



UPPER PENINSULA LAND CONSERVANCY

Policy 5E - Gift Acceptance and Naming *Standard 5 2017 Land Trust Alliance Standards and Practices; 2021 Accreditation Requirements Manual*

Board Approved: October 8, 2019
Board Revision Approved: April 12, 2022

PURPOSE

The Upper Peninsula Land Conservancy (UPLC) encourages individuals, corporations, foundations, and government entities to make charitable contributions which support UPLC's ongoing growth and mission. The purpose of this policy is to establish principles and standards to regulate UPLC's acceptance of gifts and serve as a reference for potential donors and their advisors when donating to UPLC. This policy may also guide UPLC staff and Board of Directors (Board) when soliciting or accepting donations. All gifts received by UPLC for any of its activities or services are subject to the restrictions of these policies. This policy outlines requirements for accompanying procedures, so that they align with Land Trust Alliance **Standards 4 and 5**.

INTRODUCTION

A documented gift acceptance policy can assist nonprofits in respectfully managing donor expectations, as well as provide guidelines for staff and board members when asking for or receiving donations. According to the National Council of Nonprofits, an effective gift acceptance policy should ensure the following:

- a. Gifts should comply with the nonprofit's values and mission.
- b. Gifts do not lead to legal obligations that the nonprofit is not otherwise ready to handle.
- c. The nonprofit does not accept gifts which they may not be equipped to either use, or dispose of.
- d. The policy encourages positive donor relations and manages the nonprofit's own risks.

DEFINITIONS

***Unrestricted Gifts:** Financial contributions which have been donated without any designed purpose by the funder. These donations may go into a general fund and utilized at the discretion of UPLC in order to further UPLC's mission.*



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Restricted Gifts: Contributions which may only be used for purposes requested by the donor. Restricted gifts can typically be classified as follows:

- a. *Temporarily Restricted Funds:* Gifts earmarked for a specific project or purpose pre-established by UPLC. These projects have a well-defined purpose for funds in which case the donor requests the gift be directed towards the project and fund uses are already defined.
- b. *Specific Purpose Funds:* Gifts which all or any portion of the income are limited to a particular purpose as defined by the donor. This purpose may lie outside of parameters of an established project or initiative by UPLC.
- c. *Endowment Funds:* Funds that, under the terms of a gift instrument, are not entirely expendable on a current basis. The principal of such funds is to be maintained indefinitely for a specified period of time, and all or some of the income may be used for a restricted or unrestricted purpose as described by the donor.

Designated Funds: Unrestricted funds that have been designated by the Board for a specific purpose or project. Any such designation is nonbinding and may be changed by the Board at any time by a super-majority vote of all actively serving members.

REFERENCES

Please refer to the accompanying Procedure, Procedure 5B: Gift Acceptance Procedures, for guidelines regarding execution of this policy.

- *Gift Acceptance Policies.* (2015, January 9). National Council of Nonprofits.
<https://www.councilofnonprofits.org/tools-resources/gift-acceptance-policies>
- This policy was developed in accordance with Land Trust Alliance Standard and Practices (2017) the following UPLC policies:
 - Policy 8B: Gift Acceptance and Naming
 - Policy 6: Financial Oversight
 - Policy 8L: Acceptance and Sale of Non-Conservation Land.

POLICY

Summary:

It is the policy of UPLC to solicit current and deferred gifts from individuals, foundations, corporations, and government entities in order to advance UPLC's mission and growth. UPLC will also encourage donors to perpetuate their involvement in land protection through naming



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opportunities that honor or memorialize themselves, their loved ones, or organizations. UPLC appreciates donors' consideration of any gift. The donor's interest is paramount in all circumstances concerning current and potential donors. UPLC intends to be as informative and helpful as possible to all potential donors, but it does not provide tax or legal advice regarding the consequences of any gift of any kind. These policies guide UPLC staff and Board when soliciting and accepting gifts, as well as inform donors and their advisors when making gifts to UPLC. All gifts to UPLC and its programs are subject to the terms of these policies, which may result in their acceptance or refusal.

1. Gift Acceptance and Refusal
2. Restricted and Designated Gift Acceptance
3. Gift Amount
4. Conflict of Interest
5. Gifts of Real Property
6. Gift Naming

Gift Acceptance and Refusal:

1. In the course of its regular fundraising activities, UPLC will accept donations of money, real property, personal property, stock, in-kind services, bequests, and beneficiary designations under revocable trusts, life insurance policies, commercial annuities and retirement plans.
2. The Executive Director oversees all gifts to UPLC, reviewing and accepting contributions as well as making recommendations to the Board of Directors (Board) regarding concerns of gift acceptance when the gift is not in the form of cash or involves special restrictions.
 - a. In the event that the Executive Director determines the restricted gift requires additional review by the Board, final decisions on the acceptance or refusal of the gift will be made by a simple majority vote of the Board.
3. UPLC holds the right to refuse any gift on the following grounds:
 - a. The gift does not support or advance the Conservancy's mission or current projects.
 - b. The gift involves legal obligations which the Conservancy does not wish to engage in.
 - c. The gift is too difficult or too expensive to administer in relation to its value.
 - d. The gift may result in a conflict of interest or threatens the integrity of UPLC and its public image.

Restricted and Designated Gift Acceptance:

1. UPLC will accept both restricted and designated gifts as long as they are in line with UPLC's mission and are directed to an area of need that is underserved. Donors who



intend to donate a restricted gift will be encouraged to allow some flexibility in the event that the restriction's purpose is no longer suitable or necessary in the future.

Gift Amount:

1. In general, UPLC shall not set a minimum gift amount for restricted, unrestricted, or designated gifts.
 - a. For gifts that are made in such a way as to require that the fund be largely retained and set up as an endowed fund or any similar approach, the minimum gift or total expected value of the fund is set at the discretion of the Board. In setting up such a fund, a mechanism should be established by the Board to deal with the possibility that the initial intended purpose may no longer be appropriate at some point in the future.

Conflict of Interest:

1. UPLC encourages all prospective and current donors to consult with financial advisors and legal professionals (as well as their family, when appropriate) regarding their gifts and the resulting tax and estate planning consequences so that they may be fully aware of the financial implications of a gift on the donor themselves and their estate.
2. For purchases from and sales of property to insiders, UPLC shall obtain an independent appraisal by a qualified appraiser to justify the purchase or sales price.
3. UPLC will make every effort to ensure accepted gifts are in the best interests of UPLC and the donor.
4. Under no circumstances can UPLC provide donors with legal or financial advice.
5. Gifts are also subject to the provisions of other UPLC policies (*i.e.*, Policy 4A: Conflict of Interest, Policy 5A: Legal and Ethical Fundraising) and Land Trust Alliance Standard 4.

Gifts of Real Property:

1. Gifts of real property are fundamental to UPLC's mission and require special consideration by UPLC's staff and committees (at the discretion of the Executive Director) who will review the gift and make a recommendation to the Board regarding its acceptance.
2. Concerning donations of real property, it is the responsibility of the Executive Director to:
 - a. Inform prospective donors of the advanced review and approval procedures early in the donation process, as well as advise them on the applicable laws and Land Trust Alliance Standards and Practices.



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- b. Explicitly advise that UPLC does not provide legal or financial advice, and that the donor must consult independent legal, appraisal, financial, and tax professionals for advice on issues such as, but not limited to, valuation of the gift, timing of appraisal and qualification of appraiser, IRS regulations applicable to gifts of land as well as requirements of IRC §170 and the accompanying Treasury Department regulations and any other federal or state requirements, income or estate tax benefits, and required documentation of the gift.
 - i. While UPLC will not recommend specific attorneys (particularly attorneys who might be serving on the Board), it may suggest at least three attorneys based on location, specialty, listings on lawyer locator sites, etc.
 1. UPLC will fully disclose to the donor any relationship that might exist between UPLC and any local attorneys suggested (for example, should the attorney be a UPLC donor).
 - c. Obtain a copy of the donor's completed gift appraisal for review in advance of acknowledgment of the gift by execution of IRS Form 8283, for attachment to the donor's tax return to document the gift.
 - d. UPLC shall require an initial environmental review of the property to help the Executive Director assess whether the real estate poses environmental risks to the Land Trust
 - e. Consider the property's suitability in attention to UPLC's mission, vision, and values as well as current strategic plans, and related acquisition policies. If deemed suitable, UPLC shall then develop a conservation plan for the property, and evaluate future stewardship and potential legal defense costs based on the property's values, the donor's intentions, and the conservation plan.
3. Upon a finding that the real property may be accepted by UPLC, prior to acceptance of the real property, the gift shall be approved by an absolute majority vote of the Board, and if directed by such Board, by UPLC's legal counsel and/or accountants, which may reject such gift upon any ground that has an adverse impact on UPLC.
 - a. When reviewing property, the Board shall consider issues such as title and title encumbrances, carrying costs pending sale, conservation, marketability, income potential and management time, real or perceived conflicts, and public perception regarding acceptance and sale.

Gift Naming

1. It is the authority of UPLC's Executive Director to:
 - a. negotiate terms of a named gift, including exclusivity of a naming opportunity or term of years for such recognition.



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- b. set gift levels for specific naming opportunities as they fit within the larger context of a campaign or project.
 - c. provide guidance and professional expertise in developing the gift
 - d. develop appropriate recognition levels for structured and planned gifts that reflect the present value of a structured gift or the potential of a planned, estate gift.
 - e. ensure that naming practices follow Policy 5A: Ethical and Legal Fundraising
 - f. draft the Gift Agreement that must accompany each named gift
 - g. comply with Land Trust Alliance Standards.
2. The name to be honored and duration of that honor will be finalized by a simple majority vote of the Board.
3. UPLC reserves the right to terminate its obligations regarding a gift naming if:
 - a. The Board determines that it could cause damage to UPLC's reputation to maintain the naming or that the naming is inconsistent with UPLC's values.
 - b. The donor fails to fulfill the terms of the gift that is recognized by the naming.
 - c. A change in family or organizational circumstances causes the donor or other affected individual(s)/organization(s) to request a name change or revocation.
4. Namings which are granted in perpetuity will be recognized for the useful life of the named entity.

REVISIONS

This policy should be reviewed by the Fundraising and Outreach Committee on a biannual basis. Any amendments must be approved by vote of the Board and will require a simple majority to be changed.

This policy may be amended or repealed, and new related policies may be adopted, from time to time by the Board, except that no change in the policies will affect obligations accepted by UPLC for funds or properties donated prior to the change, unless such change is approved in writing by the donor or donors of such properties, interests, or funds.

The Board may make reasonable exceptions to the policy in particular cases by Board vote with simple majority, and will document the reasons accordingly in the minutes of the meeting where the decision was made and copies will be placed within the appropriate files in accordance with Recordkeeping policies.