggregate reported value of the property exceeds \$5,000 (or in the case of non-publicly traded stock - \$10,000) and obtain qualified appraisals as may be required.

2. Donee Reporting Requirements

The BCCF will be responsible for filing IRS Form 8282 within 125 days from the date of sale of any asset sold within three years of receipt by the BCCF when the charitable deduction value of the item is more than \$5,000.

3. Security Liquidation

It is the policy of the BCCF as a fiduciary to liquidate publicly traded securities as soon as possible after receipt to avoid unnecessary market fluctuation. Realized gains or losses on security sales shall be reported as such and do not have an effect on the amount credited to the donor's gift record.

4. Serving as Trustee

To avoid potential conflicts of interest, the BCCF will not generally serve in a trustee capacity on trusts established by donors, in which the BCCF has a beneficial or remainder interest. Staff of the BCCF are prohibited from serving in any fiduciary capacity for donors, other than for members of their immediate family.

b. Other Costs

BCCF may pass along costs incurred in disposing of, managing, or maintaining the gift. The costs may be passed on to the donor, or deducted from the value of the gift.

c. IRS or Other Filings

The donor and the BCCF are responsible for their own reporting and administrative filings.

d. Changes to the Gift Acceptance Policies

These policies and guidelines have been reviewed and approved by the Philanthropic Development and Marketing Committee and the Board of Trustees. The Board of Trustees must approve any changes or deviations.

Reviewed by the Philanthropic Development and Marketing Committee on: 9/30/2016

Reviewed by Executive Committee on: 10/11/2016

Approved by the Board of Trustees on: 10/25/2016

Effective Date: 10/26/2016